CAS 2020/A/7204 Shaikh Abdulaziz Faisal Saqer Bin Mohamed Alqassimi v. Fédération Equestre Internationale (FEI)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Jacques Radoux, Référendaire at the European Court of Justice, Luxembourg
Arbitrators: Mr José J. Pintó, Attorney-at-Law in Barcelona, Spain
Dr János Katona, Attorney-at-Law in Budapest, Hungary

in the arbitration between

Shaik Abdulaziz Faisal Saqer Bin Mohamed Alqassimi, United Arab Emirates,

Represented by Dr Jan Kleiner, Luca Tarzia and Mr Lukas Stocker, Attorneys-at-Law at Bär & Karrer, Zurich, Switzerland

- Appellant -

and

Fédération Equestre Internationale (FEI), Lausanne, Switzerland

Represented by Ms Anna Thorstenson and Ms Ana Kricej, FEI Legal Counsels

- Respondent -

I. PARTIES

1. Shaik Abdulaziz Faisal Saqer Bin Mohamed Alqassimi (the "Appellant" or the "PR"), is an endurance rider from the United Arab Emirates.

2. The Fédération Equestre Internationale (the "Respondent" or the "FEI"") is a Swiss law association established in accordance with Articles 60 et seq. of the Swiss Civil Code, headquartered in Lausanne, Switzerland. It is the sole IOC recognized international governing body for the equestrian sport disciplines of dressage, jumping, eventing, driving, endurance, vaulting, reining and para-equestrian. Its members are the National Federations of the sport.

3. The Appellant and the Respondent are together referred to as the "Parties".

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties' submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

5. On 15 October 2016, an FEI CEI 1* 90 Endurance Event was held in Fontainebleau, France (the "Event"). During the Event, the horse, "Castlebar Contraband" ("Contraband" or the "Horse") was ridden by the Appellant who was, thus, in accordance with Article 118.3 of the FEI General Rules (the "GRs") the Person Responsible (the "PR").

6. On the last of the three (3) loops, Contraband suffered an injury, *i.e.* a fracture of his front right cannon bone, which led to the horse being euthanised.

7. The sequence of the events on that day, as recognised by the Parties, is as follows:

Time	Event
13:15	Contraband starts the final loop
13:45	Injury occurs and contraband falls
13:50	Phone call by the PR to his crew
14:00	The PR's crew reaches site of incident
14:01-14:30	Phone calls by crew to Event organizer for veterinary assistance

14:45	The official veterinarian, [redacted] arrives on the site of the incident
15:00	Decision to euthanise Contraband
15:10 & 15:30	[redacted] sedates and then euthanises Contraband
15:45	Blood samples (A- and B-Sample) are collected from Contraband

8. The analysis of the A-sample, which was performed by the LGC Laboratory, Fordham, Cambridgeshire, United Kingdom (the "Laboratory"), revealed the presence of Xylazine (the "Substance") at a level of 200-300 ng/ml. Xylazine is a "Prohibited Substance" used as a sedative, analgesic and muscle relaxant and classified as a "Controlled Medication Substance" under the FEI Equine Prohibited Substances list (the "Prohibited List"). As no valid Veterinary Form existed for the Substance, the FEI considered that the positive finding gave rise to an Equine Controlled Medication Rule Violation (the "ECMRV") under the Equine Anti-Doping and Controlled Medication Regulations (the "EADCMRs").

B. Procedural Background

9. On 22 December 2016, the Appellant was notified of the positive test.

10. On 15 January 2017, the Appellant informed the FEI that he did not request the analysis of the B-Sample and stated that he was "*100% sure*" that Contraband "*was 100% clean before the competition*".

11. On 5 May 2017, the Appellant filed his first submissions in relation to the alleged ECMRV.

12. On 6 September 2017, the FEI filed its first response to these submissions.

13. On 13 February 2018, the FEI notified the Appellant that it had opened a case of alleged "abuse of horse », in accordance with Article 142 of the GRs and/or the use of "Prohibited Methods" pursuant to Article 1054 of the Veterinary Regulations (the "VRs"). In this respect, the Appellant was informed that the post mortem and the histopathological reports indicated that Contraband's legs had been abnormally desensitised, which was a major factor that led to the fatal fracture and Contraband's subsequent euthanasia. According to Article 1054 of the VRs, competing with a horse "having hypersensitive or hyposensitive areas" was prohibited.

14. On 2 March 2018, the FEI submitted its second response to the FEI Tribunal.

15. On 28 September 2018, the FEI submitted the case file to the FEI Tribunal and requested the latter to consolidate the alleged ECMRV and the alleged "abuse of horse" case.

16. On 12 November 2018, the Appellant raised concerns about the post mortem and histopathological reports submitted by the FEI based, *inter alia*, on the fact that there were no photographs taken during the examination or radiographs of the fractured bone. He requested the digital slides of the post mortem examination and the paraffin blocks of the tissue samples, an extension to provide his submissions and a postponement of the hearing planned for 10 December 2018.

17. After further lengthy exchanges between the Parties as well as between the Parties and the FEI Tribunal, the latter informed the Parties, on 23 January 2020, of its decision to consolidate the alleged ECMRV and the alleged "abuse of horse" charges.

18. On 9 February 2020, the Appellant provided a final statement in which he advised his former legal counsel had already made all submissions he wished to make on his behalf and asked the FEI Tribunal to decide this matter on the written submissions, given that he no longer intended to compete in endurance riding.

19. On 28 February 2020, the FEI submitted its third response to the Tribunal.

20. Neither party having requested a hearing, the FEI Tribunal took a decision based on the written submissions only.

21. On 3 June 2020, the FEI Tribunal rendered its decision (the "Appealed Decision") which reads as follows:

"*1) Sh Abdul Aziz Bin Faisal Al Qasimi violated the ECM Rules.*

2) For the ECM Rule violations, Sh Abdul Aziz Bin Faisal Al Qasimi is suspended for a period of two (2) years, starting from the date of the present decision.

3) Sh Abdul Aziz Bin Faisal Al Qasimi has engaged in horse abuse and thereby violated Article 142 of the GRs.

4) For the horse abuse, Sh Abdul Aziz Bin Faisal Al Qasimi is suspended for a period of eighteen (18) years, starting from the date of the completion of the suspension for the ECM Rule violation.

5) Therefore, the total period of suspension is twenty (20) years, starting from the date of this decision. The PR is ineligible until 2 June 2040.

6) All results achieved by Sh Abdul Aziz Bin Faisal Al Qasimi with Castlebar at the Event (if any), including forfeiture of medals, points and prizes are disqualified.

7) Sh Abdul Aziz Bin Faisal Al Qasimi is fined seven thousand five hundred Swiss Francs (CHF 7,500) for the ECM Rule violation, and ten thousand Swiss Francs (CHF 10,000) for Castlebar's abuse. Therefore, the total fine is seventeen thousand five hundred Swiss Francs (CHF 17,500).

8) Sh Abdul Aziz Bin Faisal Al Qasimi is ordered to pay fifteen thousand Swiss Francs (CHF 15,000) towards the cost of these proceedings."

22. In its decision, the FEI Tribunal, *inter alia*, stated that it was satisfied that the analyses of the A sample was carried out in an acceptable manner and the test results evidenced the presence of Xylazine, which is classified as a Controlled Medication Substance. Given that neither the PR nor the owner of Contraband contested the accuracy of the test results or the positive finding, the FEI Tribunal found that the FEI had established an ECMRV on the balance of probability pursuant to Article 3.1 of the ECM Rules (para. 10.6 of the Appealed Decision). The FEI Tribunal went on to consider that the PR had the burden of proving that he bore "No Fault or Negligence" or "No Significant Fault or Negligence" pursuant to Article 10.4 or 10.5 of the ECM Rules, respectively (para. 10.7 of the Appealed Decision). After having examined the PR's arguments, the FEI Tribunal found that the PR had not established on the balance of probability how the Xylazine had entered Contraband's system and, as a result, had failed his personal duty to ensure that no Controlled Medication Substance was present in Contraband's body during the Event without a valid veterinary form pursuant to Article 2.1.1 of the ECM Rules (para 10.9 of the Appealed Decision). The FEI Tribunal further concluded that the PR was not entitled to any elimination or reduction of the otherwise applicable period of Ineligibility pursuant to Article 10.4 or 10.5 of the ECM Rules (para. 10.10 of the Appealed Decision).

23. The FEI Tribunal went on to state, in para. 10.12 of the Appealed Decision, that "*Article 2.2.1 of the ECM Rules is similar to Article 2.1.1 but adds that it is the PR's personal duty to ensure that no Controlled Medication Substance is 'Used' during an event without a valid Veterinary Form. It is clear that Xylazine was 'Used' at the Event. The Tribunal has already found that the PR did not establish on the balance of probability how the Xylazine entered [Contraband's] body. Therefore, the Tribunal finds that the PR failed in his personal duty to ensure that no Controlled Medication Substance was Used during the Event. The Tribunal considered this additional violation the ECM Rules as an aggravating factor, pursuant to Article 10.7 of the ECM Rules, in its determination of the period of Ineligibility. Given the PR was held responsible for a Banned Substance Rule violation in February 2011 and taking into consideration Articles 10.8.1 and 10.8.2 of the ECM Rules, the PR is already subject to a one year period of Ineligibility*". As a result, the FEI Tribunal imposed a period of Ineligibility of two (2) years on the PR for the ECMRV.

24. Regarding the alleged horse abuse, the FEI Tribunal held that it was comfortably satisfied that FEI had met its burden of proof, as required under Article 32.2 of the Internal Regulations of the FEI Tribunal (the "IRs"), that the PR committed an "abuse of horse" within the meaning of Article 142.1 of the GRs. It further pointed out that Contraband received multiple injections before the Event as was clear from the Rossdales' veterinary records and that, on one occasion, the veterinary records indicate Contraband was very reactive to the needles. The FEI Tribunal was also comfortably satisfied that Castlebar received nerve blocking injections during the Event. By abnormally desensitising Contraband's limbs, this caused or likely caused pain and unnecessary discomfort to the horse (para. 10.18 of the Appealed Decision). The FEI Tribunal further stated "*[t]he PR showed remorse for what happened to [Contraband] in his letter of 9 February 2020 and as a result, he has decided to quit competing in endurance. Although the Tribunal acknowledges his*

remorse, the Tribunal cannot help but question his sincerity given the totality of the circumstances. The PR and his legal counsel delayed these proceedings, which contributed to postponing the scheduled hearing. He then decided he did not want a hearing and subject himself to questioning. This decision may have been motivated by his decision to quit endurance riding, which ultimately rendered a hearing unnecessary. The Tribunal draws an adverse inference from his decision requesting a hearing, delaying the proceedings by postponing it, and then deciding he no longer wanted a hearing. Furthermore, the PR did not seem to be particularly concerned about [Contraband's] well-being. The evidence shows that [Contraband] received nerve blocking injections before and during the Event. As mentioned before, even his own expert suggested that [Contraband's] ulnar nerve was injected during the Event. But, what the Tribunal finds most troubling is that the PR apparently left the accident site after [Contraband's] catastrophic injury, demonstrating a remarkable lack of compassion for a horse he claimed to have loved and treated like a member of his own family" (para. 10.20 of the Appealed Decision).

25. The FEI Tribunal went on to recall that the "*applicable rule for horse abuse carries a suspension of a minimum of three (3) months up to life*" and to state that it had "*never before adjudicated on a horse abuse case of this magnitude*". Therefore, "*having considered all the medical evidence*", the FEI Tribunal found "*it was foreseeable that the repeated and multiple nerve blocking injections would have increased [Contraband's] risk of a serious injury such as the comminuted fracture he sustained. The Tribunal further finds that the PR compromised [Contraband's] welfare. Horse welfare is paramount in equestrian sport, and to preserve and protect a horse's welfare is one of the FEI's statutory objectives (Article 1.4 of the Statutes). Any action or intent of doping and illicit use of medication constitute a serious welfare issue and will not be tolerated. Therefore, in addition to the seriousness of the PR's infringements, the Tribunal finds that a lengthy sanction is necessary and justified when it takes the PR's apparent lack of consideration for [Contraband's] welfare into account*" (para. 10.22 of the Appealed Decision).

26. In view of the evidence it had considered and based on the principle of proportionality, the FEI Tribunal imposed a period of Ineligibility of eighteen (18) years on the PR for violating Article 142.1 of the GRs and decided that this period of Ineligibility was to be served after the PR had served his period of Ineligibility for the ECMRV (para. 10.23).

III. SUMMARY OF THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

27. On 23 June 2020, in accordance with Article R47 of the Code of Sports-related Arbitration (the "Code") (2019 edition), the Appellant filed his Statement of Appeal with the Court of Arbitration for Sport (the "CAS") against the Respondent with respect to the Appealed Decision. In his Statement of Appeal, the Appellant nominated Mr José J. Pintó, Attorney-at-Law in Barcelona, Spain, as arbitrator and requested an extension until 24 July 2020 to file his Appeal Brief.

28. On the 26 June 2020, the CAS Court Office informed the Respondent of the initiation of the present appeals proceedings against it and invited it to nominate an

arbitrator within ten (10) days as well as to state, by 30 June 2020, whether it consented to the extension of the deadline requested by the Appellant.

29. On 1 July 2020, the CAS Court Office, in absence of any reaction by the Respondent in that respect, granted the extension of time requested by the Appellant.

30. On 21 July 2020, the CAS Court Office acknowledged that the Parties had agreed on a further extension of the deadline to file the Appeal Brief.

31. On 6 August 2020, the CAS Court Office informed the Parties that, following the Appellant's objection to the late nomination of an arbitrator by the Respondent, the Deputy President of the Appeal Arbitration Division had, in lieu of the Respondent's nomination, appointed Dr Janós Katona, Attorney-at-Law in Budapest, Hungary.

32. On 18 August 2020, the CAS Court Office informed the Parties that the Panel appointed to decide on the present proceedings was constituted as follows:

President: Mr Jacques Radoux, Référendaire, European Court of Justice, Luxembourg

Arbitrators: Mr José J. Pintó, Attorney-at-Law in Barcelona, Spain

Dr János Katona, Attorney-at-Law in Budapest, Hungary

33. On 9 September 2020, following an agreed-upon extension of time, the Appellant filed his Appeal Brief.

34. On 8 December 2020, following and agreed-upon extension of time, the Respondent filed its Answer.

35. On 8 January 2021, the CAS Court Office sent to the Parties an Order of Procedure, requesting them to return a signed copy of it to the CAS Court Office. On 11 January 2021, the Respondent transmitted its signed copy of the Order of Procedure. The Appellant signed that Order of Procedure on 12 January 2021.

36. On 14 and 15 January 2021, a hearing took place in the present proceedings. Due to COVID-19 restrictions, the hearing was held via Cisco-Webex. The Panel was assisted by Mr Brent J. Nowicki, Managing Counsel at the CAS. The Panel was joined by the following participants:

For the Appellant:

Shaik Abbdul Aziz Faisal Saqer Bin Mohammed Alqassimi, the Appellant;

Dr Jan Kleiner and Mr Lukas Stocker, counsels;

Shaik Abdulla Alqassimi, co-counsel;

Mr Ayham Othman, co-counsel;

Ms Marijke Visser, witness;

Ms Joyce Van den Berg, witness;

Mr Anzac Mahmood, witness;

Dr Mark Dunnett, expert witness;

Dr Emmanuele Ricci, expert witness;

Dr David Martin, expert witness; and

Dr Alina Vale, expert witness

For the Respondent:

Ms Anna Thorstenson and Ms Ana Kricej, FEI legal counsels;

[redacted], member of the FEI Veterinary Commission;

[redacted] witness;

[redacted] witness;

[redacted], witness;

[redacted], expert witness;

[redacted] expert witness;

[redacted], expert witness;

[redacted] expert witness; and

[redacted] interpreter

37. At the outset of the hearing, the Parties confirmed that they had no objections to the constitution of the Panel.

38. The Panel heard all witnesses and expert witnesses called by the Parties. The interpreter as well as the witnesses and expert witnesses were invited by the President of the Panel to tell the truth subject to the sanction of perjury under Swiss law.

39. The Parties were given full opportunity to pose questions to the witnesses, to present their cases, to submit their arguments and to answer the questions asked by the Panel.

40. At the conclusion of the hearing, the Parties confirmed that their right to be heard had been fully respected and that they had no objections as to the manner in which the proceedings had been conducted.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant's submissions

41. The Appellant recalls that the present case has two different elements to it, *i.e.* (i) a doping aspect deriving from the AAF for Xylazine, which led to a 2-year period of ineligibility, and (ii) a, "abuse of horse" aspect deriving from the allegation of "nerve-blocking" and/or general "mistreatment" of Contraband, which led to a 18 years suspension.

42. As to the doping aspect of the case, the Appellant highlines that the time-window during which Xylazine must have been administered as determined by the Respondent's expert ([redacted]) falls between 14h45 and 15h45. This does, according to many experts, render a first scenario, in which the administration of Xylazine occurred before the incident, impossible. This does, according to many experts, also render a second scenario, in which the Xylazine had been administered after the incident but before [redacted] arrival, impossible. According to many experts, a third scenario, involving administration of Xylazine for nerve-blocking and/or in micro-doses would also be impossible as (i) the possible nerve-block would have been administered outside that time-window (ii) the concentration detected in the sample was too high for a micro-dosage administered at the last Vet-gate. A fourth scenario, involving the administration of Xylazine by the Crew could also be excluded as the horse did, according to [redacted] not show any sign of sedation when she arrived on site and because [redacted] stated that she did not see anybody giving any injection to Contraband. In any event, in this fourth scenario the Appellant would bear No Fault whatsoever, as such administration would have been for the sake of the horse. The fifth scenario, according to which [redacted] administered the Xylazine by mistake would be the only possible, plausible and likely scenario. Indeed, according to several experts, the timing and the concentration in which the Xylazine was detected in the A-sample fit perfectly. Moreover, [redacted] had Xylazine in her car, she uses Xylazine in her practice, she does not have a clear recollection of the day, she was stressed and under pressure at the moment she practised euthanasia on Contraband, the Laboratory report did not find the Diazepam/Valium that was allegedly administered by [redacted] but just found Xylazine and a possible mistake by [redacted] would have been undetectable as Diazepam/Valium and Xylazine would have had the same effect.

43. In view of the above, the Appellant argues that he has established, on the relevant standard of proof, *i.e.* on a balance of probabilities, that the most likely and the only possible scenario on how Xylazine entered Contraband's system was the unintentional administration by [redacted]. Given that in this scenario the Appellant bears No Fault or Negligence, it would be obvious that he cannot be subject to any sanction for the AAF.

44. As to the horse abuse aspect of the case, the Appellant argues that the Respondent's case is based on 5 elements, *i.e.* (i) the haemorrhagic lesions; (ii) the stress fracture; (iii) the allegation that Contraband was "unfit to compete"; (iv) the rounded bone ends on the broken leg; (v) the tack/harness lesions.

45. Concerning, first, the haemorrhagic lesions, there would be no evidence that they were the result of the alleged nerve block. Indeed, [redacted] the Respondent's expert, as well as Dr Ricci and D Vale, all confirmed that there is "no evidence" of nerve-blocking. Dr Martin for his part confirmed the accidental nature of the fall.

46. Regarding, second, the stress fracture, it would be extremely unclear whether there was a stress fracture at all as [redacted] agreed that the lesions observed in Contraband's limb joints were "*not exceptional*" in endurance horses and are "*not attributable*" to abusive training practices; as the diagnostic image report states that there is "*no evidence of pre-existing changes suggestive of a stress fracture*" and as only [redacted], the world's leading expert in the field, managed to detect "*some traces*" of a possible stress fracture. In any event, even if there were a stress fracture, this would not be evidence for a nerve-blocking nor evidence that the horse was unfit to compete. Such stress fracture would neither be evidence for an abuse of horse as all the Respondent's witnesses confirmed that they have seen other catastrophic fractures before and as it is, according to the words of the world's leading specialist in the field, [redacted], a very difficult injury to prevent or to detect in advance.

47. Concerning, third, the allegation that Contraband was in bad condition and unfit to compete, the Appellant argues that Contraband was treated by Rossdales, one of the world's best equine veterinary clinic, and that the clinical records confirm that Contraband was sound and fit to compete. This would be confirmed by the experts, *i.e.* Dr Martin, [redacted] and [redacted] as well as by the witnesses, *i.e.* Ms Visser and Mr. Mahmood. The Appellant respected the stand-down periods established by the FEI and, like other riders, for example [redacted], trusted the veterinarian's advice. So, in view of the fact the FEI Vet Checks, all veterinarians and the FEI experts confirm that Contraband was sound, that the FEI stand-down periods were respected and that Contraband was medically followed by the best veterinarian clinic in the world, one would have to ask what more the Appellant should have done. In any event, the Appellant could not detect any possible and unforeseeable injury.

48. Regarding, fourth, the rounded bone ends on the broken leg, the Appellant claims that these do not constitute evidence for the alleged abuse of horse. Indeed, according to several expert's, including the Respondent's experts [redacted] and [redacted], given the circumstances of the case and the relatively long time period that elapsed between the incident and Contraband's euthanasia, the rounded bone ends would not come as a surprise and could not be used as evidence of pre-existing injury.

49. Concerning, fifth, the alleged tack and/or harness lesions the Appellant highlines that according to the Respondent's own expert, *i.e.* [redacted], in long-distance endurance racing she often observed swelling under the saddle at the end of the race and what has been, in the present case, indicated as harness-induced injury may in fact be a post mortem lesion. Further, the Appellant underlines that, during her oral testimony, [redacted] stated that she does not think that there were any tack lesions on Contraband and that if she had seen some, she would have mentioned them in her report. Thus, there would be no evidence for this alleged element either.

50. Hence, there would clearly be no evidence of any abuse of horse in the present case and it would be clear from the Appealed Decision that the FEI showed a strong prejudice against the Appellant and considered him, during the whole proceedings, as guilty from the beginning. This lead the FEI Tribunal, who did not have a full and accurate picture of the case, to impose a sanction, which is grossly disproportionate and infringes the principle of equal treatment.

51. In view of the above observations, the Appellant concludes that the Appealed Decision is flawed by errors in facts, as it ignored the undisputed existence of a stone, as it drew a strong inference against the Appellant because he allegedly left the site of the incident and because Contraband, according to what [redacted] had noted, allegedly fell on his right side, which was the side of the broken leg, as well as by errors in law, as, in the absence of any alternative scenario provided by the Respondent, the Appellant has proven how the Xylazine must have entered Contraband's system and as there is no evidence supporting any of the elements brought forward by the Respondent in relation to the alleged abuse of horse. Thus, the present case would be a clear case of "miscarriage of justice" and the 20 years suspension imposed by the Appealed Decision should be annulled in its entirety.

52. In his Appeal Brief, the Appellant requests the Panel to issue an award:

"*1. Annulling the Appealed Decision in its entirety.*

2. Not imposing any sanction on Appellant.

2 A: In the alternative, reducing any sanction at the discretion of CAS;

2 B: In the alternative, if a suspension is imposed, back-dating the taking of effect of the suspension to the day of the Event, i.e. to 15 October 2016.

3. In any event, charging all costs of these proceedings to the FEI.

4. In any event, ordering the FEI to grant a very significant contribution to the legal fees of Appellant at an amount of at least CHF 100,000."

B. The Respondent's submissions

53. As a preliminary point, the Respondent explains that the welfare of the horse is paramount to the FEI and that, accordingly, there are special provisions to protect that welfare. Considering that in endurance racing there is a confirmed risk for fatal fractures the FEI has implemented a certain number of measures to protect the welfare of the horses, *i.e.* through a strict anti-doping and controlled medication control program, multiple veterinary horse inspections during the competition, mandatory rest periods and a limb sensitivity protocol. Nonetheless, over the last years, training and competing with horses with injuries has become a major problem in endurance sport. Especially in the Middle Eastern region, nerve block would be used on horses before and during endurance races. This region has been the biggest challenge for the FEI and it even had to suspend the UAE National Equestrian Federation for a period of time in 2015 in order to improve the situation of the sport of endurance in that region. The non-observance of the rules would give a negative

picture of endurance sport as such and it would be the Respondent's role to recover and protect the reputation of endurance sport in the public perception. In the light of the forgoing, the present case would be a very important case for the future of the welfare of endurance horses.

54. Regarding the incident and the euthanasia of Contraband, the Respondent notes, *inter alia*:

- that on the site of the incident no stones in particular can be seen and that, in any case, as explained by the experts reports, a stumble on a stone is not the reason for a fatal fracture like the one occurred by Contraband;

- that [redacted] states that that when he rode by the place of the incident, there "*was no rider but a groom and the trainer of the Horse who was holding the Horse by hand. The Horse was without the saddle, was calm, was standing normally, putting full weight on his 4 legs, and there was however a bit of blood on one of the two front legs*";

- that Contraband was fresh at the start and that the Appellant had difficulties controlling the Horse, even being ejected from the saddle;

- that according to [redacted] and [redacted] the Appellant was no longer present on the site of the incident when they arrived on the site;

- that according to [redacted] and [redacted], the Horse showed lack of stress and pain and tried to put weight on the fractured leg;

- that according to [redacted] witness statements, the Horse tried to lay down on the side with the fractured leg and that fact shows that the Horse was lacking pain in that leg;

- that [redacted] as an experienced veterinarian, frequently performs euthanasia and always uses the same protocol, *i.e.* the standard protocol mostly used in France, which does not include the administration of Xylazine. Moreover, according to [redacted] record, she did not administer Xylazine as sedative but Romifidine;

- that the confusion between Diazepam/Valium and Xylazine would be practically impossible as they come in completely different packages and have to be drawn in the syringe in a different way;

- that the fact that Diazepam was not detected by the Laboratory in its initial screening can be explained by the low amount of Diazepam administered (only 4 mL) and the quick excretion time of that substance. From the Respondent's experience, given that the metabolism of an equine athlete after competition and post mortem changes, it would not be unusual for the Laboratory to not find all the administered drugs figuring on the veterinary form post mortem in a horse. Over the last 10 years, there have only been two (2) confirmed Diazepam cases, despite the fact that it has been used on horses in the phase of euthanasia and the post mortem sample collection is compulsory;

- that on basis of [redacted] (third) report, and contrary to what the Appellant alleges, the FEI cannot exclude the use of Xylazine prior to the accident, *i.e.* at the Vet gate or cooling area; nor the administration after the accident and before the arrival of [redacted] nor the administration as an act of compassion; nor the use of Xylazine as a nerve-block in micro dosage to lower the heart rate or mask lameness at the Vet gate.

55. As to the doping aspect of the case, the Respondent argues that, given the AAF and the absence of any allegation, by the Appellant, regarding any breach, departure or violation of the applicable procedures, which could reasonably have caused the AAF, the FEI has clearly discharged its burden to establish that the appellant has violated article 2.1 of the ECMRs. According to Article 10.2 of the ECMRs, a PR with no previous offences who violates Article 2.1 is subject to a period of ineligibility of six months, unless he's able to rebut the presumption of fault and to do this he must establish, to the satisfaction of the panel, inter alia, how the prohibited substance entered the horse's system. The Appellant having had a prior offence, the period of ineligibility to be imposed according to Article 10.8.1 of the ECMRs was a minimum of one (1) year. In order to benefit from the No Fault or Negligence or No Significant Fault or Negligence exception, the Appellant has to provide clear and convincing evidence that proves how the Xylazine entered Contraband's system, on the balance of probabilities. However, according to the Respondent, the four scenarios that the Appellant deems to be impossible can be excluded to be the source of the Xylazine finding in the Horse. Moreover, the Respondent agrees with the FEI Tribunal when it found that the Appellant did not provide any convincing evidence to suggest that [redacted] administered the Xylazine to Contraband on the basis, *inter alia*: that said Tribunal questioned the objectivity and reliability of the PR's statement and those of Mr Mahmood and Ms Visser; that it could not overlook that the PR had made the same argument in another case that the testosterone was administered by a third party but the hearing panel in that case found his allegation to be unsubstantiated speculation; that it found [redacted] wholly persuasive in her explanation of her euthanasia protocol and accepted [redacted] statement that Romifidine was widely used in France because Xylazine was three times more expensive and as a euthanasia agent, Romifidine was preferred over Xylazine; that it accepted [redacted] statement that the two products had different packaging and therefore, they would be difficult to confuse; that it had no reason to doubt the observations of the FEI witnesses about Contraband's apparent lack of pain and suffering.

56. Considering that the Appellant has failed to establish the source of the AAF, he cannot benefit from a reduction under Articles 10.4 or 10.5 of the ECMRs. In view of the Appellant's prior ECMRV and the fact that the Prohibited Substance, the presence of which was established by the AAF, was, according to all experts, injected during the competition, the FEI Tribunal correctly considered the "Use" violation (Article 2.2 of the ECMRs) as an aggravating circumstance. The Presence of a Prohibited Substance in the sample being one charge, and evidence of the Use of that substance in-competition is another charge, which adds to the severity of the violation. Further, the separate facts about the Use of nerve blocking agents constitutes a separate Use charge, which also adds to the severity of the violation.

According to the Respondent, each of those three are different violations of the ECMRs and, hence, there would not be any double jeopardy.

57. As to the proportionality of the sanction imposed, the Respondent considers that in view of the fact that the FEI Tribunal did not impose the maximum under the rules for the ECMR violation, which would have been three (3) years in this case, the FEI Tribunal could rightfully conclude that given the circumstances of the case, a two (2) year period of ineligibility for the EADCMR violations was proportionate.

58. As to the horse abuse aspect of the case, the Respondent submits that the evidence in the case is substantiated and corroborated evidence, which cannot be ignored. The evidence must also be considered in the context of the facts of the case, the background of the sport of endurance riding and the scientific evidence, of the use of certain substances leading to stress fractures and ultimately to catastrophic injuries in horses. It is the totality of all the above that, according to the Respondent, constituted a severe and serious abuse of the Horse.

59. A first element of evidence would be found in the Autopsy Report, which would show that there were clear signs of abuse of the horse within the meaning of Art 142 of the GRs. Indeed, that Report concluded that Contraband showed "*lesions of osteoarthritis, particularly on the right front fetlock; multiple oedematous and hemorragic lesions, both old and recent, following the exact nervous tracts of the limbs, particularly in the forelimbs. Also subcutaneous and superficial muscular hemorrhagic lesions with a very particular topography suggest tack-induced lesions*" and that "*a recent hemorrhagic focus was observed around the ulnar nerve (approximate age between 2-4 hours). Associated to this hemorrhage is an eosinophilic homogenous to granular material that may correspond to an injected material (eosinophilic staining may indicate a protein-rich content)*". The Report would thus show that the Appellant competed the Horse despite that it was "*abnormally sensitised or desensitised*" in its limbs. However, horses are not permitted to compete "*when they have hypersensitive or hyposensitive areas*" and this would thus be "*an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse*".

60. A second element of evidence would be provided by the veterinary records of the Horse. Indeed, these records would show that Contraband was treated and examined for joint and lameness related problems ten times over the four months before the Event and received multiple injections to his front fetlocks and front coffin joints during this period. The most crucial and interesting for this case are the Adcortyl and Hy-50 injections, which are used to alleviate joint pain, swelling and stiffness associated with synovitis and osteoarthrosis. On three occasions (14 June, 19 August, and 28 September 2016), Contraband did not receive any sedation before being injected with Adcortyl and/or Hy~50 in the fetlocks or knee joints. This would indicate that the Horse was very used to injections and also proves that there was no need for sedation in order to perform injections. The Respondent points out that on 28 September 2016, *i.e.* only 16 days before the Event, Contraband received an injection of Adcortyl, which contains the active substance Triamcinolone Acetonide. The detection time for the substance Acetonide is estimated to be 168 hours (7 days) after intra-articular administration in one joint and its withdrawal

time is at least 14 days. However, the active effect time of Triamcinolone Acetonide would be around 36 days. Considering that [redacted] and [redacted] have established that the use of certain prohibited substances combined with competition and lack of rest and recovery, increase the risk of bone fatigue and stress fractures leading to fatal fractures and catastrophic injuries in a horse, the FEI concludes that the veterinary records of the Horse, show that the Appellant competed with a Horse that was not fit to compete and, hence, "*competed using an exhausted, lame or injured Horse*" which is clearly "*an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse*".

61. The Respondent argues, third, that it is clearly established that Contraband was suffering from stress fractures/bone fatigue. In this respect, it relies on the following elements:

- [redacted], the leading expert in the world on the topic, concludes in his report that the evidence in this case is strongly indicative of the fracture being a stress/fatigue fracture due to (i) the configuration of the fracture, and (ii) the presence of sclerosis either side of the condylar fracture on the CT;

- a fracture like the one at hand, *i.e.* an open comminuted and displaced fracture of the metacarpal bone, with the presence of a lateral condylar fracture and a transverse fracture of the remaining portion (medial) of the third, second and fourth metacarpal bones, does not just happen and it would be confirmed that there are many underlying problems and factors in a horse's health once such a fracture has occurred,

- according to [redacted] and [redacted] if the Horse did step on a stone, this was not the reason for the catastrophic injury. Even if it was the triggering factor, there were many other additional and accumulating factors in this case that lead to the fracture;

- the CT scan confirms the presence of sclerosis, on either side of the condular fracture, which is strongly indicative of the fracture being a stress/fatigue fracture;

- according the [redacted] the presence of osteoarthritis lesions like the ones seen on Contraband reinforces the hypothesis of a fatigue fracture in the Horse.

62. In view of these elements, the Appellant concludes, that it is highly likely that the Horse had pre-existing lesions, *i.e.* osteoarthritis which it was treated for at Rossdales in the months prior to the competition, and that pre-existing skeletal lesions can result in tissue fatigue and ultimately skeletal failure. Hence, in the Respondent's opinion there was also very likely bone fatigue in the Horse.

63. The Respondent claims, fourth, that there is evidence of desensitisation and nerve-blocking in the Horse. Indeed, it would be comfortably satisfied that the Horse was nerve-blocked at the Event. In support of this claim, the Respondent submits, *inter alia*, that:

- according to all experts, the nature and location of the haemorrhagic lesions present on the limbs are somewhat very particular and unusual;

- that the localisation and nature of these lesions are compatible with local regional anaesthesia and that there are no other logical or plausible explanations for those lesions than loco-regional anaesthesia, *i.e.* nerve-blocking;

- the age of these lesions is indicative that the lesion on the ulnar nerve was caused during the time of competition;

- the autopsy report confirmed the presence of exogenous high protein product around the nerves of eosinophilic nature. Although it cannot be ruled out that this product is extravasated serum, it cannot be ruled out either that it was a product, which was not detectable at the medication control, for example snake venom;

- several experts confirm that it is possible to inject a horse during the Event and that, as can be seen from the veterinary records, Contraband was used to get injections without sedation;

- as explained by [redacted] the lack of signs of sedation in Contraband would be nothing exceptional and could be expected in a horse that is in competition;

- all the Respondent's witnesses testified that Contraband seemed to be without pain after the incident and tried to put weight on its right (broken) forelimb;

- the rounded bone ends indicate that the Horse was carrying weight on its limb when it was already fractured. It would be difficult to say if the Horse continued to run with the fracture, which aggravated the fracture, or if this happened after the Horse had stopped moving. In any event, all the Respondent's witnesses testified that the Horse tried to put weight on the broken leg and limb and, in the Respondent's opinion, a horse that has been nerve-blocked would be more likely to do so than horse that has not been.

64. The Respondent argues, fifth, that anyone who is looking at the pictures of the post mortem report can see clear lesions on the Horse from the saddle, girth and breast collar. As none of the experts could explain the origin of the lesions, the only explanation could be that they were caused by the actual use of the tack. The FEI therefore concludes that it has met its burden of proof that there were clear lesions from the tack of Horse.

65. In view of all of this evidence, the Respondent submits that it has met its burden of proof to the comfortable satisfaction of Panel that Contraband suffered from a severe and serious abuse and that, if the Appellant had fulfilled his duty of care, Contraband's catastrophic injury could have been avoided.

66. As to the Appellant's argument that the FEI has prejudices against him and that he was perceived guilty from the beginning, the Respondent refutes that allegation and points out that it has rarely before been investigating a case where there was strong opposition to the FEI and its compulsory procedures, despite many attempts from

the FEI to try to cooperate with the Appellant's former lawyer. Given that there were many inconsistencies in the Appellant's submissions before the FEI Tribunal and that the Appellant was contradicting every FEI Official's witness statements, the FEI had to ask the question of who is the most reliable part. In any event, whether procedural flaws existed or not would be irrelevant at this stage as, according to the CAS jurisprudence, all alleged flaws are cured in the current CAS proceedings due to the *de novo* nature of the appeal proceedings.

67. Regarding, finally, the proportionality of the sanction, the Respondent argues that the Appellant has not established that the sanction imposed is "*evidently and grossly disproportionate*", as the FEI Tribunal could have imposed a life ban for the abuse of horse. Further, given the Appellant's age, the 20 years period of ineligibility would not amount to a life ban. As to the Appellant's allegation that there has been an unequal treatment and/or breach of legitimate expectations, the Respondent refutes that allegation by arguing that the fact that the FEI has never before suspended an athlete for such a long suspension, *i.e.* 20 years, can be explained by the fact that the FEI Tribunal had, as it pointed out in its Appealed Decision, never before seen a violation of this nature and magnitude.

68. In view of all the above considerations, the Respondent asks the Panel:

"*a) Dismiss the Appeal in its totality;*

b) To confirm the FEI Tribunal Decision and leave it undisturbed;

c) Uphold the sanctions imposed in the Decision, for the Appellant's violation of 2.1 and 2.2 of the ECMR and Art 142 of the GRs, including:

- 20 years suspension imposed on the Appellant;

- total fine of seventeen thousand five hundred Swiss Francs (17 500 CHF);

- legal cost before the FEI Tribunal of fifteen thousand Swiss Francs (15 000 CHF); and

d) in accordance with Article R65.3 of the CAS Code of Sports-related Arbitration to reject the Appellant's request for an order that the FEI make a contribution towards the costs he has incurred in making this Appeal; and

e) in accordance with Article R65.3 of the CAS Code of Sports-related Arbitration, to order the Appellant to pay a contribution towards the legal fees and other expenses incurred by the FEI in defending this appeal."

V. JURISDICTION

69. Article R47 of the Code provides, *inter alia*, as follows:

"*An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant*

has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body."

70. Article 39.1 of the FEI Statutes (2019) provides that the "Court of Arbitration for Sport (CAS) shall judge all Appeals properly submitted to it against Decisions of the FEI Tribunal, as provided in the Statutes and General Regulations".

71. Pursuant to Article 160.1 of the FEI GRs (2020) the CAS "*has the power to impose the same scale of penalties as the FEI Tribunal*" (para.1.) and pursuant to Article 160.2 the CAS "*may impose more severe penalties than those imposed in the first instance, provided they are within the limits of the penalty jurisdiction of the body from which the Appeal to the CAS is brought*" (para. 2.).

72. Article 12.2.1 EADR provides that in cases arising from an International Event or in cases involving FEI-registered Horses, as is the case in the present matter, the decision of the FEI Tribunal that an EADCMRV was committed and imposing consequences for that violation "*may be appealed exclusively to CAS*". Pursuant to Article 12.2.2 EADR, the PR, in the present case the Appellant, has a right to appeal.

73. In the light of the foregoing, the Panel finds that the CAS has jurisdiction to hear the present appeal. The Parties further confirmed that CAS has jurisdiction by execution of the Order of Procedure.

VI. ADMISSIBILITY

74. Article R49 of the CAS Code provides as follows:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties."

75. According to Article 162.7 of the FEI GRs, "*[a]ppeals to the CAS together with supporting documents must be dispatched to the CAS Secretariat pursuant to the Procedural Rules of the CAS Code of Sports-related Arbitration so as to reach the CAS within twenty-one (21) days of the date on which the notification of the FEI Tribunal Decision was sent to the National Federation of the Person Responsible*".

76. The Appellant was notified of the Appealed Decision on 3 June 2020 and he subsequently filed his appeal on 23 June 2020.

77. This appeal, therefore, was filed on a timely basis and is admissible.

VII. APPLICABLE LAW

78. Article R58 of the Code provides as follows:

> "*The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.*"

79. Thus, the applicable law according to which the Panel has to decide the appeal are the rules and regulations of the FEI.

80. Further, pursuant to Article 39.4 of the FEI Statutes "*proceedings before the CAS are governed by Swiss Law*" and pursuant to Article 167.2 of the FEI GRs (2020), "*[t]ese FEI General Regulations and any dispute arising out of or in connection with them (including any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with Swiss law.*"

81. The Panel will therefore apply the various regulations of FEI and, subsidiarily, Swiss law.

VIII. MERITS

82. As a preliminary point, regarding the Appellant's allegations that the FEI showed a strong prejudice against him during the proceedings before the FEI Tribunal and that the FEI Tribunal did not have a full and accurate picture of the case and made some statements about the Appellant which were completely unacceptable, that if these allegations were to be understood as meaning that the proceedings before the FEI Tribunal were flawed, the Panel recalls that it is widely recognised that the *de novo* power of review that is granted to CAS Panels by Article R57(l) of the Code allows, in principle, violations of procedural rights in first instance to be "cured" by CAS in appeal proceedings (CAS 2009/A/1880-1881). Hence, even in case the Appellant's procedural rights had been violated in the proceedings before the FEI Tribunal, any such violation was in any event cured in the present arbitration before CAS under its *de novo* competence.

A. The EADCMRV

83. As to the first aspect of the present appeal, *i.e.* the doping aspect, the Panel notes that there is no disagreement between the Parties on several factual elements of paramount importance, namely the AAF for Xylazine and the chronology (sequence) of the events as set out above.

84. According to Article 3.1 of the EADRs, "*FEI shall have the burden of establishing that an EAD Rule violation has occurred. The standard of proof shall be whether the FEI has established an EAD Rule violation to the comfortable satisfaction of the Hearing Panel bearing in mind the seriousness of the allegation which is made.*

This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these EAD Rules place the burden of proof upon the Persons Responsible and/or member of their Support Personnel to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except where a different standard of proof is specifically identified".

85. Given that the AAF and the ECMRV deriving thereof are not contested by the Appellant, the FEI can be considered as having discharged its burden of proof that an ECMRV violation occurred.

86. Pursuant to Article 10.4 of the EADRs, if "*the Person Responsible [...] establishes in an individual case that he/she bears No Fault or Negligence for the EAD Rule violation, the otherwise applicable period of Ineligibility and other Sanctions (apart from Article 9) shall be eliminated in regard to such Person. When a Banned Substance and/or its Metabolites or Markers is detected in a Horse's Sample in violation of Article 2.1 (presence of a Banned Substance), the Person Responsible [...] must also establish how the Banned Substance entered the Horse's system in order to have the period of Ineligibility and other Sanctions eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the EAD Rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 10.8 [...]*".

87. Thus, in a case like the present, involving an AAF of a "Controlled Medication Substance" under the FEI Prohibited Substances list, *i.e.* Xylazine, for which no valid Veterinary Form existed, in order to benefit from the No Fault or Negligence clause, and see the imposed period of ineligibility eliminated, the Appellant has to establish, on the balance of probabilities, how the Prohibited Substance entered Contraband's system.

a. Timing of the administration of Xylazine

88. In this regard, it is important to note that the Appellant, who has the burden of proof, refers to the expert report of the Respondent's veterinary pharmacology expert, [redacted] who concluded that, based on the literature pharmacokinetic data for therapeutic dose, the administration of the Xylazine "*would have occurred in less than one hour before the sample was taken. The [Appellant's] expert makes the argument for 10-30 minutes which is plausible but you could extend this to 1 hour (but no more) due to the short half-life of Xylazine*".

89. The Panel considers that it has to rely on this time window as set by [redacted] as he is, amongst the Respondent's experts, the most specialized in the field and because it has, as Dr Dunnett rightly explained, to be assumed that, when extending the suggested time window of "*10-30 minutes*" to "*1 hour*", [redacted] likely did take into account the factual circumstances of the case, *i.e.* that Contraband has been competing and might have been dehydrated but had already been at rest for a while after the incident and before euthanasia. For that reason, the alternative explanation suggested by [redacted] in her third expert report, *i.e.* that the dehydration and the decrease in the renal blood flow of the Horse caused by the

effects of the competition could render possible that Xylazine was administered much earlier than the above time frame, seems to have less weight. Therefore, based on the actual scientific evidence made available to it, the Panel can only take into consideration the potential scenarios that fall within that one-hour time window, or at least, close to it.

90. The Respondent argued that Xylazine could have been used during the race in doses higher than the therapeutic dose, which could have resulted in the given level of substance found in the sample. In this respect, the experts of the Appellant Dr Dunnett, Dr Martin and Dr Vale claim that an administration of a higher than the therapeutic dose before the accident (*i.e.* during the race) would have rendered the horse unrideable or could even have been lethal to the Horse as it would have been several times higher than the therapeutic dose. These claims remained mostly unanswered by the Respondent except that [redacted] alleged that it would be common to have no obvious response to sedation under stress. However, the Panel considers that this allegation does not explain how a horse could compete in an endurance race after receiving a dose of Xylazine several times higher than the therapeutic dose.

91. The same applies, in the Panel's view, to a possible micro-dosing of the Horse during the race or using the Xylazine for other purposes such as nerve-blocking. The Panel observes that the Respondent, when bringing forward a scenario involving a possible micro-dosage or nerve-blocking, did not explain in what mico-dosages of Xylazine would have been administered to lead to the concentration found in the A-sample and how such dosage would have allowed the Horse to be able to participate in the race and not show any signs of sedation. In addition, in her report dated 27 November 2020, [redacted] stated that "*[i]n the present case, there is no evidence that the horse received a micro dosing treatment, either in training or during the race*". Thus, the Panel finds that it is excluded an alleged micro-dosage of Xylazine could have lead to the concentration found in the A-sample.

92. These findings, combined with [redacted] testimony that after her arrival on the scene, *i.e.* after 14h45, she did not see anyone else but herself administer any medication to Contraband, leads the Panel to the conclusion that it must reject all scenarios in which the administration of Xylazine that lead to the AAF would have occurred substantially earlier than 14h45, *i.e.* one hour before the sample was taken.

93. It should nevertheless be taken into account that the time frame when the Xylazine could have been administered is defined based on scientific estimates and not by a method defining the time limit with the precision of a stopwatch. Therefore, for the sake of completeness, it's worth to examine the scenario in which the Xylazine had been administered by the entourage of the Horse a short time before [redacted] arrived at the scene. The Appellant characterized this scenario as possible act of compassion. In this respect, the Panel notes that there was a strong disagreement between the fact witnesses of the Parties about the state of the Horse when [redacted] arrived at the scene at 14h45. Indeed, [redacted] and [redacted] stated that, at their arrival at the scene, Contraband did not show any sign of sedation, his posture being that of an alert horse. Also, [redacted] and [redacted] insisted that the Horse did not seem to be in pain, was trying to put weight onto its broken leg and, also, when

falling down, needed to be forced to fall on the its left side which, according to [redacted] is a sign that the Horse felt no pain. Ms. Visser and Mr. Mahmoud on the other hand, insisted that the Horse was in pain and showed no sign of sedation. In turn, Dr Martin and Dr Vale explained that [redacted] and [redacted] description of the Horse is consistent with the behaviour of a horse under shock. These descriptions of Contraband's posture and behaviour render this scenario unlikely, even if the Panel were to take into consideration that the physical effort produced by the Horse during while competing may limit the sedative effect of Xylazine. Indeed, as already pointed out above, Contraband was at rest from the moment the incident occurred at 13h45. Therefore, the Panel finds this scenario to be unlikely.

94. In addition, admittedly, one could not, *a priori* and *per se*, exclude the possibility that the concentration of Xylazine found in the sample could be the result of a combined micro-dosage before 14h45 and a subsequent supplementary administration. The Panel considers that such a scenario has to be excluded in view of the fact that [redacted] confirmed, without hesitation and without contradicting herself, that after her arrival no one else but her administered any medication to Contraband. The possibility that a subsequent dosage of Xylazine was administered shortly before the arrival of [redacted] does not differ from the one already addressed in the preceding paragraph.

95. Thus, the Panel finds that the Appellant has established, on the balance of probabilities, that a scenario in which the administration of Xylazine found in the A-sample occurred before the incident, whether by micro-dosage or by other means, a scenario in which the Xylazine had been administered after the incident but before [redacted] arrival and a scenario in which the Xylazine would have been administered by the Crew after [redacted] arrival, do not seem plausible. Given that the Respondent's submission according to which these scenarios are not impossible is not supported by the expert reports and testimonies provided by the Respondent, the Panel concludes that these scenarios have to be disregarded in the present case.

96. As to the scenario that the Appellant deems possible, plausible and likely, *i.e.* that [redacted] administered the Xylazine by mistake during the euthanasia, which is supported by the expert witness report of Dr Vale and Dr Martin, the Panel notes first that it heard plausible explanations from [redacted] and from the expert witness of the Respondent why the erroneous administration of Xylazine during the process of euthanasia would be unlikely. [redacted], for example, noted that:

- she did not administer Xylazine to the horse during the euthanasia or otherwise,
- Xylazine is not generally used in the process of euthanasia in France,
- she does not use Xylazine in the process of euthanasia but Romifidine, and acted accordingly in the present case,
- the packaging in which Xylazine is marketed in France is very different from that of the Valium/Diazepam,
- the substances in themselves are very different as to their colour and other characteristics,

- she generally uses Xylazine as injection for animals other than horses and, for horses, she uses it rarely in perfusion together with other substances.

97. [redacted] confirmed that the practice of the use of Xylazine is very different in France than in the UK or in the US which could explain why, for the Appellant's experts - who are more familiar with the practice in the UK and in the US - the administration of Xylazine by mistake is a likely scenario.

98. These explanations could have been convincing if they had not been affected by one very serious flaw: no Diazepam/Valium (or Metabolites thereof) was found by the Laboratory during its initial screening of the sample.

99. Although the Respondent submits that it is not unusual to not find all the administered drugs after the euthanasia in the samples of the dead horse post mortem, the Panel observes that there is no evidence to support this submission. Further, the Respondent has not submitted any evidence to establish that the Laboratory did not screen the sample for Diazepam/Valium or its Metabolites although it figured on the VET Form 1. Finally, as Dr Dunnett stated during the hearing without being contradicted, the Laboratory is amongst the best in the world and it would have performed a screening test looking for everything, including Diazepam and its Metabolites. The Respondent's argument that there have only been two (2) Diazepam cases for over five thousand (5'000) samples does, in absence of any evidence establishing that the initial screening did not reveal the presence of that substance more often, not allow the Panel to draw any conclusion as to the question whether or not the Laboratory did this screening for the sample at hand. Thus, the Respondent's submission according to which it is not unusual to not find all the administered drugs after the euthanasia in the samples of the dead horse is nothing more than a pure allegation and has to be rejected.

100. Concerning the Respondent's argument that the absence of Diazepam/Valium from the sample can, according to [redacted], also be explained by the fact that (i) Contraband showed signs of dehydration and that such a factor must be taken into consideration for the normal metabolism of the horse, (ii) the amount of Diazepam supposedly administered by [redacted] was only 4 mL, which is a small amount and if injected intravenously to horses immediately after exercise compared to administration at rest, it can result in lower peak plasma concentrations, than expected in a resting horse, (iii) the blood samples were taken from the horse post mortem after competition and the conclusions put forward by the Appellant would not take into account the effects of competition and the changes this causes in the metabolism of the equine athlete and (iv) that the metabolism of an equine athlete changes post mortem, the Panel recalls that when [redacted] allegedly administered the Diazepam, *i.e.* at 15h10, Contraband was already at rest for 85 minutes and the administration cannot be considered as having occurred "*immediately after exercise*".

101. Further, even assuming that Contraband did show signs of dehydration and that such dehydration would have had an impact on the horse's metabolism, the Panel does not see any valid explanation as to why the metabolism of the Horse would lead, on the one hand, to a slower excretion of the Xylazine and, on the other hand, to a faster excretion of the Diazepam/Valium especially in view of the fact that both

substances have, according to the experts ([redacted]), a short half-life. This contradiction, which has also been highlighted by Dr Dunnett, casts serious doubt on the Respondent's argument. Moreover, the Panel notes that, after the sedation, the Horse's metabolism must have slowed down and that the sample was taken only 35 minutes after the alleged administration of the Diazepam/Valium which seems a reasonable short lapse of time considering that, as Dr Dunnett testified without being contradicted, Valium and its Metabolites can be detected for 6 hours and 48 hours respectively. The Panel cannot exclude that there might be a scientific explanation for this contradiction but no such explanation has been provided by the Respondent, who had the burden of proof.

102. In view of these considerations, the Panel concludes that the fact that the analysis of the sample did not reveal the presence of Diazepam/Valium or any of its Metabolites is – in absence of any substantiated explanation – an indication that Contraband was not administered Diazepam/Valium.

103. Considering that Contraband must have been administered a substance in lieu and place of Diazepam in order to perform the euthanasia and considering that, according to the experts, the administration of the same amount of Xylazine as the amount of Diazepam/Valium that was declared to have been injected (intended to inject), *i.e.* 4 mL, would have led to an AAF in the concentration like the found in the A-sample, it appears very plausible that such administration has occurred. The plausibility becomes even stronger when considering that, as already mentioned above, the concentration of the Xylazine in the sample was so high that an administration outside of the one (1) hour time window seems unlikely and that, according to [redacted], no one else administered any medication to Contraband after her arrival on the scene of the incident. Finally, as all the experts confirmed, the administration, during the euthanasia, of Xylazine instead of Diazepam/Valium would have been unnoticeable as their effects would have been the same.

104. All in all, given the very specific circumstances of the case, *i.e.* the time window for the administration of the Xylazine, the time of arrival on the scene by [redacted] and the fact that she stated that she saw no one else administer any medication to Contraband after her arrival, and, in particular, the fact that the Respondent was unable to present a plausible explanation on why Diazepam/Valium was not found in the blood sample, the Panel finds that the administration, by mistake, of Xylazine is the most plausible scenario.

105. The Panel recalls that, in a situation like the present, which is a case of "Beweisnotstand" in the sense of the Swiss jurisprudence, the Swiss Federal Tribunal has decided that "*principles of procedural fairness demand that the contesting party must substantiate and explain in detail why it deems the facts submitted by the other party to be wrong*" (ATF 106 II 29, 31 E. 2; ATF 95 II 231, 234; ATF 81 II 50, 54 E. 3; FT 5P.1/2007 E. 3.1; KuKO-ZGB/MARRO, 2012, Art. 8 no. 14; CPC-HALDY, 2011, Art. 55 no. 6). When applying these principles of procedural fairness, CAS panels have held that a contesting party cannot confine itself to contesting the scenario put forward by the other party, but has, due to its "*obligation to cooperate in elucidating the facts*", to substantiate its contestation by providing an explanation as to why it thinks the scenario in question is untrue and

why it believes such scenario to be impossible or at least less likely than other alternative scenarios (CAS 2011/A/2384 & CAS 2011/A/2386.

106. However, the Panel notes that on the evidence for which must be judged this case, the Respondent has not been able to establish what other scenario would have been more likely than the one of an administration of Xylazine by mistake. Indeed, when seen in the light of the specific circumstances of the case, especially the time for the administration of the Xylazine set out by the Respondent's expert, all other suggested scenarios do not seem plausible at all. This decision is based on the weighing of evidence and the necessary burden of proof. The Panel emphasises that it is not a decision declaring innocence. As in other cases, the choice before the Panel is not binary and it is, therefore, sufficient for the Panel to state that the party on whom the burden of proof lies in relation to a certain element of the case has failed to discharge that burden (see e.g CAS 2016/A/4534).

107. In view of the above considerations, the Panel finds that the Appellant has established, on the balance of probabilities, how the Xylazine entered Contraband's system and that, in the scenario it deems most likely, the Appellant did not bear any Fault or Negligence. Thus, pursuant to Article 10.4 of the EADCMRs, no period of Ineligibility shall be imposed on the Appellant. Accordingly, the Panel concludes that the findings and sanction imposed in relation to the AAF by the FEI Tribunal in the Appealed Decision of 3 June 2020 are ill founded and shall be set aside.

B. Horse Abuse

108. As to the second aspect of the present case, *i.e.* the abuse of horse aspect, the Panel notes that in its relevant parts, Article 142.1 of the GRs provides that "*[n]o person may abuse a Horse during an Event or at any other time. 'Abuse' means an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse, including, but not limited to: [...] (v) To compete using an exhausted, lame or injured Horse; [...] (vii) To abnormally sensitise or desensitise any part of a Horse; [...]*".

109. It is undisputed between the Parties that the burden of proof to establish that the alleged abuse of horse occurred lies with the FEI and that, according to Article 32.2. of the IRs, relied on by the FEI, "*the standard of proof on all questions to be determined by the Hearing Panel shall be by the comfortable satisfaction of the hearing Panel*".

110. This standard of proof is well known by the CAS and the Panel adheres to the well-established CAS jurisprudence according to which that standard is "*a kind of sliding scale, based on the allegations at stake: the more serious the allegation and its consequences, the higher certainty (level of proof) the Panel would require to be 'comfortable satisfied'* ".

111. In support of its allegation of abuse of horse, the Respondent relies on different elements or acts which taken either individually or conjointly would by constitutive of such abuse of horse and asks the Panel to consider the adduced evidence in the context of the facts of the case, the background of the sport of Endurance and the scientific evidence, of the use of certain substances leading to stress fractures and

ultimately to catastrophic injuries in horses. In this regard, the Panel considers that in view of the fact that there are no clear rules on what constitutes abuse of horse, it is not sufficient for the Respondent to allege or even establish that the Appellant could have taken better care of Contraband or could have respected higher standards of "precaution" than the ones set in the FEI rules. Indeed, the fact that the Panel may be convinced that it would have been recommended for the Appellant to respect a higher standard (of duty of care) than he did, or even that the FEI should set out higher standards in its relevant rules, does not discharge the Respondent of the burden of establishing, to the comfortable satisfaction of the Panel, that the Appellant (and/or his Crew) knowingly (or unknowingly) committed an abuse of horse by committing or omitting one or more prohibited actions. In that regard, the Panel notes that while it is true that circumstantial evidence may have some probative value, the fact remains that, in a case such as the present, which concerns severe allegations of abuse of horse that may, if established, entail heavy sanctions for the Appellant, there must be cogent evidence establishing the commission of the alleged rule violation.

112. It is therefore necessary to examine for each alleged element or act, individually, if it is established and, if so, whether the act in question fulfils the criteria for constituting an "*abuse of horse*" in the sense of Article 142.1 of the GRs.

a. Desensitisation of the limbs of the Horse

113. Concerning the first element, *i.e.* that it would be clear from the Autopsy Report that the Appellant competed the Horse despite that it was "*abnormally sensitised or desensitised*" in its limbs and "*horses are not permitted to compete when they have hypersensitive or hyposensitive areas*", the Panel notes that there is an agreement between the experts on the fact that horses competing in endurance events show more or less distinctive signs of osteoarthritis and that this does not prevent these horses from competing. Indeed, in her report dated 27 November 2020 [redacted] agreed that "*the lesions observed in the limb joints are not exceptional in endurance horses and that they are not attributable to abusive training practices*" even if they "*were severe enough to cause lameness or joint effusion and require regular and intensive investigation and care by the clinic*". However, given that it is clear from the Horse's veterinary reports that, on 28 September 2016, Rossdales considered Contraband to be sound and without pain on flexion, it cannot be considered established that Contraband had hypersensitive or hyposensitive areas (on the fetlocks). This conclusion is corroborated by the fact that, the day before the Event, Contraband successfully passed the mandatory VET-Inspection. In view of these considerations, the Panel is not comfortable satisfied that the conclusions drawn in the Autopsy Report establish that the Horse was "*abnormally sensitised or desensitised*" in its limbs when it competed at the Event. Hence the first element relied on by the Respondent in support of its allegation of abuse of horse is not established

b. The Horse was unfit to compete

114. As to the second element or act brought forward by the Respondent, *i.e.* that the Veterinary Records of Contraband would show that the Appellant competed with a

horse that was not fit to compete and, hence, "*competed using an exhausted, lame or injured Horse*", the Panel holds, first, that as Dr Martin argued without being contradicted by the Respondent, Rossdales is amongst the best Equine Veterinary Clinics in the world.

115. Second, it is clear from the Horse's veterinary records that, on 28 September 2016, Rossdales considered the Horse to be sound.

116. Third, it is undisputed that the Appellant respected the mandatory 14 day stand down period for Contraband following the injections performed on the 28 September 2016. This fact cannot be overturned by the Respondent's argument that Adcortyl, or rather its active component, Triamcinolone Acetonide, has an active effect of around 36 days and that Contraband, thus, still had the effects of the injection when competing at the Event (16 days after the injection). Indeed, if the FEI considers that a longer stand down period should have been observed for this medication, it should have changed its rules. In any event, it cannot blame the Respondent for an act, which is fully in line with the explicit wording of the rules.

117. Fourth, even if the Panel were only to give limited weight to Mrs Visser's, Mrs Van den Berg's, Mr Mahmood's and the Appellant's witness statements and testimonies, according to which the Contraband was in good shape and fit to compete, it would still have to take into consideration that these four coinciding testimonies are corroborated by the fact that Contraband successfully passed the Veterinary inspection the day before the Event where independent veterinarians had to assess whether or not the Horse was fit to compete. The Horse's fitness to compete has further been confirmed during the Event as the Horse successfully passed the checks at the Vet-Gate.

118. The Panel notes that the file contains various elements in connection with the training of the Horse during the summer of 2016 that can be considered as unusual or questionable. For example, Mr Mahmood and Ms Visser testified that they did not keep any detailed log about the training of the Horse whereas the Appellant stated that such log existed. The lack of such log made it impossible to assess the training load of the Horse and to assess whether the veterinary history of the Horse together with the training logs evidences overtraining or the lack of providing the required rest time. However, it has never been argued that the Appellant had any obligation to keep such log. Further, if the Panel cannot question the arguments of the experts of the Respondent according to which there is a connection between the use of corticosteroids and the increased risk of stress fatigue, the fact remains that the Respondent did not point to any regulation that the Appellant failed to observe in this respect.

119. Finally, if the FEI considers that the Horse's history of treatments the months prior to the Event is evidence that, contrary to what the treating Veterinarian (Rossdales) indicated, the Horse was not sound or fit to compete, then it should have implemented, for example, a control mechanism allowing the FEI to exclude horses from a race on basis of the veterinary records or a system reducing the number of competitions a horse is allowed to enter per year. Notably, [redacted] himself explained in his presentation attached to the file that accumulation of damage

leading to fatigue can be best handled with regulation. Given that, in the present case, the treatments administered to Contraband the months prior to the Event are not by any means contrary to the relevant rules and regulations and that all veterinarians, even the FEI's, that checked Contraband's fitness prior to the Event concluded, on basis of the elements at their disposal, that the horse was sound and fit to compete, the Panel considers that the FEI has failed to establish that, on basis of the Veterinary Records, the Appellant competed using an exhausted, lame or injured Horse or committed an action or omission which caused or was likely to cause pain or unnecessary discomfort to a Horse.

c. Bone fatigue/Stress factures

120. Regarding the third element of the Respondent's submission, *i.e.* that Contraband was suffering from bone fatigue/stress fractures, the Panel notes, first, that [redacted], as one of the world's leading experts in the field, acknowledged during the hearing, fatigue damages are very difficult to find and that, in the present case, Rossdales didn't see enough to say that the Horse should not have competed. The Panel wonders how, in such a situation, the Appellant could be hold responsible for having omitted to see or take into consideration the alleged bone fatigue/stress fractures. Second, even if the intra-articular treatments that Contraband received the weeks prior to the incident could, according to [redacted], have given some indication that there was a pre-existing joint injury, the fact remains that, at that stage, there is no element of evidence allowing to conclude that Rossdales and/or the Appellant could or should have been aware of the existence of bone fatigue/stress fractures. Third, considering that the burden of proof lies with the Respondent, the Panel would have expected the Respondent to request the production, by the Appellant, of the X-rays images taken on 23 June 2016 and 6 July 2016, in order to corroborate the allegation that Contraband suffered from bone fatigue prior to the Event. Even if, as the Respondent's experts argue, a fracture like the one at hand does not just happen from one bad step on a stone and only occurs if there are other underlying factors, like sclerosis and osteoarthritis which can be linked to bone fatigue, the Panel still considers that, given that osteoarthritis is, according to experts from both parties, commonly observed in equine athletes and that bone fatigue is difficult to detect, in the case at hand, the Appellant and/or his Veterinary could not have reasonably detected the alleged bone fatigue. However, in absence of any element of intent or fault, such act does not, in the Panel's view, qualify as "act" or "omission" which caused or was likely to cause pain or unnecessary discomfort to a Horse in the sense of Article 142.

d. Desensitisation with nerve-blocking

121. Concerning the fourth element, *i.e.* that there is evidence of desensitisation and nerve-blocking in the Horse, the Panel notes that whilst most experts ([redacted], Prof Ricci, [redacted]) agree that it is unusual to find oedematous and hemorrhagic lesions, both old and recent, on the nervous tracts of the limbs and, more particularly, on the ulnar nerve, the fact remains that, first, the Respondent did not analyze the "*eosinophilic homogenous to granular material that may correspond to an injected material*" that was found next to the hemorrhagic focus around the ulnar nerve, so it cannot be excluded that, as Prof. Ricci argued without

being contradicted, this material might be "*pooled serum*" from the hemorrhagic site.

122. Second, the Respondent could not exclude that, as the Appellant's expert argued, an equine athlete having competed in an endurance event like the Event might show hemorrhagic lesions like the ones found on Contraband.

123. Third, the allegation that the hemorrhagic lesions were the result of local injections, *i.e.* to "nerve-block" Contraband, cannot be considered as proven to the comfortable satisfaction of the Panel. Indeed, as [redacted] rightly pointed out in her report dated 27 November 2020 (pages 10 and 11) these hematomas provide "*no scientific evidence that the horse was subjected to nerve blocking or desensitisation*" but only constitute "*strong elements of suspicion*" (page 10) and they do constitute "*formal evidence of local injection*" but provide, again, only a "*strong suspicion*" (page 11) and she confirmed this during the hearing. And, even though Dr Ricci himself admitted the peculiar location of the haemorrhagic lesions which - all in all - leaves the nerve-blocking as a possible scenario, the failure to perform further analysis of the material found around these lesions that could provide more certainty about their origins should be taken into account to the detriment of the Respondent.

124. Fourth, even if, as argued by the Respondent, Contraband was used to get injections without sedation, there is, in the present case, no indication that such injection occurred during the Event. Indeed, even if the Respondent's experts categorically denied that, as stated, inter alia, by Dr Pynn of Rossdales, to "*administer a nerve block is not a straightforward process*" and is "*not something that could easily be done by an untrained person, especially in a competition environment*", the Panel notices that there is no evidence that anyone witnessed such administration to Contraband during the Event. Moreover, there is no evidence that, similar to what can be seen in a video submitted by the Respondent to show how an illegal injection was performed on a horse during an event at the cooling or the recovery area, the Crew did remove Contraband from public view. Thus, this allegation in nothing but a supposition.

125. Fifth, as to the argument that Contraband was not in pain and tried to put weight on the right foreleg, the Panel notes that the witness statements of [redacted] and [redacted] are contested by, inter alia, Mrs Visser, Mrs Van den Berg and Mr Mahmood who all stated that the Horse was in pain. Further and more importantly, the Panel finds that the video of the broken leg submitted by the Respondent does not support the allegation that Contraband tried to put weight on that leg. In any event, the Panel considers that the fact that the leg was, as stated by [redacted] only holding by the skin must have rendered it impossible for the Horse to put weight on that leg. As to the argument that the lack of signs of sedation in Contraband at the moment of [redacted] arrival on the scene could be expected in a horse that is in competition, the Panel recalls that at that specific moment, Contraband was already "at rest" for one (1) hour. Finally, as regards to the rounded bone ends, the Panel notes that the Respondent's first expert, [redacted] does not exclude that the rounded bone ends were caused by the fact that, due to the extent of the fracture, Contraband was unable to avoid movement of the distal part of its fractured limb during the period between the accident and its handling by [redacted]. The

Respondent's second expert, [redacted] confirmed this first view when he explained that "*rounded bone ends at a complete fracture are commonly due to the fractured ends of the bone rubbing together*" and stated that in view of the fact that Contraband was euthanised 1.5 hours after the injury occurred "*rounded bone ends would be expected under these circumstances so could not be used as evidence of pre-existing injury*". Thus, the Panel finds that no inference can be drawn from the rounded bone ends either.

126. In view of these considerations, the Panel is not comfortable satisfied that Contraband was nerve blocked or "*abnormally desensitised*" in its limbs when competing at the Event.

e. Tack lesions

127. With regard to the fifth element invoked by the Respondent, *i.e.* the alleged tack lesions, the Panel deems it sufficient to observe that, on the one hand, [redacted] stated that the subcutaneous lesions found at the location of the saddle and harness and the lesion in front of the noseband, do not, strictly speaking, amount to "*abuse of horse*" as they can respectively originate from a poorly fitting saddle or an asymmetrical riding position and from a somewhat strong rein action. On the other hand, [redacted] stated that if Contraband had shown tack lesions at the moment of euthanasia, she would "*probably have mentioned them*". Given these two statements and in regard of the fact that it is not excluded that the lesions in question were caused during and/or after the euthanasia of the Horse, the Panel finds that the Respondent has not established the origin of the alleged tack lesions and that, as a consequence, it has not established that they qualify as abuse of horse in the sense of Article 142.1 of the GRs.

128. In view of the above, the Panel finds that, in the present case, there is not sufficient evidence for it to be comfortably satisfied that the Appellant committed any actions and/or omissions that would qualify as "abuse of horse" in the sense of Article 142.1 of the GRs. The Panel further finds that the probative value of circumstantial evidence has its limits and that even when taken together and put into context, in the present case the different elements of factual evidence submitted by the Respondent do not lead the Panel to be comfortably satisfied that the Appellant committed an action and/or omission that would qualify as "*abuse of horse*" in the sense of Article 142.1 of the GRs.

129. Consequently, the Panel does not find that the Appellant committed a violation of Article 142.1 of the GRs. Thus, no sanction for "abuse of horse" can be imposed in the present case. Accordingly, the Panel concludes that the findings and sanction imposed in relation to the alleged "abuse of horse" by the FEI Tribunal in the Appealed Decision of 3 June 2020 are ill founded and shall be set aside.

130. In view of all the above conclusions/considerations, the Panel finds that the appeal has to be upheld and that all the sanctions, including the disqualification of all results and fines, imposed on the Appellant by the FEI Tribunal in its Decision of 3 June 2020 have to be set aside.

131. Any other and further claims or requests for relief are dismissed.

IX. COSTS

132. Article R65.1 of the Code provides:

> "*This Article 65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the Panel on the issue.*"

133. Article R65.2 of the Code reads as follows:

> "*Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS.*
>
> *Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000-- without which CAS shall not proceed and the appeal shall be deemed withdrawn. [...]*"

134. Article R65.3 of the Code provides:

> "*Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.*"

135. The present appeal being directed against a disciplinary decision from an international sport-body, it is free, except for the CAS Court Office fee of CHF 1,000 paid by the Appellant, which is retained by the CAS. As a result, the only point for the Panel to decide is whether the "*prevailing party*" is to be granted "*a contribution towards its legal fees and other expenses incurred in connection with the proceedings*".

136. In this regard, the Panel notes that the Parties submitted extensive and successive expert reports in relation to the two aspects of the case. Having taken into account the complexity of the proceedings, the outcome of the arbitration, the conduct as well as the financial resources of the Parties, the Panel finds that the Respondent is to pay a contribution towards the legal fees and other expenses which the Appellant has occurred in connection with these proceedings, in the amount of CHF 8,000 (eight thousand Swiss Francs).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 23 June 2020 by Shaikh Abdulaziz Faisal Saqer Bin Mohamed Alqassimi with the Court of Arbitration for Sport against the decision rendered by the Fédération Equestre Internationale (FEI) Tribunal on 3 June is upheld.

2. The decision rendered by the Fédération Equestre Internationale (FEI) Tribunal on 3 June 2020 is set aside, with any disqualified results, prizes, points or earnings reinstated.

3. This award is pronounced without costs, except for the CAS Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by Shaikh Abdulaziz Faisal Saqer Bin Mohamed Alqassimi, which is retained by the CAS.

4. The Fédération Equestre Internationale (FEI) is ordered to pay to Shaikh Abdulaziz Faisal Saqer Bin Mohamed Alqassimi the amount of CHF 8,000 (eight thousand Swiss Francs) as a contribution towards the legal fees and other expenses he incurred in relation to the present proceedings.

5. All other or further claims are dismissed.

Lausanne, 14 April 2021

THE COURT OF ARBITRATION FOR SPORT

Jacques Radoux
President

José J. Pintó
Arbitrator

János Katona
Arbitrator