



Case Number: D 0001/09

D E C I S I O N
of the Disciplinary Board of Appeal
of 19 March 2009

Applicant: N.N.
(Article 23 RDR)

Decision concerned: Decision of the Disciplinary Board of Appeal dated 17 December 2008 refusing the Applicant's (Appellant's) request for reestablishment of rights and rejecting his appeal as inadmissible.

Composition of the Board:

Chairman: J.-P. Seitz
Members: R. Menapace
T. L. Johnson

Relevant facts and submissions

- I. In its decision D 44/07 dated 17 December 2008 the Disciplinary Board of Appeal decided that the appellant's request for re-establishment of rights is refused and that the appeal is rejected as inadmissible.
- II. On 13 February 2009 the appellant, henceforth "the Applicant", filed an application for revision under Article 27(4) of the Regulation on the European qualifying examination ("REE") and Article 23(1) of Part IV of the Regulation on Discipline for professional representatives ("RDR").
- III. In support of his contention that "Art. 27(4) REE and Art. 23(1) of part IV of the regulation on discipline for professional representatives has been fulfilled for this application for revision" the Applicant submitted as follows:

"At the time of the decision it has to be assessed as unknown to the Disciplinary Body" and, analogously, to the Applicant, "that the grant of the request re-establishment already has led to my appeal being deemed to be filed

Also, it has been assessed as unknown to the Disciplinary Body that the decision comprises procedural violations in form of Naturally, the Board would not integrate procedural violations into a decision without being unaware of them."

- IV. In his further submissions, as far as they can be understood, the Applicant argued that his request for re-establishment of rights concerning the time limit for filing the appeal had already been granted when the Board dealt with the appeal.
- V. The applicant requested that the decision of the Disciplinary Board of Appeal be set aside and his request for re-establishment of his rights be maintained; thereafter the appeal should be decided upon on the merits.

Reasons for the decision

1. It follows from Article 27(4) REE ("Part IV of the Regulation on discipline for professional representatives shall apply mutatis mutandis to the procedure before the Disciplinary Board of Appeal", Part IV RDR including Article 23 "Revision of decisions") that the Disciplinary Board of Appeal is responsible to decide on the present application for revision of a final decision, here the one indicated under Point I, above.
2. Pursuant to Article 23(1) RDR such an application "may be made only on discovery of a fact which is of such a nature as to be a decisive factor in favour of the professional representative and which, when the decision was taken, was unknown to the disciplinary body which last dealt with the matter and to the professional representative" (here: the Applicant).

3. Neither the Applicant's submissions reproduced above under Point III, nor his further submissions contain particulars of facts and evidence within the meaning of Article 23(1) RDR, as required by Article 23(2) RDR. The use of the wording "*it has to be assessed as unknown to the Disciplinary Body that ...*" not adding anything to the substance of his submissions which are limited to arguments, why the Board's findings as to the requested re-establishment of rights and the ensuing inadmissibility of the appeal underlying decision D 44/07 were wrong.

4. Also otherwise the Board has not become aware of any facts which were relevant for the decision in question and could qualify under Article 23(1) EPC.

Order

For these reasons it is decided that:

The application for revision is rejected as inadmissible.

The Registrar:

The Chairman:

P. Martorana

J.-P. Seitz