

DECISION of the FEI TRIBUNAL

dated 27 June 2012

In the matter of

MS NELLY PHILIPPOT (BEL)

MR DIERK BLIECK (BEL)

MR FERAS BOULBOL (SLO)

(the "three Protesters")

vs.

FEDERATION EQUESTRE INTERNATIONALE ("FEI")

(the "Respondent")

Together, "the Parties"

1. COMPOSITION OF PANEL

Prof. Dr. Jens Adolphsen, Single panel member

2. SUMMARY OF THE CASE RECORD

2.1 Submissions and evidence before the FEI Tribunal

The FEI Tribunal duly took into consideration all written evidence, witness statements, submissions and documents presented in the case bundle, as well as the Parties' oral presentations during the hearing.

2.2 Oral hearing: In-person on 10 February 2012 (FEI Headquarters, Lausanne, Switzerland).

Present: The FEI Tribunal Panel

For the Protesters:

Ms. Nelly Philippot, Protester

For the FEI:

Mr. Mikael Rentsch, FEI Senior Legal Counsel

Ms. Carolin Fischer, FEI Legal Counsel

Mr. Ian Williams, Director Non-Olympic Sports

2.3 FEI Statutes/FEI Regulations which are applicable:

FEI Statutes 23rd edition, effective 6 May 2011 ("**Statutes**"),

FEI General Regulations, 23rd edition, effective 1 January 2009, updates effective 1 January 2011 ("**GRs**"),

Rules for Endurance Events, 7th Edition, effective 1 January 2009, updates effective 1 January 2011, in particular Article 802.3

Internal Regulations of the FEI Tribunal, effective 1 January 2012

2.4 The Relevant Legal Provisions

Article 802.3 of the Rules for Endurance Events:

Errors on Course: Any error of course must be corrected from the place where the error has started under penalty of disqualification. Alternatively, if correcting a course error is not feasible and/or in the best interest of the horse, the Ground Jury may determine an alternative which will require the competitor to complete an equivalent distance over the same type of terrain, such distance to be made up within a single phase thereby ensuring the competitor still passes through each Vet Gate in the correct order and within the time limits in force. In such cases the competitor will receive a completion classification only. The competitor may earn a Certificate of Capability or meet other Qualification Criteria with such a performance, but may not be considered for the Best Condition award or for contribution to team scoring or individual classification for placing.

3. FACTUAL & LEGAL BACKGROUND

- 3.1** From 3 to 5 June 2011, the CEI3* 141 km took place in Ermelo, Netherlands. At that Event, the three Protesters as well as four French riders competed. During the day of the Competition, on 4 June 2011, the four French competitors got lost during the first loop. They were, in accordance with Article 802.3 of the Rules for Endurance Events (the "Rules for Endurance", Annex 1), permitted by the Ground Jury of the Event – after consultation

with the Technical Delegate, Mr. Harald Grinschgl – to complete an equivalent distance over the same type of terrain during the fourth loop. After the second loop, two of the French competitors were eliminated with their horses, due to lameness. The five remaining competitors completed the Competition. According to the Final results of the Event, the French competitor Mr. Legagnoux won the Competition, and the French competitor Mr. Noel came second. The horse of Mr. Noel won the Best Condition Award, and none of the horses of the three Protesters was examined for the Best Condition Award.

3.2 On 5 June 2011 at 10.30am and after the prize giving ceremony, the three Protesters attempted to file a written Protest (the "Protest") with the Ground Jury of the Event, contesting that the two of the four French riders that had erred in the course and made up for the error during the fourth loop, were maintained in the rankings, and that the horse of one of them won the Best Condition Award. The three Protesters argued that according to Article 802.3 of the Rules for Endurance, the results of the two French competitors in question should have only been considered for Qualification Criteria, but should not have been considered for the rankings, and the respective horses should not have been considered for the Best Condition award. The Protest of 5 June 2011 was rejected by the Ground Jury as being filed too late.

3.3 On 11 June 2011, Mrs. Philippot filed a written Protest with the FEI in the name of the three Protesters, for follow-up through the competent body. In addition to the arguments raised in the Protest of 5 June 2011, Mrs. Philippot submitted the following arguments and motions:

- That the three horses of the three Protesters had completed the ride in time and passed the veterinary controls correctly.
- That prior to the Best Condition award, Mrs. Philippot had realised that the horses of the two French riders who had completed the course had been maintained in the rankings, and that in the absence of an Appeal Committee, she had again orally addressed the President of the Ground Jury with the position of the three Protesters before the Prize giving ceremony and the Best Condition judging.
- That the Ground Jury had refused to have the three Protesters' horses examined for the Best Condition Award, and had incorrectly maintained the rankings of the two French riders that had erred in the course.

3.4 On 8 February 2012, the FEI submitted its Response to the Protest of 5 June 11 (the "Response"). The FEI further referred a Protest by the FEI Secretary General (the "FEI Protest") to the FEI Tribunal, under Article 163.8 of the GRs. Together with the

Response and the FEI Protest, the FEI submitted a joint statement by two members of the Ground Jury. In that statement, the members of the Ground Jury explained that it had been determined that the four French riders' error in the course had not been their fault, but was due to an inadequate marking of the course. That therefore, it was considered unfair to apply Article 802.3 of the Endurance Rules. Further that the final results had been posted and announced at the timekeeping office and with the show secretary immediately upon completion of the Event, in the evening of 4 June 2012. That whereas already during the Event, Mrs. Philippot had orally protested against the decision to not apply Article 802.3, she had only filed a written Protest on the day following the Event, after the prize giving ceremony. In its Response, the FEI argued that the initial Protest, lodged in writing on 5 June 2011, was not submitted within the required time period. That in accordance with Article 163.7.4 of the GRs, Protests concerning irregularities or incidents during a Competition, or concerning the results of a Competition, had to be lodged no later than thirty (30) minutes after the announcement of the results, and that according to the Ground Jury, the three Protesters had not complied with that deadline. The FEI therefore requested that the Tribunal reject the Protest.

- 3.5** By the FEI Protest, the FEI Secretary requested that the FEI Tribunal annul the placings of the French riders that had erred in the course, completed the competition and won the Best Condition Award. The FEI Secretary contended that the maintenance of the results for the French riders who went off course and the Best Condition Award were in violation of Article 802.3 of the Rules for Endurance.
- 3.6** Furthermore on 8 February 2012, the FEI submitted a statement by Mr. Ian Williams, Director Non-Olympic Sports. Mr. Williams explained that under the circumstances, the decision taken by the officials at the Event was only partly correct, insofar as the French riders that had erred in the course were correctly allowed to complete an equivalent distance over the same type of terrain. That however the results of those riders should not have been taken into account in the final classification of results, that they should only have received a Certificate of Capability, and that their horses should not have been considered for the Best Condition Award. That according to Article 802.3 of the Endurance Rules, it was irrelevant whether the error in course happened intentionally, or by mistake, or whether the error was caused by external factors such as bad marking of the course.
- 3.7** Furthermore on 8 February 2012, the three Protesters submitted supplemental arguments, arguing that the original written Protest had been filed in time, 30 minutes after the prize giving ceremony.

- 3.8** On 9 February 2012, the FEI submitted statements by the two French riders that had placed first and second in the Event. Both riders stated having been informed of the Protest. That they had unintentionally erred in the course, and that given the error, they would have totally agreed to their disqualification. That in their opinion, the officials at the Event had been extremely understanding and had considered all the facts involved in such a decision.
- 3.9** A final hearing took place on 10 February 2012. On behalf of the three Protesters, Mrs. Philippot requested that in addition to the disqualification of the results of the two French riders, the Best Condition Award should be attributed to her, or one of the two other Protesters' horses. The FEI accepted that the results of the two French riders should be disqualified and that consequently, the horse of Mr. Noel should be deprived of the Best Condition Award. That however due to the fact that the horses of the three Protesters had never been examined for the Best Condition Award, that award could not be attributed to any of the three Protesters' horses. Mr. Ian Williams, Director Non-Olympic Sports, confirmed during the hearing that the examination for the Best Condition Award was a specific veterinary examination, which could only be performed upon completion of the Event, but not retroactively. That however, provided the Tribunal decided to disqualify the French riders, with the result that the Best Condition Award would have to be returned by Mr. Noel, some sort of recognition of the condition of Mrs. Philippot's horse could be considered, based on the veterinary examinations that had taken place at the Event.

4. THE DECISION

- 4.1** The Tribunal, having considered all of the evidence and the arguments before it, holds as follows:
1. The Protest by the three Protesters had been filed untimely, since it had been filed after expiry of the 30 min time frame provided for in Article 163.7.4 of the GRs. Protests have to be filed in writing, within 30 minutes following the announcements of the final results.
 2. With regards to the FEI Protest by the FEI Secretary General, the Tribunal acknowledges the broad discretion of the Secretary General under Article 163.8 of the GRs, and therefore considers that it has jurisdiction to consider the Protest. Article 802.3 of the Endurance Rules unequivocally stipulates that in cases of error of course, whereas the Ground Jury may allow the competitor to correct the error, the erred competitor will receive a completion classification only, and may earn a Certificate of Capability or meet other Qualification Criteria. That the respective competitor may however not be

considered for contribution to team scoring or individual classification for placing, and that the competitor's Horse may not be considered for the Best Condition award. The Tribunal notes that in light of the wording of Article 802.3 of the Endurance Rules, there is no different approach depending on whether the error of course happened intentionally or unintentionally. This has been confirmed by Mr. Williams. Conclusively, the decision taken by the officials at the Event was wrong, and has to be annulled. Regarding the Best Condition Award, the Tribunal accepts that a specific examination needs to be performed upon completion of the competition, and that the horse of Mrs. Philippot has not undergone such examination. Given that a retroactive examination of the horse is not possible, the three Protesters' request for the Best Condition Award has to be rejected.

4.2 For the above reasons, the FEI Tribunal therefore decides as follows:

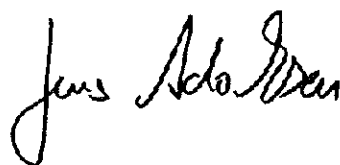
1. The Protest by the three Protesters of 5 June 2011 is rejected as untimely.
2. Following the FEI Protest by the FEI Secretary General, the results of Mr. Legagnoux and Mr. Noel are annulled, and the horse of Mr. Noel is deprived of the Best Condition Award.
3. The request by the three Protesters for the Best Condition Award is rejected.
4. The deposit of CHF 500,- is to be returned to the three Protesters and Mrs. Philippot is awarded CHF 500 as costs for her expenses.

5. DECISION TO BE FORWARDED TO:

5.1 The Parties to the proceedings: Yes

5.2 Any other: Mr. Legagnoux and Mr. Noel

FOR THE TRIBUNAL



Prof. Dr. Jens Adolphsen