



**DECISION of the FEI TRIBUNAL**  
**on Appeal by Dr. Hallvard Sommerseth**  
**dated 13 May 2015**

**In the matter of**

**Dr. Hallvard Sommerseth**

**“the Appellant”**

**vs.**

**FÉDÉRATION EQUESTRE INTERNATIONALE (“FEI”)**

**I. COMPOSITION OF PANEL**

Mr. Pierre Ketterer (One member panel)

**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 and the oral argument presented on 11 May 2015.
- 3. Oral Hearing:** 11 May 2015, via telephone conference.

Present:

The FEI Tribunal Panel  
Ms. Erika Riedl, FEI Tribunal Clerk

For the Appellant:

Dr. Hallvard Sommerseth, the Appellant

For the FEI:

Mr. Mikael Rentsch, FEI Legal Director  
Ms. Aine Power, FEI Legal Counsel

### III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

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

Statutes 23<sup>rd</sup> edition, effective 29 April 2014 ("**Statutes**").

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

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

FEI Endurance Rules, Updated 9<sup>th</sup> edition, effective 1 August 2014 ("**ERs**").

FEI Code of Conduct for the Welfare of the Horse

#### 2. The relevant Legal Provisions

**Statutes Article 8.3:** "The Bureau may suspend a National Federation that has acted in breach of the principles in Article 2, provided it is afforded a right to be heard. The Suspension may be immediate and provisional in the event of material breach."

**Statutes Article 8.4:** "During a period of Suspension, a suspended National Federation may not attend or be represented at any session or meeting of any body of the FEI nor may it organise International Events. In addition, its members may not take part in International Events organised by the FEI or any other National Federation unless otherwise approved by the Bureau."

**GRs Article 165.1:** "An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorised under the Statutes, GRs or Sport Rules, provided it is admissible (see paragraph 2 below):

(...)

1.2 With the FEI Tribunal against Decisions of the Appeal Committee or any other person or body."

**GRs Articles 156.4, 156.5, 156.6, 156.5.1 and 156.5.2:**

"4. All Officials acting at or in relation to an International Event are acting on behalf of the FEI and therefore are not liable financially or otherwise for any acts, omissions or Decisions undertaken in good faith in connection with their duties.

5. An Official is administered by the NF of his country of citizenship or residency. If the Official is to be administered by the country of residency,

the NF of his country of citizenship must approve. In the event the Official is also a registered Athlete, he can only be administered by the NF where he is registered as an Athlete.

6. An Official can only be administered by one NF. An Official holding multiple citizenships must choose, with concerned NFs and FEI approval, which of his NFs of citizenship will be his administering NF.

6.1 Any change of administering NF is subject to prior approval by the FEI and the concerned NFs.

6.2 In special situations, determination of the administering NF will be made by the FEI with the agreement of the Official and the concerned NFs.

"

**IRs Article 17.1:** "In accordance with Article 36 of the FEI Statutes, the FEI Tribunal has the competence to hear and determine any matter properly submitted to it, including, but not limited to, those matters specified in Article 163 (Protests) and Article 165 (Appeals) of the FEI General Regulations and all disputes and procedures arising under the Equine Anti-Doping and Controlled Medication Regulations."

#### IV. DECISION

The below presents a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced during the oral hearing. 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 The Appellant is an FEI Official (FEI ID 10053654), has Norwegian nationality and his administering National Federation ("NF") is the Emirates Equestrian Federation (the "UAE NF").
- 1.2 On 12 March 2015, the UAE NF was notified of the decision of the FEI Bureau (taken on 10 March 2015) (the "FEI Bureau Decision") to suspend the UAE NF with immediate effect, in accordance with Article 8.3 of the Statutes, as the FEI Bureau had found that the *"UAE NF had failed to comply with FEI Rules and Regulations and/or FEI decisions on several occasions."* The FEI Bureau Decision also provides that *"during the period of this suspension the UAE NF may not attend or be represented at any session or meeting of any body of the FEI, nor may it organise International Events. Furthermore, while its members may not take part in International Events organised by the FEI or any other National Federation in the Endurance discipline, its athletes may take part under the FEI flag in International Events in other disciplines that are organised by the FEI or other National Federations outside of the UAE"*.

- 1.3 On 18 March 2015, the FEI Secretary General explained in an email the practical effects of the FEI Bureau Decision to Athletes, Officials and Trainers from the UAE NF. Regarding the status of Officials, the email stated the following:

*Officials*

*8. UAE NF Officials are not permitted to officiate at any International Events in any discipline.*

*9. UAE NF Officials are permitted to officiate in National Events in the UAE."*

## **2. Procedural Background**

- 2.1 On 9 April 2015, the Appellant lodged an Appeal ("the Appeal") in accordance with Article 165 of the GRs and Article 20 of the IRs, with the FEI Secretary General, for referral to the FEI Tribunal. By means of his Appeal the Appellant is contesting the implementation of the FEI Bureau Decision with regards to him, and his status as an FEI Official.
- 2.2 On 29 April 2015, the FEI provided its Answer to the Appeal.
- 2.3 On 29 April and on 3 May 2015, the Appellant submitted additional explanations regarding his Appeal.

## **3. Appeal by the Appellant**

- 3.1 In a nutshell, the Appellant submitted that:
- a) he should be allowed to change his administering NF to the Norwegian National Federation (the "NOR NF"). That he was a Norwegian citizen living in the United Arab Emirates (the "UAE") for 9 months of the year. That he had no benefits whatsoever to be listed as an official of the UAE NF, as opposed to an official of the NOR NF, compared with *"real UAE officials with UAE passport"*.
  - b) he had been moved from the Norwegian list of officials to the UAE list of officials against his own will. That he believed that this change had been made *"for administrative reasons"*. That furthermore, he could be taken off the administrative function for the UAE NF without any problem as there would be several people who could do the job in his office.
  - c) he had several colleagues working in the UAE who were listed with their "home country" and were not affected by the suspension of the UAE NF. That he had been taken off schedules for several FEI rides in other countries by the FEI, which would affect his livelihood, and was considered by him to be unfair.
  - d) his role as an FEI Course Director was also affected by the suspension of the UAE NF. That all his "reports of expert" had been signed "Hallvard Sommerseth, Norway" and not with the abbreviation "UAE". That he had received requests from several countries who wanted him to give FEI courses for Veterinarians and Judges and TDs and that his suspension

made this impossible.

#### **4. FEI Answer on Appeal**

- 4.1 The FEI submitted that the Appeal, whereas admissible, was not successful on the merits, and that it should therefore be dismissed by the Tribunal.
- 4.2 In essence, the FEI argued that:
  - a) the status of the Appellant as an UAE Official was beyond question, as the Appellant's administering NF had been changed from the NOR NF to the UAE NF in November 2012. That the Appellant had not submitted any evidence in support of his claim that he was moved to the UAE list against his will. Further, that he had regularly accessed the FEI database on behalf of the UAE NF, and that he had thus been fully aware of his status. That in the past two and a half years, i.e. since the change of his administering NF had been processed, until the time when he filed his Appeal in April 2015, he had not taken any steps to have his administering NF listed as NOR. Finally that it had been out of question for him to have two administering NFs, i.e. UAE NF and NOR NF, as this was prohibited under Article 156 of the GRs.
  - b) the link of the Appellant and the UAE NF was not merely an administrative one, as the Appellant was a permanent employee of the UAE NF who – according to his statement - spends 75 % of his time in the UAE, holding the position of the Head of UAE NF Veterinary Department. That therefore, the fact that he was a Norwegian citizen, held a Norwegian passport and had been administered by the NOR NF in the past was not relevant in the case at hand. Furthermore, that the NOR NF had confirmed in writing that the Appellant had no connection or official role in the NOR NF, and had further stated that it did not support the change by the Appellant of his administering NF to the NOR NF. That, therefore, one of the pre-requisites for changing the Appellant's administering NF, namely the agreement of one of the concerned NFs, i.e. the NOR NF, was absent. Finally, that the fact that the Appellant had several colleagues in the UAE NF who were administered by the NFs of their home countries, and who were, thus, unaffected by the UAE NF's suspension, was not relevant in the case at hand.
  - c) that given that one of the reasons behind the FEI Bureau's decision to suspend the UAE NF was serious concerns regarding horse welfare, it would be inappropriate to allow a person who held the position of Head of Veterinary Department of the UAE NF to officiate at International Events during the period of the UAE NF's suspension. That insofar as all Officials, when officiating at International Events, were regarded as acting on behalf of the FEI, it was reasonable and correct that the FEI should not be forced to allow an Official to officiate at an International Event and thereby "represent the FEI" where such Official holds a pivotal position in a National Federation that had be deemed by the FEI Bureau to have serious shortcomings in terms of horse welfare. That therefore by not permitting the Appellant to officiate at International Events during the

period of the UAE NF's suspension, the FEI was simply implementing Article 8.4 of the FEI Statutes. That in doing so, the FEI was acting fairly and in a non-arbitrary manner, and that the FEI was not treating the Appellant any differently than any other Official who was administered by the UAE NF.

- 4.3 Together with its Answer the FEI submitted several supporting documents, including a letter by the NOR NF, dated 24 April 2015. In its letter the NOR NF confirmed that the Appellant had *"no connection, nor an official role, in the Norwegian Federation, neither, as an endurance official nor as a veterinary"*. The NOR NF further confirmed that it did *"not support the change by Dr. Sommerseth of his administering NF to the Norwegian Equestrian Federation"*.

## **5. Further proceedings**

- 5.1 On 29 April 2015, the Appellant further explained that while not being able to act as an FEI Official or course director he would not only lose money but would also lose experience. That he was further wondering whether he could act under the FEI flag, similar to non-Endurance riders of the UAE NF. Finally, that his home country was Norway, and that he was simply asking to be listed where he had been listed most of his life.
- 5.2 On 3 May 2015, the Appellant further stated that it had been Laurianne Cordey (now Laurianne Noble) from the NOR NF who had moved him from the NOR NF list to the UAE list, on 14 November 2012. Further, that he had started working in the UAE in December 2007, and that from that point onwards until 14 November 2012, he had been listed with the NOR NF.

## **6. Oral Hearing**

- 6.1 During the oral hearing, the Appellant explained that he did not challenge the FEI Bureau decision, and that he accepted its consequences for him as an Official, i.e. not being allowed to officiate in any International Events in any discipline – as outlined in the email of the FEI Secretary General of 18 March 2015. That however he found it unfair that he could not officiate in non-Endurance disciplines, given that also an exception had been made in respect of non-Endurance riders. That nonetheless he agreed that the FEI Bureau Decision was clear in this respect, and that he was not in a position to claim to be able to officiate at International Non-Endurance events. Further that insofar as the NOR NF did not agree to change his administering NF, he was currently not in a position to change his administering NF.
- 6.2 The FEI clarified that the FEI Bureau, when taking its Decision had been of the opinion that no UAE Officials should be allowed to officiate in any discipline. Further that the only exception foreseen in the FEI Bureau Decision was for non-Endurance riders, who were allowed to take part in International Events under the FEI flag. Moreover, that the email of the FEI Secretary General of 18 March 2015 made it clear that no UAE Officials are permitted to officiate at any International Events, in any discipline. The FEI further

argued that the FEI Bureau Decision was a general decision against the UAE NF and all its Officials, and that it was therefore not appropriate for the FEI to grant an exception for the Appellant to change his administering NF. Furthermore that any change of administering NF required the approval of both NFs as well as that of the FEI, and none had been given.

- 6.3 Finally, the FEI informed the participants that by decision of 6 May 2015, the FEI Tribunal had dismissed the UAE NF Request for Interim Measures, and decided to maintain the suspension against the UAE NF.

## **7. Jurisdiction**

- 7.1 The Tribunal has jurisdiction over the matter pursuant to the Statutes, GRs and IRs.

## **8. Admissibility of the Appeal**

- 8.1 The Appeal is admissible as it arises from a Decision taken by the FEI Bureau against the UAE NF – the Appellant’s administering National Federation, and as the Appellant had a “legitimate interest”, as required under Article 165.1 of the GRs. The Appellant was therefore entitled to lodge an Appeal. The Tribunal further finds that the Appellant has lodged its Appeal within the deadline foreseen under Article 165.5 of the GRs, and there was no reasons of inadmissibility in the meaning of Article 165.2 of the GRs. This remains undisputed by the Parties.

## **9. Decision**

- 9.1 In a second step, the Tribunal has to decide whether to grant the relief sought by the Appellant.
- 9.2 To start with the Tribunal takes note that the Appellant – as stated during the oral hearing – does no longer challenge the FEI Bureau Decision, and with it he accepts its consequences for him as an Official, including officiating at International Non-Endurance events. The Tribunal further finds that insofar as the current administering NF of the Appellant is the UAE NF, the FEI Bureau Decision’s consequences are also applicable to him as an UAE NF Official. The Tribunal further holds that – in accordance with the FEI Secretary General’s email of 18 March 2015, the Appellant - like any other UAE NF Official - is not permitted to officiate at any International Events in any discipline, during the period of the UAE NF suspension.

9.3 For the above reasons, the Tribunal decides as follows:

**1) To dismiss the Appeal.**

**2) The Parties are to bear their own costs and expenses.**

9.4 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.

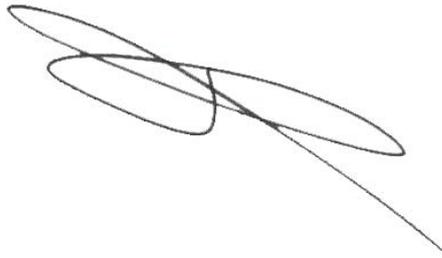
9.5 According to Articles 165.1.3 and 165.6.1 of the GRs, this Decision can be appealed before the Court of Arbitration for Sport (CAS) within 21 days of the present notification.

**V. DECISION TO BE FORWARDED TO:**

**a. The Parties: Yes**

**b. Any other: No**

**FOR THE PANEL**

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**One member panel, Mr. Pierre Ketterer**