



DECISION of the JUDICIAL COMMITTEE of the FEI

dated 7 February 2007

Positive Medication Case No.: 2005/18

Horse: KLASSZIS

Passport No: 48541792

Person Responsible: Ms. Anna Dobos (rider's mother, appointed PR), HUN
Competitor: Mr. Mihály Bene (rider – minor), HUN

Event: CSI1* Kiskunhalas (HUN), 29.04-1.05.2005

Prohibited Substances: Phenylbutazone, oxyphenbutazone, 4-methylaminoantipyrine & dexamethasone

1. COMPOSITION OF PANEL

Mr. Ken Lalo
Dr. Jens Adolphsen
Mr. Erik Elstad

The panel was originally composed of Ms. Helen Huggett, Dr. Adolphsen and Mr. Elstad. Mr. Lalo replaced Ms. Huggett on January 22 2007 and following Ms. Huggett's resignation from the FEI Judicial Committee for reasons unrelated to this case.

2. SUMMARY OF THE FACTS

2.1 Memorandum of case: by Legal Department.

2.2 Summary information provided by Person Responsible (PR): The Judicial Committee took into consideration all documents presented in the case file, as also made available to the PR through her National Federation and at her personal home address communicated to the FEI by the rider's National Federation.

2.3 Oral hearing: None, by correspondence.

3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

3.1 Articles of the Statutes/General Regulations/Veterinary Regulations which are applicable or have been infringed:

Statutes 21st edition, effective 21 April 2004, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21st edition, effective 1 January 2005, Arts. 142, 146.2 and 174.

Veterinary Regulations ("VR"), 9th edition, effective 1 January 2002, Art. 1013 and Annex IV.

FEI Code of Conduct for the Welfare of the Horse, 2004.

3.2 Person(s) Responsible: Mrs. Anna Dobos

3.3 Justification for sanction:

GR Art. 146.2: "Any horse found to have a Prohibited Substance in any of its tissues, body fluids or excreta at an event [...] is automatically disqualified, together with the competitor [...], from all competitions at that event, [...] unless the Judicial Committee decides based on the evidence to terminate the proceedings of the case."

4. DECISION

A. THE RELEVANT FACTS

- 1) Klasszis took part at the CSI1* in Kiskunhalas, Hungary, from 29 April to 1 May 2005 (the "**Event**"). Klasszis was ridden by Mr Mihály Bene (the "**Rider**") who was minor at the time of the Event as indicated by the Hungarian Equestrian Federation on 23 November 2005 and as indicated in the FEI's riders' database.
- 2) The FEI requested the Hungarian Equestrian Federation on several occasions to appoint a Person Responsible for Klasszis but did not receive any reply. Therefore, according to the information provided by the Hungarian Equestrian Federation, the Judicial Committee shall consider the Rider's mother, Mrs. Anna Dobos, the Person Responsible in accordance with GR Article 142.4 *in fine* (the "**PR**").
- 3) Klasszis was selected for sampling on 29 April 2005. Analysis of the urine sample taken from Klasszis performed by the FEI's central approved laboratory, the Laboratoire des Courses Hippiques ("**LCH**"), was found to contain phenylbutazone, oxyphenbutazone, 4-methylaminoantipyrine and dexamethasone. No confirmatory analysis was requested by the PR.
- 4) Phenylbutazone, oxyphenbutazone and 4-methylaminoantipyrine are non-steroidal anti-inflammatory drugs acting *inter alia* on the locomotor system. Dexamethasone is an anti-inflammatory corticosteroid acting *inter alia* on the locomotor system. The detected substances are considered as a "cocktail" by the Medication Sub-Committee ("**MSC**") of the FEI and are graded "1" on a scale of 1 to 5. Under the MSC grading system, a substance is graded "1" if it has a high potential to affect the performance of the horse.
- 5) This decision was delayed pending a decision of the Court of Arbitration for Sport in another case which presented certain similar facts and legal issues. (CAS 2006/A/1132 *Ismail Mohammed v/ FEI*).

B. JURISDICTION

- 6) The Judicial Committee has jurisdiction over this matter pursuant to Articles 057 and 058 of the FEI Statutes.

C. ANALYSIS

- 7) The Judicial Committee is satisfied that the laboratory report reflects that the tests were accurately performed in an acceptable method and that the findings of LCH are accurate. The Judicial Committee is satisfied that the test results show the presence of the prohibited substances, phenylbutazone, oxyphenbutazone, 4-methylaminoantipyrine and dexamethasone. The PR neither disputed the accuracy of the testing methods nor challenged the test results and positive findings. The FEI has thus sufficiently proven the objective elements of a doping offence.
- 8) The establishment of the objective elements of a doping offence creates the presumption of guilt of the PR. The finding on analysis of a prohibited substance is presumed to be a deliberate attempt of the PR to affect the performance of the horse. The PR has the opportunity to rebut this presumption.
- 9) The FEI invited the PR on several occasions to submit written explanations with respect to the positive test results. These letters remained mostly unanswered. By a letter dated 10 August 2005, but received on 23 January 2006 by the FEI, the PR filed a statement of defense on behalf of and signed by the Rider. According to this letter, the horse was treated with flunixin-meglumin and vedaprofen prior to the Event. In addition, a Cortival injectional therapy was administered to the horse during the Event, as evidenced by the statement of Dr. Mészáros Imre dated 1 May 2005 enclosed to the PR's letter.
- 10) In the Memo of the Head of the FEI Veterinary Department dated 17 March 2006, Dr. Frits Sluyter mentioned that the medication listed in the PR's letter did not cover the substances found in the body fluids of the horse. In other words, the analgesics/anti-inflammatories mentioned in this letter were not found in the sample. In addition, there was no explanation given for the presence of the Prohibited Substances detected in the sample.
- 11) With respect to the Cortival injectional therapy, Dr. Sluyter emphasized that, in any event, this type of treatment was not acceptable and should not be authorized during an event.
- 12) Dr. Sluyter's statement was communicated to the PR directly by registered courier and to the Rider's National Federation. Again, no reply was received by the FEI.
- 13) In light of the circumstances of the case, the Judicial Committee is of the view that the PR was unable to explain the reason of the presence of the Prohibited Substances and has therefore not succeeded in rebutting the presumption set forth in GR 174.6.2.1.
- 14) GR 174.6.2.1. provides for a suspension period of the PR from 3 to 24 months. A fine of CHF 1'000.- to CHF 15'000.- may also be imposed.
- 15) The Judicial Committee emphasizes some key principles of the FEI set out in Article 001 of the Statutes:
 - Observance of the principles and spirit of equestrian sports
 - Equal and fair conditions in the conduct of international events
 - Preservation and protection of the welfare of the horse

Riders, trainers, owners and other support personnel are strictly required to know and to comply with these basic requirements and with the FEI regulations. In addition, people associated with young riders (i.e. trainers, parents, etc) have an even greater obligation to ensure full compliance with these principles.

- 16) Therefore, considering (i) the cocktail of prohibited substances, which is graded "1" under the MSC grading system, (ii) the absence of any acceptable explanation with respect to the presence of the Prohibited Substances in the body fluids of the horse, (iii) the inappropriate veterinary treatment given to the horse at the Event, (iv) the blatant lack of care shown by the PR (v) the very limited cooperation of the PR in the present proceedings, (vi) the age of the Rider and (vii) the type of association of the designated PR with the sport, the Judicial Committee is of the opinion that the present case represents a very serious infringement to the FEI rules. Therefore, the Judicial Committee considers that a suspension of the PR for six (6) months and a fine of CHF 5'000.- are appropriate and proportional.

D. DECISION

As a consequence of the foregoing, the Judicial Committee decides as follows:

- 1) Disqualification of the horse Klasszis and of the Rider from the above Event and forfeiture of all prize money, if any.
- 2) The PR is suspended from taking part in international events for a period of six (6) months to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the present decision) or earlier if the appeal is waived in writing by or on behalf of the PR.
- 3) The PR is fined CHF 5'000.-.
- 4) The PR shall contribute CHF 1'000.- towards legal costs of the judicial procedure.
- 5) This decision is to be published.

E. DECISION TO BE FORWARDED TO:

- 5.1 The person sanctioned: Yes
- 5.2 The President of the NF of the person sanctioned: Yes
- 5.3 The President of the Organising Committee of the event through his NF: Yes

THE SECRETARY GENERAL OR HIS REPRESENTATIVE:

Date : 7 February 2007

Signature: 