

DECISION of the FEI TRIBUNAL

22 January 2025

(Ref. no. FEI Tribunal: C24-0042 FEI v. DEJONGHE)

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE (the “FEI” or the “Claimant”)

vs.

Ms. Michelle DEJONGHE (the “Respondent”)

together the “Parties”

COMPOSITION OF THE FEI TRIBUNAL PANEL:

Mr. Agustín Fattal Jaef (ARG), Sole Panel Member

## I. INTRODUCTION

- 1) The FEI submitted a claim before the FEI Tribunal (the “Tribunal”) brought against Ms. Michelle Dejonghe (the “Respondent”) based on an alleged breach of the FEI Regulations.

### **Applicable Rules:**

General Regulations 24th edition, updates effective 1 January 2024 (the “FEI GRs”).

Statutes 25th edition, effective 21 November 2023 (the “Statutes”)

FEI Guidelines for Fines and Contributions towards Legal Costs.

Internal Regulations of the FEI Tribunal, 3rd Edition, 2 March 2018 (the “IRs”).

## II. FACTUAL BACKGROUND

- 2) Michelle Dejonghe is an FEI-registered equestrian athlete in the discipline of Jumping, that was firstly registered with the FEI on 2 January 2019 through the Belgian Equestrian Federation. The Respondent has not yet competed in any FEI competitions since her first registration.
- 3) On 12 February 2024, the Respondent applied to the FEI for a change of sport nationality from Belgium to Malta, through the Equestrian Federation of Malta.
- 4) On 13 March 2024, the FEI approved such change of sport nationality.
- 5) In May 2024, the Belgian Police contacted the FEI asking if the Respondent is an FEI registered athlete competing for Malta who intended to participate in the Paris 2024 Olympic Games. The Belgian Police also forwarded a copy of a letter entitled “FEI Confirmation for Equestrian Event at the Olympic Games”.
- 6) On 8 May 2024, the FEI sent an email to the Belgian Police stating that said document had not been issued by the FEI, as the FEI does not issue those types of documents.

- 7) On 2 August 2024, the FEI was advised by the Equestrian Federation of Malta that all the official state documents, which the Respondent submitted firstly to the Equestrian Federation of Malta and then to the FEI with the view of obtaining a change of sport nationality, were also falsified and, in fact, the Respondent does not possess the Maltese citizenship or residency. In that same correspondence, the Equestrian Federation of Malta:
  - i. Informed the FEI's that it had notified the local police and had sent the Maltese Police report to the Belgian Police;
  - ii. Requested the FEI to remove the Respondent from the Equestrian Federation of Malta's list of athletes.
- 8) During September 2024, the FEI conducted additional investigations on the received allegations.
- 9) On 4 September 2024, the FEI received confirmation from the Maltese Passport Office that the Respondent's passport was indeed fake and that the Respondent's details are not included at all on the Person Register of Maltese citizens.
- 10) On 10 September 2024, the FEI received confirmation from the Maltese Transport Office that the Respondent's driving license was indeed fake. Furthermore, it was stated that according to her alleged ID number, the Respondent does not possess any other Maltese driving license.
- 11) On 13 September 2024, the FEI registered before the Belgian Police as an "aggrieved party/injured person" in the context of the file that started the police investigation in the first place.

### III. PROCEDURAL BACKGROUND

- 12) On 12 September 2024, the FEI sent a Notification Letter to the Respondent, thereby initiating the disciplinary proceedings. The letter included the alleged offences, the proposed sanctions and the subsequent procedural steps and available options. Moreover, the FEI informed the Respondent as well as the Equestrian Federations of Belgium and Malta of the immediate cancellation of the Respondent's change of sport nationality, as the approval was done based on falsified documents. In accordance with Article 30.3 of the FEI IRs, the Respondent was granted a period of ten (10) days (until 22 September 2024) to send her initial response, either admitting or denying the alleged infringements.

- 13) On 19 September 2024, FEI sent another email to the Respondent, requesting acknowledgment of receipt. No response was received.
- 14) On 10 October 2024, the FEI filed its claim before the FEI Tribunal in accordance with Article 30.4 of the IRs.
- 15) On 15 October 2024, the FEI Tribunal confirmed receipt of the Claim. The FEI Tribunal Chair informed the Claimant that a one-member panel was appointed composed of Mr Agustín Fattal Jaef, and informed the Parties that they had until 18 October 2024 to object to his nomination. None of the Parties objected to the one-member panel's nomination.
- 16) Furthermore, the FEI Tribunal Chair requested the Respondent to present its Answer by 4 November 2024 and requested the Parties to indicate whether they request a hearing by 11 November 2024.
- 17) Lastly, the FEI Tribunal Chair requested that the Belgian National Federation to transmit the relevant correspondence to the Respondent and to provide the FEI Tribunal with proof of such notification.
- 18) On 24 October 2024, the FEI Tribunal once again requested from the Belgian National Federation to provide by return the proof of notification of the letter dated 15 October 2024.
- 19) On 25 October 2024, the Belgian Equestrian Federation sent to the FEI Tribunal proof of notification of the aforementioned letter to the Respondent.
- 20) On that same day, the FEI Tribunal acknowledged receipt of the email from the Belgian Equestrian Federation and invited it to inform the FEI Tribunal of the Respondent's acknowledgment of receipt as soon as it was received.
- 21) Furthermore, the FEI Tribunal requested the Belgian Equestrian Federation to confirm whether:
  - i. it had received a delivery receipt for the email sent that day to the Respondent;
  - ii. it had a postal address of the Respondent or any other means of communication with her;
  - iii. the last record of the Respondent using that email address.

- 22) On 29 October 2024, the Belgian Equestrian Federation sent an email exchange with the Respondent that revealed that on that day, a telephone conversation was held between the Belgian Equestrian Federation and the Respondent. After which, the Belgian Federation sent an email to the Respondent attaching the letter of the FEI Tribunal and expressing gratitude for the acknowledgment of receipt.
- 23) On that same day, the Respondent answered to the email of the Belgian Equestrian Federation, in which she acknowledged receipt of the FEI Tribunal's correspondence and informed that everything was being handled by her lawyer. Furthermore, the Respondent stated that an ongoing investigation was being conducted into the perpetrator who was using her identity to commit fraud, which involved selling horses that did not exist. Lastly, the Respondent included her phone number and home address.
- 24) On 30 October 2024, the FEI Tribunal acknowledged receipt of the correspondence received from the Belgian Equestrian Federation.
- 25) Despite having acknowledged receipt of the FEI Tribunal's letter, the Respondent did not present an answer to the FEI's claim.
- 26) On 15 November 2024, the FEI Tribunal sent a letter informing the Parties that the Panel would determine the case using the file in its possession.
- 27) On 18 November 2024, FEI acknowledge receipt of the letter of the FEI Tribunal.

#### IV. THE PARTIES' SUBMISSIONS

- 28) Below is a summary of the relevant facts, allegations and arguments based on the Claimant's written submissions and documentary evidence submitted during these proceedings.

##### *A. Submissions by and on behalf of the Claimant:*

- 29) The FEI submitted the following in its written submission:

##### *a) Falsification of a FEI Document*

- i. On May 2024 the Belgian Police contacted the FEI and forwarded a copy of a letter entitled "FEI Confirmation for Equestrian Event at the Olympic Games" (the "FEI

Document"). This document was not issued by the FEI, as the FEI does not issue such documents in any case.

- ii. This FEI Document certified that the Respondent was eligible to participate at the Paris 2024 Olympic Games, despite the fact that since her registration she has not participated in any FEI competitions.
- iii. The Respondent used the FEI's letterhead, logo and an employee's signature without the consent of the FEI. It seems that those elements were extracted from the FEI's letter that approved the Respondent's change of sport nationality from Belgium to Malta.
- iv. The exact purpose of the forgery remains unknown.
- v. The FEI is aware that there is at least a third party(ies) victimized by the Respondent and its FEI Document, and as a result the Belgian Police opened an investigation in this matter and contacted the FEI. Those proceedings are still ongoing, and the FEI was registered as an "aggrieved party/ injured person" aiming to stay informed of the outcome.

b) Falsification of the official Maltese documents

- vi. In 2024, the Respondent –to apply for a change of sport nationality – provided to the Equestrian Federation of Malta copies of her Maltese passport, Maltese driving license and certificate of residency in Malta. The Equestrian Federation of Malta submitted these documents to the FEI, which in turn granted the Respondent's change of sport nationality.
- vii. Malta's State authorities later corroborated that the Respondent's Maltese passport and Maltese driving license were falsified. The official confirmation regarding the falsified residence certificate is still pending. However, the Equestrian Federation of Malta has already confirmed that the Respondent's certificate of residency is a forgery.
- viii. According to FEI all the Maltese documents presented by the Respondent are of poor quality and exhibit signs of manipulation (i.e., variety of fonts, sizes and text quality).

c) Offences committed by the Respondent

- ix. The Respondent's acts lead to a breach of Article 164.11 (c) of the FEI GRs "Acts defined as criminal by the national law and/or Swiss Law "Criminal Acts"" and of Article 164.11 (d) GRs "Fraud of any kind".
- x. First, concerning Article 164.11 (c) of the FEI GRs, the FEI considers both falsifications to be deemed as a Criminal Acts under the Swiss Criminal Code:
  - i) Falsification of the FEI Document is considered as a Criminal Act according to article 251.1 of the Swiss Criminal Code– Forgery of a document:

*"Any person who with a view to causing financial loss or damage to the rights of another or in order to obtain an unlawful advantage for himself or another, produces a false document, falsifies a genuine document, uses the genuine signature or mark of another to produce a false document, falsely certifies or causes to be falsely certified a fact of legal significance or, makes use of a false or falsified document in order to deceive, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty."*

- ii) The FEI deems that the prerequisites are met, given that the FEI Document was used to deceive and victimize a third party due to which an investigation was opened by the Belgian Police. The FEI Document uses the FEI logo, letterhead and an employee's signature without the FEI's consent. Additionally, the FEI Document falsely certifies that the Respondent was eligible to participate in the Paris 2024 Olympic Games despite the Respondent's absence of participation in any prior FEI competitions.
- iii) The falsification of the Official Maltese documents is considered a Criminal Act according to article 252 of the Swiss Criminal Code – Forgery of Certificates:

*"Any person who with the intention of furthering his own position or that of another, forges or falsifies identity documents, references, or certificates, uses such a document in order to deceive another, or uses a genuine document of this nature but which does not apply to him in order to deceive another, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty."*

- iv) The FEI deems that the prerequisites are met, as those documents were knowingly provided by the Respondent to the Equestrian Federation of Malta and the FEI, with the intention of deceiving both organizations, to obtain the unlawful approval of a change of sport nationality for the Respondent's own benefit.
- xi. Second, regarding Article 164.11 (d) of the FEI GRs - "Fraud of any kind"-, the FEI deems the Respondent's actions to meet the criteria for such offence, as they constitute an intentional act of deceit designed to benefit the perpetrator.
- xii. Although the exact purpose of the forgery remains unclear, the FEI acknowledged that at least one third party has been victimised by the Respondent's conduct, prompting the Belgian Police to open an investigation into this matter and bring it to the attention of the FEI.
- xiii. The Respondent willfully and deliberately misled the FEI and the Equestrian Federation of Malta, by falsifying the FEI Document and providing the falsified Maltese documents, with the intention of obtaining the approval for a change of sport nationality. Such actions are deemed to be a significant breach of the FEI's regulations, as they do not align with the fundamental values of the Olympic sport movement nor with the common principles of behavior, fairness and sportsmanship.

d) Applicable sanctions

- xiv. Taking into consideration all factors outlined in Article 164.12 of the GRs, the FEI has identified the following elements in the present case:
  - i) The alleged offences involved fraud and a criminal act.
  - ii) The alleged offences were deliberate – the Respondent consciously and premeditatively forged a document about her eligibility for the Paris 2024 Olympic Games, along with other documents to change her sports nationality.
  - iii) The alleged offences resulted in an unfair advantage to the offender – the Respondent obtained a change of sports nationality by means of falsified documents. Otherwise, it would not have been approved by the FEI.



- xv. Based on the FEI Tribunal's case law in comparable proceedings<sup>1</sup>, considering the Respondent's serious misconduct, and in an attempt to send a signal to all stakeholders in the sport that this sort of conduct is not acceptable and must be avoided at all costs, the FEI requested the Panel to rule that:

*“(a) the Respondent has breached Articles 164.11 (c) “Acts defined as criminal by the Swiss law (“Criminal Acts”) and 164.11 (d) “Fraud of any kind” of the GRs;*

*(b) as a consequence of such breaches, the Respondent is sanctioned with;*

*(i) a four (4) year suspension starting from the date of the FEI Tribunal's decision with the terms of such suspension to be governed by Article 164.6 of the GRs;*

*(ii) a fine of six thousand Swiss francs (CHF 6'000); and*

*(iii) is ordered to pay a contribution towards the costs in the amount of two thousand Swiss francs (CHF 2'000).*

*(c) The FEI reserves the right to request an oral hearing (if necessary) in order to respond to any arguments and/or evidence set out in the Respondent's answer. Subject to the foregoing, the FEI believes (at this stage) that the FEI Tribunal will be sufficiently well-informed of the facts in issue to make a decision on the papers alone.”*

**B. Submissions by and on behalf of the Respondent:**

- 30) The Respondent was duly notified of the proceedings and has acknowledged receipt through the Belgian Equestrian Federation of the FEI Tribunal's letter notifying her about the FEI's claim as stated in paragraphs 17 to 24 above. However, the Respondent chose not to file a submission in these proceedings.
- 31) The Respondent's only communications in the proceedings was limited to stating that the matter was being handled by her lawyer and that an ongoing investigation was being conducted into someone who was using her identity to commit fraud, which involved selling horses that did not exist.

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<sup>1</sup> FEI v. Wilson (26 April 2018); FEI v. Joqina (26 April 2018); FEI v. Sommerseth (10 March 2016); FEI v. Arnould (31 March 2022) and FEI v. Marc Schelkens (10 August 2022).

## V. JURISDICTION

- 32) The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes and Article 18.1 of the IRs. The jurisdiction of the Tribunal is undisputed.
- 33) The Respondent, as an athlete registered with the FEI is bound by the FEI Rules and Regulations.

## VI. LEGAL DISCUSSION

- 34) Although the Panel has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, it only refers to the submissions and evidence it considers necessary to explain its reasoning in this decision.

### *A. The Respondent's failure to file a submission in these proceedings*

- 35) As stated above, the Respondent chose not to submit a response to the FEI's claim. Instead, she limited her participation in the proceedings to acknowledge receipt of the Panel's letters and argue that someone was using her identity unlawfully. No evidence was submitted by the Respondent to prove such allegation.
- 36) In accordance with Article 30.3 of the IRs, while the Respondent is not required to submit a reply, a failure to do so may permit the Panel to draw an adverse inference against the Respondent.
- 37) In any event, given that the Respondent was properly notified about the proceedings, the Panel can – and will – pass a decision based on the file in its possession.

### *B. The alleged falsification of documents*

- 38) Having clarified the above, the Panel must decide whether the FEI Document and the Maltese Documents were forged and whether the Respondent subsequently used them.

#### *a. The FEI Document*

- 39) Starting with the allegedly falsified FEI Document, the Panel acknowledges that it contains the FEI logo, FEI letterhead and the signature of an employee of the FEI, along with the Paris

Olympics 2024 logo. As to its content it clearly states that it is an “FEI Confirmation for Equestrian Event at the Olympic Games” with the name and FEI ID number of the Respondent.

- 40) The FEI has stated that it did not issue the FEI Document. In fact, the Panel notes that on 8 May 2024 the same FEI employee whose signature appeared in the FEI Document corroborated to the Belgian authorities that she did not prepare nor sign it.
- 41) Moreover, the FEI stated that it does not issue this type of documents entitled “FEI Confirmation for Equestrian Event at the Olympic Games”.
- 42) Therefore, the Panel is comfortably satisfied that the FEI did not issue the FEI Document, and hence the FEI Document is false.

*b. The official Maltese documents*

- 43) The Panel must also determine whether the Maltese documents provided by the Respondent in the request to change sport nationality are false. Concretely:
  - i) the Maltese passport,
  - ii) the Maltese driving license, and
  - iii) the Maltese residence certificate.
- 44) The Panel relies on the confirmations provided by the relevant local authorities to the FEI regarding the authenticity of these documents. These authorities are best positioned to determine whether the documents in question are genuine or fraudulent.
- 45) On 4 September 2024, the Maltese Passport Office confirmed that the Maltese passport in question is not genuine and that the Respondent’s details are not listed in the Person’s Register of Maltese citizens, which further substantiates the claim that the passport was falsified.
- 46) Similarly, on 10 September 2024, the Maltese Transports Office confirmed that the Respondent’s driving licence is fraudulent. The Transports Office further clarified that the alleged ID number associated with the Respondent does not correspond to any valid driving license issued in her name.

- 47) As for the Maltese residence certificate, the Panel notes that the confirmation of its falsification by the competent authorities is still pending. While the available evidence strongly suggests that this document is likely falsified as well, the Panel cannot make a definitive conclusion without further proof.
- 48) However, the absence of confirmation regarding the certificate of residence does not affect the overall case, as the falsification of the passport and driving license alone are sufficient to substantiate the use of false documents by the Respondent.

*c. Conclusion on the falsification of Documents*

- 49) Based on the above, the Panel is comfortably satisfied that the following documents were indeed falsified:
- i. the FEI Document,
  - ii. the Maltese passport, and
  - iii. the Maltese driving license.

*C. Did the Respondent breach the GRs?*

- 50) Having established that the abovementioned documents are false, the Panel must now determine whether these actions constitute a breach of Articles 164.11 (c) and/or Article 164.11. (d) of the GRs as claimed by the FEI.

*a. Article 164.11 (c) of the GRs "Acts defined as criminal by the national law and/or Swiss Law "Criminal Acts""*

- 51) Article 164.11 (c) of the GRs states:

*"In addition to breaches of specific provisions of the FEI Rules and Regulations, the following is a list of other offences that the FEI may sanction:*

*[...]*

*(c) Acts defined as criminal by the national law and/or Swiss law ("Criminal Acts");"*

- 52) The Panel notices that this provision indirectly brings into the FEI's legal framework the conducts that are prohibited by national criminal laws connected to the proceedings before the FEI Tribunal. Therefore, this article requires the Panel to analyse, in the context of a

procedure of civil nature like the present one, whether a given behaviour could be considered as criminal according to a given national law.

- 53) Before conducting such analysis, the Panel considers important to recall and emphasize that the present proceedings between the FEI (i.e., a Swiss association) and the Respondent (i.e., a [indirect] member of the FEI) are of a civil nature and therefore principles of criminal law are generally not applicable. This view has been constantly and consistently upheld, *inter alia*, by different arbitral panels of the Court of Arbitration for Sport.<sup>2</sup> The Panel supports this stance which is compatible with the analysis that it is now required to conduct.
- 54) In other words, the present proceedings do not intend to determine whether the Respondent has committed a crime or a misdemeanour. The only matter under scrutiny here is whether, to the comfortable satisfaction of the Panel, it may be concluded that the Respondent violated the GRs which, by reference, prohibit those behaviours that are described as criminal acts in the relevant national laws.
- 55) As such, the Panel's analysis is conducted in accordance with the rules and standards foreseen in the FEI's legal framework.
- 56) Following this remark, the Panel focuses on the analysis that it has been entrusted to perform: whether it is comfortably satisfied that the Respondent behaved in a way that is prohibited by the Swiss Criminal Code.
- 57) The Swiss Criminal Code addresses the acts of forgery of documents and forgery of certificates. The FEI claims that the Respondent's behaviour aligns with the content of Articles 251.1 and 252 of the Swiss Criminal Code.

*i. The FEI Document (Article 251.1 of the Swiss Criminal Code)*

- 58) Firstly, Article 251.1 of the Swiss Criminal Code titled "Faux dans les titres" (in English: "Forgery of a document"), prohibits the production, alteration or usage of false documents to obtain an unlawful advantage. The FEI argues that the Respondent's use of the FEI Document would violate this provision.

- 59) The English translation of this article reads as follows:

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<sup>2</sup> E.g., CAS 2001/A/317 A. v. FILA, CAS 2010/A/2311-2312 NADO & KNSB v. W, CAS 2019/A/6344 Marco Polo Del Nero v. FIFA.

*"Any person who with a view to causing financial loss or damage to the rights of another or in order to obtain an unlawful advantage for himself or another, produces a false document, falsifies a genuine document, uses the genuine signature or mark of another to produce a false document, falsely certifies or causes to be falsely certified a fact of legal significance or, makes use of a false or falsified document in order to deceive, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty."<sup>3</sup>*

60) The Panel finds that the sections of this provision that are relevant to this case are:

*"Any person who with a view to [...] obtain an unlawful advantage for himself or another, [...], makes use of a false or falsified document in order to deceive, shall be liable to a custodial sentence not exceeding five years or to a monetary penalty."*

61) It is clear that the FEI Document (i) is a forged document (ii) used by the Respondent that (iii) contains the genuine signature of an FEI employee as well as the logos or "marks" of the FEI and of the Paris 2024 Olympic Games. The objective elements of Article 251.1 of the Swiss Criminal Code exist in this case.

62) With respect to the subjective elements of the provision, even if, as the FEI recognizes, the exact purpose for which the FEI Document was falsified is currently unknown, the Panel considers that the subjective requirements in Article 251.1 of the Swiss Criminal Code of "obtain[ing] an unlawful advantage for [her]self or another" and "in order to deceive" can also be considered to have been met:

- i. First, it is recalled that the Respondent was properly notified about the opening of these proceedings, was provided a copy of the FEI's claim – which contains very serious contentions against her – and was granted the possibility of filing a reply. Despite this, the Respondent chose to remain silent and did not take the opportunity to contest the allegations against her. Therefore, based on Article 30.3 IRs, the Panel is entitled to draw an adverse inference against the Respondent's choice to not participate in the proceedings and not produce evidence.

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<sup>3</sup> Original wording in French: "Quiconque, dans le dessein de porter atteinte aux intérêts pécuniaires ou aux droits d'autrui, ou de se procurer ou de procurer à un tiers un avantage illicite, crée un titre faux, falsifie un titre, abuse de la signature ou de la marque à la main réelles d'autrui pour fabriquer un titre supposé, ou constate ou fait constater faussement, dans un titre, un fait ayant une portée juridique, ou, pour tromper autrui, fait usage d'un tel titre, est puni d'une peine privative de liberté de cinq ans au plus ou d'une peine pécuniaire."

- ii. Secondly, the Panel agrees with the FEI that the investigation by the Belgian police can indicate that the “rights of another” person could be at stake.
- iii. Thirdly, there is no information on file that may explain why or how the Respondent would intend to use the forged FEI Document without seeking to “caus[e] financial loss or damage to the rights of another or in order to obtain an unlawful advantage for [her]self or another” or how the use of falsified documents could not be intended to deceive someone.

63) Hence, the Panel is comfortably satisfied that the Respondent’s actions fulfill the criteria of Article 251.1 of the Swiss Criminal Code and therefore Article 164.11 (c) of the GRs has been infringed by the Respondent with respect to the FEI Document.

*ii. The Maltese documents (Article 252 of the Swiss Criminal Code)*

64) Secondly, Article 252 of the Swiss Criminal Code titled “Faux dans les certificats” (in English: “Forgery of certificates”), would be applicable to the Respondent’s use of the official Maltese documents (i.e. the passport and driving license).

65) The English translation of this article states:

*“Any person who with the intention of furthering his own position or that of another, forges or falsifies identity documents, references, or certificates, uses such a document in order to deceive another, or uses a genuine document of this nature but which does not apply to him in order to deceive another, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.”<sup>4</sup>*

66) Regarding the objective elements of the provision, it has been established that the Maltese documents (i) are forged “identity documents” (i.e., passport and driving license). Moreover, it has been demonstrated that (ii) the Respondent used those forged documents when requesting her change of sport nationality. In particular, she submitted those documents to the Maltese Equestrian Federation on 12 February 2024, which subsequently referred them

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<sup>4</sup> Original wording in French: “Quiconque, dans le dessein d’améliorer sa situation ou celle d’autrui, contrefait ou falsifie des pièces de légitimation, des certificats ou des attestations, fait usage, pour tromper autrui, d’un écrit de cette nature, ou abuse, pour tromper autrui, d’un écrit de cette nature, véritable mais non à lui destiné, est puni d’une peine privative de liberté de trois ans au plus ou d’une peine pécuniaire.”

to the FEI. Lastly, on 13 March 2024, the FEI approved the Respondent's request for change of sporting nationality based on these documents.

- 67) Having stated that, the Panel must turn to the subjective elements of the provision: (i) the intent of the Respondent to *"further [her] own position"*; and (ii) the intent to *"deceive"* someone.
- 68) The Panel considers that both subjective elements have been established in this case. Concretely, by submitting the forged Maltese documents the Respondent sought – and managed – to:
- i. Change her sport nationality even if she was not entitled to it (as she does not hold the Maltese citizenship). Therefore, she clearly made use of the Maltese documents to *"further [her] own position"*;
  - ii. Deceive the officials of the Maltese Equestrian Federation and of the FEI, effectively bypassing the eligibility requirements of the FEI.
- 69) Hence, the Panel is comfortably satisfied that the Respondent's actions fulfill the criteria of Article 252 of the Swiss Criminal Code and therefore Article 164.11 (c) of the GRs has been infringed by the Respondent also with respect to the Maltese documents.

***b. Article 164.11 (d) GRs "Fraud of any kind".***

70) Lastly, the Panel turns to the offense set out in Article 164.11(d) of the GRs, which prohibits *"fraud of any kind."*

71) Article 164.11 (d) of the GRs states:

*"In addition to breaches of specific provisions of the FEI Rules and Regulations, the following is a list of other offences that the FEI may sanction:*

*[...]*

*(d) Fraud of any kind;"*

72) Since the Regulations do not provide a definition or specific criteria for "fraud," the Panel interprets the term according to its plain and commonly understood meaning.



- 73) Fraud, as defined by the Oxford Languages dictionary, constitutes *“wrongful or criminal deception intended to result in financial or personal gain.”*
- 74) In this case, the Respondent’s actions clearly fit this definition: (i) she committed a wrongful act, such as using falsified official Maltese documents (passport and driving license) and the forged FEI Document. By doing so, (ii) she deceived both the national and international sports federations with (iii) the purpose of obtaining a change of her sport nationality despite not being entitled to do so.
- 75) Based on these elements, the Panel is comfortably satisfied that the Respondent’s actions involved a deliberate deception, and a direct attempt to gain personal advantage at the expense of fairness and the integrity of the sport. Consequently, she committed an act of fraud and has also infringed Article 164.11 (d) of the GRs.
- 76) As a result, the Panel concludes that the Respondent has breached Articles 164.11(c) and Article 164.11(d) of the GRs.

#### ***D. Appropriate Sanction***

- 77) Having established that the Respondent breached Articles 164.11 (c) and 164.11 (d) of the GRs, the Panel must evaluate the severity of the offense by considering the factors outlined in Article 164.12 of the GRs, as well as the specific circumstances of the case.
- 78) The Panel considers that provisions (a), (e) and (f) of said Article are particularly relevant to the matter:

*(a) Whether the action or omission resulted in an unfair advantage to the offender or an Athlete.*

The Respondent’s use of the falsified official Maltese documents was a calculated effort to gain an unlawful and unfair advantage of changing her sports nationality despite not being entitled to do so. It is unclear if the use of the forged FEI Document led to an unfair advantage (e.g., attempting to access the Paris 2024 Olympic Games) but the overall circumstances surrounding this misconduct and the adverse inference that the Panel has drawn from the Respondent’s choice to remain silent in these proceedings are sufficient to establish that an unfair advantage was being sought.

*(e) Whether the action or omission involved fraud, violence, or abuse or similar criminal acts*

The offense is rooted in fraudulent behaviour. The Respondent used falsified documents to deceive both national and international authorities, violating the trust and integrity that are essential in sport as well as the values it stands for.

*(f) Whether the action or omission was deemed to be deliberate*

The Respondent's actions were neither accidental nor negligent. The Panel is comfortably satisfied that the use of forged documents was planned and executed deliberately, which significantly aggravates the offense.

- 79) After having analysed the main criteria required by the GRs, the Panel turns to decide on the sanctions to be imposed on the Respondent.
- 80) The specific sanctions for criminal acts and fraud are outlined in Article 164.13 of the GRs, which classifies offenses based on their severity into "low-end," "mid-range," "top-end," or "max":

<b>Offence</b>	<b>Low-End</b>	<b>Mid-Range</b>	<b>Top-End</b>	<b>Max</b>
Criminal Acts, Fraud, Violence	1 month	3 months - 2 years	2 - 5 years	Life
	CHF 1000 - 1,500	CHF 2,000 - 3,000	CHF 5,000 - 7,500	CHF 10,000

- 81) Considering the above findings on the nature of the Respondent's actions, the Panel finds that the offense falls within the top-end tier of sanctions.
- 82) The offense involved clear elements of fraud and deceit. By using falsified documents, the Respondent sought to mislead officials and secure personal benefit. Moreover, these actions undermined the integrity of the FEI's process for change of sport nationality and violated fundamental principles of fairness, transparency, and respect, all of which are values central to sport.
- 83) Such conduct is unacceptable and must be treated seriously. The level of premeditation underscores the need for serious sanctions such as a period of suspension and a fine.
- 84) In light of the severity of the breaches and their impact on the integrity of the sport, the Panel deems that a 3-year suspension, in accordance with Article 164.6 of the GRs, starting on the date of notification of this decision, is appropriate and proportionate. The duration of the suspension is considered sufficiently punitive and carries a deterrent element that should impede the Respondent from repeating the offence in the future. Moreover, the

Panel considers that this sanction is consistent with the somehow similar decisions to which the FEI referred in its claim.

- 85) In addition, the Panel considers that a fine (Article 164.4 of the GRs) of CHF 6,000 is also appropriate and proportionate to the offences committed by the Respondent. The amount of the fine is in the middle of the range provided for top-end tier of sanctions.
- 86) Overall, the combination of these penalties reflects the gravity of the Respondent's actions and serve as a deterrent against future violations of this nature.

### *E. Conclusions*

- 87) The Panel finds that the Respondent deliberately used the falsified FEI Document and Maltese documents.
- 88) Based on the foregoing, the Panel is satisfied that the Respondent committed breaches of both Article 164.11(c) ("Acts defined as criminal by the national law and/or Swiss Law") and Article 164.11(d) ("Fraud of any kind") of the GRs
- 89) The Panel views these breaches as extremely serious offenses, undermining the core values of fairness, integrity, and transparency in sport. The proposed sanctions are consistent with the general sanctioning principles and tables set forth in Article 164 of the GRs.
- 90) All in all, the Panel concludes that a suspension of 3 years and a fine of CHF 6'000 is to be imposed on the Respondent.
- 91) Additionally, the Respondent will bear the costs of the proceedings. Since no hearing took place, and the proceedings only required one exchange of submissions, the costs are set at CHF 1'500.
- 92) While the Respondent's actions remain severely reprehensible, the Panel cannot overlook the FEI's assertion that the Maltese documents provided by the Respondent in the process of changing her sports nationality are of poor quality and exhibit signs of manipulation (i.e., variety of fonts, sizes and text quality). In this sense, the Panel encourages the national federations, who are acquainted to the relevant documents and are responsible for filing those requests to the FEI, to always undertake a meticulous review of all documents submitted by the athletes seeking a change of sport nationality.

**VII. DECISION**

93) The Tribunal decides as follows:

- i. Ms. Dejonghe has breached Articles 164.11 (c) and 164.11 (d) of the GRs.
- ii. Ms. Dejonghe is suspended for a period of three (3) years, effective as from the date of notification of this decision. Pursuant to Article 164.6 of the GRs, the Respondent is barred for the period of her suspension, from participating in or attending, in any capacity, including as a spectator, any Competition or Event that is authorised or organised by the FEI or any National Federation.
- iii. Ms. Dejonghe is ordered to pay a fine of six thousand Swiss francs (CHF 6'000) to the FEI within 30 days as from the notification of this decision.
- iv. Ms. Dejonghe is ordered to pay a contribution to the legal costs that the FEI has incurred in these proceedings amounting to one thousand five hundred Swiss francs (CHF 1'500). Such amount must be paid within 30 days as from the notification of this decision.

94) According to Art. 165 of the GRs, this decision is effective from the date of oral or written notification to the affected Parties.

95) According to Art. 162.1 and 162.7 of the GRs, this decision may be appealed before the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

**DECISION TO BE FORWARDED TO:**

- a. The Parties: Yes
- b. Any other: BEL-NF

**FOR THE TRIBUNAL**

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Agustín Fattal Jaef (ARG), Sole Panel Member