

INTERIM DECISION

Made by the Preliminary Panel on 23 May 2012

Protest / Appeal: Second Yellow Card Warning
Person Responsible: Ms. MEREL BLOM
Event: CCI3* Vairano (ITA); 20 – 22 April 2012

COMPOSITION OF PANEL

Mr. Henrik Arle, Chair of the Panel

Mr. Pierre Ketterer, member

Mr. Vladan Jevtic, member

SUMMARY OF THE FACTS

- 1.1 Summary information provided by Person Responsible (PR):**
The FEI Tribunal duly took into consideration all evidence, submissions and documents presented in the case file and at the Preliminary hearing, as also made available by and to the PR.
- 1.2 Memorandum of case: By Legal Department.**
- 2.3 Oral hearing:** On 18 April 2012 – By telephone (Preliminary Hearing)

Present: Mr. Henrik Arle, Chair of the Panel
Ms. Erika O'Leary, FEI Tribunal Clerk

For the PR: Ms. Merel Blom, PR
Dr. Monika Gattiker, Counsel for the PR

For the FEI: Ms. Carolin Fischer, Legal Counsel

Pursuant to the Preliminary Hearing held on Friday 18 May 2012 at 10.00 CET before the Preliminary Panel, Mr. Henrik Arle, Finland, with the participation of Ms. Merel Blom, represented by her counsel Dr. Monika Gattiker, and Ms. Carolin Fischer, Legal Counsel for the FEI, and having considered the explanations provided by Ms. Blom and Dr. Gattiker during the Preliminary Hearing, Ms. Blom is hereby notified that the Preliminary Panel has decided **not to lift the Automatic Suspension** effective as of 23 April 2012, and **to maintain it**.

Whereas

- Ms. Blom received a Yellow Warning Card at the CC13* Event in Vairano, Italy (19 - 22 April 2012), in accordance with Articles 519.7 & 520 of the FEI Rules for Eventing, and Articles 159.4.1 and 169.7.1 of the General Regulations ("GRs"), for Horse Abuse, Incorrect Behaviour and Dangerous Riding. Ms. Blom had also previously received a Yellow Warning Card for Horse Abuse at the CIC1* Event in Bialy Bor, Poland (27 - 29 May 2011). Pursuant to Article 169.7.2 of the GRs and Article 520.3 of the Rules for Eventing, she was automatically suspended from the day following the Event in Vairano ("Automatic Suspension") for a period of two (2) months, having received a second Yellow Card Warning for the same offence, within one year from the delivery of the first Yellow Warning Card.
- On 4 May 2012, Ms. Blom filed a Protest and/or Appeal against the imposition of the Automatic Suspension. Furthermore, she sought interim relief by requesting a Preliminary Hearing on Interim measures, in order for the FEI Tribunal to provisionally lift the Automatic Suspension. This Interim Decision solely addresses the issue of provisionally lifting the Automatic Suspension.
- During the hearing, Ms Blom argued that the Yellow Warning Card from Vairano was given by the Ground Jury ("GJ") for reasons that are not true, that the Yellow Warning Card was not delivered as provided by the rules and that the matter is subject to a Protest/an Appeal. That Ms. Blom was aware that the Technical Delegate ("TD") had stopped her for dangerous riding on the cross country course. That furthermore, she was not approached during the rest of the Event by any official, nor was she asked by anybody to present herself to the GJ. That she denied the alleged Horse Abuse and alleged Incorrect Behaviour stated on the Yellow Warning Card. Regarding the Incorrect Behaviour, she contested that it was given for alleged insulting comments made by her about the GJ following her elimination, and Ms. Blom denied having made such comments. Ms. Blom also submitted that she was not afforded the opportunity to defend herself against the allegations of Incorrect Behaviour. Additionally Ms. Blom submitted that the Yellow Warning Card was not delivered in accordance

with Article 169.7.1 of the GRs, and that the statements provided by the FEI of the Event officials were contradictory in this respect.

- The FEI in its Answer dated 14 May 2012, as well as during the hearing, argued that the Appeal and/or Protest was inadmissible according to Articles 165.2 and 159.6 of the GRs, and Article 163 of the GRs respectively. That a Yellow Warning Card is a "Field of Play Decision", and is therefore not subject to an appeal process. That the GJ had tried to contact Ms. Blom after her elimination from the cross country course. That this was further confirmed by the TD, who had informed her that she, had been requested to present herself to the GJ after the Competition. The FEI submitted that Ms. Blom bluntly disregarded this request and subsequently left the Event. Despite efforts on the part of several individuals to contact Ms. Blom and relay the GJ's request, the GJ could not make contact and therefore were unable to deliver the Yellow Warning Card "by hand". The FEI rejected the justifications for the provisional lifting of the Automatic Suspension. Furthermore the FEI requested that confirmation be given by the FEI Tribunal that the second Yellow Card was valid and asked for the dismissal of the Appeal and/or Protest.

The Tribunal is satisfied that the GJ has the right and the duty to monitor cases of Dangerous Riding, to stop and eliminate an athlete on the cross country course for Dangerous Riding, if appropriate, and to deliver a Yellow Warning Card to the Person Responsible. Any act or series of actions, that in the opinion of the GJ, can be defined as Horse Abuse shall be penalised according to the GRs. Based on the evidence and explanations provided at this stage, the GJ gave the Yellow Warning Card for three cumulative, recorded reasons, namely Dangerous Riding, Horse Abuse and Incorrect behaviour. The Tribunal furthermore accepts the FEI's argument that the decisions to eliminate the Athlete and to deliver a Yellow Warning Card are Field of Play Decisions, and thereby technical determinations for which the GJ generally has the authority, and for which there is generally no room for review. The Tribunal holds that there may be exceptions from this rule, however such exceptions have not been provided by Ms. Blom thus far. Given the information and evidence provided so far, the Tribunal is of the opinion that Ms. Blom has not demonstrated that the GJ's decision to give her a Yellow Card on the grounds of Dangerous Riding and Horse Abuse was unfounded

The Tribunal further accepts that in accordance with Article 169.7.1 of the GRs, Yellow Warning Cards may be delivered "by hand or by any other suitable means". The delivery of the Yellow Warning Card - sent by the TD to the FEI for follow up - complies with one of the mechanism of delivery foreseen under the

GRs. Given the information and evidence provided so far, the Tribunal is further more of the opinion that Ms. Blom has not demonstrated that she was not offered an opportunity to be heard on the GJ's decision to deliver a Yellow Warning Card on the grounds of Dangerous Riding and Horse Abuse.

As – undisputed by the Parties - the Yellow Warning Card in question is the second within one year for the same reason, Horse Abuse, it shall automatically lead to a two months suspension, which is hereby upheld.

In view of the above, the Automatic Suspension is maintained.

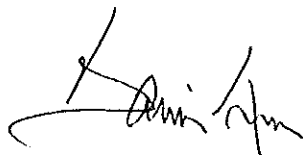
The confirmation of the Automatic Suspension and its duration will be communicated to the NED-NF, which will have to ensure that Ms. Blom does not participate in any Event until the suspension is lifted.

Accordingly, Ms. Blom may not participate in any capacity at an Event, or in a Competition or activity that is authorized or organized by the FEI or any National Federation or in Competitions authorized or organized by any international or national level Event organization.

This Interim Decision does not prejudice in any way the final decision that may be made by the FEI Tribunal.

This Interim Decision can be appealed before the Court of Arbitration for Sport (CAS) within 30 days of the present notification.

Made by the Preliminary Panel on Wednesday, 23 May 2012



Mr. Henrik Arle
Chair of the Panel