

DECISION of the FEI TRIBUNAL

dated 29 April 2022

CASE NUMBER: C22-0007

Mr. Giuseppe De Luca (PR)

FEI Tribunal Hearing Panel:

Dr Armand Leone

FEI Tribunal Reference: C22-0007

FEI Case Number: 2020/BS11

Person Responsible/ID/NF: Giuseppe DE LUCA/10047635/ITA

Horse/Passport: HALO/105ZA57/ITA

Event/ID: CSI2*- Oliva (ESP), 2020_CI_1243_S_S_02

Date of Event: 29.09-04.10.2020

Prohibited Substance: Stanozolol

Bar Code No.: 5591596

I. Introduction

1. This Settlement Agreement pertains to: FEI CASE 2020/BS11 HALO. In respect of this case, the FEI notified Mr De Luca that a violation of Article 2.1 of the Equine Anti-Doping Rules¹ **(the EADRs)** - the Presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample had occurred. The FEI notified Mr De Luca of the respective charges in his capacity as the Person Responsible **(the PR)** for the case entitled 2020/BS11 HALO-PR- Mr De Luca.

Applicable Rule Provisions:

Statutes 24th edition, effective 17 November 2021 (**"Statutes"**).

General Regulations, 24th edition, 1 January 2020, updates effective 1 January 2022. (**"GRs"**).

Internal Regulations of the FEI Tribunal, 3rd Edition, 2 March 2018 (**"IRs"**).

FEI Equine Anti-Doping and Controlled Medication Rules, 2nd Edition, effective 1 January 2020 (**"EADCMRs"**).

II. Factual background

2. Mr De Luca (FEI ID 10047635) is the PR in accordance with Article 118.3 of the FEI General Regulations, and he is a rider in the discipline of jumping for Italy.
3. The Fédération Equestre Internationale **(the FEI)** together with the PR **(the Parties)**, is the sole IOC recognised international federation for equestrian sport. The FEI is the governing body of the FEI equestrian disciplines (Dressage, Jumping, Eventing, Driving, Endurance, Vaulting, Para-Equestrian).
4. The PR participated with the horse HALO (FEI ID: 105ZA57) **(the Horse)** in the CSI2*- Oliva, in Spain, between 29 September to 4 October 2020 **(the Event)**.
5. The PR is a member of the Italian Equestrian Federation **(the ITA-NF)**, the latter being a member of the FEI, thus the PR was bound by the FEI Equine Anti-Doping & Controlled Medication Rules **(the EADCMRs)**.²

¹ FEI Equine Anti-Doping and Controlled Medication Rules 2nd edition, effective 1 January 2020.

² FEI Equine Anti-Doping and Controlled Medication Rules 2nd edition, effective 1 January 2020

6. The Horse was selected for testing on 3 October 2020. Blood samples (Sample no 5591596) were collected from the Horse and sent to the FEI approved LGC Newmarket Road Laboratory (**the LGC**), in Fordham, Cambridgeshire, UK, for analysis.
7. The analysis of the blood samples revealed the presence of Stanazolol, an anabolic steroid used to improve performance by promoting muscular development. The substance is classified as a Banned Substances under the FEI Equine Prohibited Substances List and prohibited at all times.
8. The positive findings of Stanazolol in the Horse's sample gave rise to an Anti-Doping Rule Violation under Article 2.1 of the FEI Equine Anti-Doping Rules (the EADRs).
9. By Notification Letter dated 11 November 2020, the FEI informed the PR, in his capacity as the rider through the ITA-NF of violations of Article 2.1 (*The Presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*) of the EADRs based on the Laboratory's adverse analytical finding of Stanazolol in the Horse's Sample collected at the Event.
10. In accordance with Article 7.4.1 of the EADRs the PR was provisionally suspended (as of the date of the Notification Letter) as the Rule Violation involved an Adverse Analytical Finding for a Banned Substance³. On the same day, the Horse was provisionally suspended for two (2) months until 10 January 2021.
11. In accordance with Article 7.1.6 of the EADRs the PR was informed of his right to request a B Sample analysis of the positive sample. The PR did not exercise his right for a B Sample analysis, and it was therefore deemed to be waived.
12. The PR promptly admitted the violation on 19 November 2020 i.e., within 8 days after the Notification Letter was issued.

III. Procedural background in front of the FEI Tribunal

13. By email dated 10 February 2022, the FEI submitted to the FEI Tribunal the Settlement Agreement signed by the PR on 9 February 2022 and the FEI on 10 February 2022.

³ FEI EADRs Article 7.4.1 (i).

- 14.** On 18 February 2022, the Parties were informed of the nominated Hearing Panel appointed to address this case and afforded the opportunity to submit objections to the constitution of the named panel by 23 February 2022.
- 15.** On 18 February 2022, the FEI and the PR confirmed they had no objections to the composition of the Hearing Panel.

IV. The Parties' Submissions:

PR:

A) How the substance entered the body of the Horse

- 16.** The PR provided his explanations and evidence in his defence papers. On 19 November 2022, the PR submitted a written statement from the Veterinarian of the Horse⁴, wherein he explained that he had injected the Horse with Sungate, which contained Stanozolol.
- 17.** The Veterinarian explained the following:

"In order to physiologically stimulate the activity of cartilage cells, I proposed to Mr. De Luca the utilisation of SUN GATE - Stanozonol by means of intra-articular injection - three times a week, for a total of four injections.

In that occasion, I specified to the client that this medicine, if administered through intra-articular infiltrations, normally would not have put him at any risk profile relating to the EAD list drafted by FEI, on the basis of both the known scientific literature and my professional experience on dozens of cases, which I have personally treated in the last few years.

The efficacy of this therapeutic choice was already manifested after the second intra-articular injection.

The last injection was performed on September 21st, 2020.

Thus, the usage of Stanozolol on the horse HALO falls within a precise therapeutic plan, rationally programmed, well aware of both the nature of the molecule and its detection time concerning its intra-articular utilization, as documented in literature, where a maximum withdrawal period of few days is demonstrated."

"The positivity of the test for the drug does not derive from negligence or an improper use of Stanozolol through the systemic way, which is banned,

⁴ FEI Settlement Agreement- Annexes, Exhibit 3- Vet Statement dated 10 November 2020.

but from a therapeutic plan built to improve the wealth of the horse, which was not responding to conventional treatments at an articulation point, in compliance with the detection time known in scientific literature for this curative procedure”.

- 18.** The Veterinarian was registered as a FEI Treating Veterinarian, and taking into account the facts of this case, the FEI has commenced separate disciplinary proceedings⁵ against the Veterinarian of the Horse.
- 19.** In order to verify the science in this case, the FEI Veterinary Department looked closer into the findings and concluded that the administration of the Sungate containing Stanozolol (which was done on 21 September 2020) can account for the positive finding in the Horse. Especially since the withdrawal time for certain anabolic steroids such as Stanozolol, can be up to several months.
- 20.** The FEI therefore found that the provided explanation of the source is very likely accounting for the AAF in the Horse and is therefore satisfied that the PR has established how the Stanozolol entered the Horse’s system.

B) Fault and Negligence for the Rule Violation

- 21.** The PR explained in his statement⁶ that:
 - He was aware of the doping rules and had procedures in place to avoid positive cases;
 - He confirmed that Halo was his sole horse, and he kept a logbook for her. He confirmed that he checks any treatments given to the horse on the FEI clean sport app and if the horse was treated, he respected the detection times and would add two more days for safety;
 - He also stated that he would check the treatment of Stanozolol beforehand and was aware that it was Banned Substance and when he asked his veterinarian about it, he requested precise explanations on the use of Stanozolol via intra-articular injections;
 - That he checked the treatment with his veterinarian only and was assured that it was a drug free for intra-articular use and was not banned, despite containing Stanozolol as he had seen it was not allowed on the FEI App. He furthered that he asked his veterinarian about this, and he communicated with him what was already expressed in the declaration signed by the veterinarian

⁵ FEI Settlement Agreement- Annexes, Exhibit 6, Notification Letter to the Support Personnel dated 9 March 2021.

⁶ FEI Settlement Agreement- Annexes, Exhibit 5, PR’s Statement dated 12 December 2020.

that it was allowed via the electronic prescription with which he had prescribed the treatment;

- That it was never his intention to violate any FEI rules and regulations, as he had trusted his experienced veterinarian who assured him that this was a therapeutic plan with *Sungate*, administered to improve the health of the horse, which was not responding to conventional treatments at an articulation point. He confirmed that he was assured by the Veterinarian that such use was allowed and was in compliance with the rules if the correct detection time was used;
- The Veterinarian was his normal veterinarian and he only used him when there were any veterinary issues.

FEI:

22. The FEI concluded that the PR was at fault for the rule violation and submitted that since the EADRs are modelled on the new WADA Code 2021, there were some changes in the new rules at the advantage for the PR. The FEI noted that Under the EADRs applicable from 1 January 2021, the PR can accept an automatic six (6) months reduction if he promptly admitted the violation and accepted the consequences in accordance with Article 10.8.1 of the EADRs.
23. The FEI also noted that despite the fact that the EADRs 2020 applied to the case at hand, the principle of "*lex mitior*" should be applied in accordance with Article 24.2.2 of the EADRs. The FEI therefore offered an automatic six (6) months reduction of the ineligibility period for this case. In addition, the FEI appreciated the PR's honesty and willingness to fully cooperate and promptly admit of the violation which took place only 8 days after the notification.

V. The Decision

Agreement between the Parties:

Quote

NOW, THEREFORE, THE PARTIES HAVE AGREED (SUBJECT ONLY TO THE APPROVAL OF THE FEI TRIBUNAL) TO THE FOLLOWING TERMS FOR THE CLOSURE OF THE PROCEEDINGS:

24. Article 7.6.1 of the EAD Rules permits for an agreement between the parties, subject to FEI Tribunal approval.
25. In the matter of the Adverse Analytical Findings related to the samples,

which were collected from the PR's horse HALO, at the CSI2*- Oliva, in Spain, between 29 September to 4 October 2020, the PR, Mr. Giuseppe De Luca and the FEI agree in accordance with 7.6.1 EAD Rules on the following:

- a. The PR admits the violation of Article 2.1 of the EAD Rules (*The presence of a Banned Substance and/or its Metabolites or Markers in a Horse's Sample*); and
 - b. The PR established on a balance of probabilities how Stanozolol entered the Horse's system;
 - c. The PR has accepted a six (6) months reduction, and the period of Ineligibility imposed on the PR shall be eighteen (18) months, commencing from the date of the Final Decision and ending on 10 May 2022 (the provisional suspension already served by the PR, imposed on 11 November 2020, shall be credited against the imposed Ineligibility Period);
 - d. In accordance with Article 10.8.3 of the EAD Rules, this violation of the EAD Rules shall be considered a prior violation for the purpose of Article 8 (Multiple Violations) of the EAD Rules;
 - e. In accordance with EAD Rules Articles 9.1 and 10.1.2 the results achieved by the PR and the Horse at the Event are disqualified, with all resulting consequences, including forfeiture of any related medals, points and prizes;
 - f. The PR shall incur a fine of 5 000 CHF;
 - g. Each party will bear its own legal and other costs incurred in connection with these proceedings;
- 26.** The Parties hereby kindly request that the FEI Tribunal issue a Decision incorporating the terms of this agreement.
- 27.** The parties acknowledge and agree that pursuant to Article 13.3 of the EAD Rules, the Decision will be made public by the FEI.
- 28.** The terms set out in this agreement have been agreed as a full and final settlement of all claims relating to the subject-matter of these proceedings. Accordingly, any and all other claims for relief that any party might otherwise have made against another in relation to the subject-matter of these proceedings are released and discharged unconditionally, and they may not be pursued in any form hereafter.
- 29.** This agreement is made in accordance with Article 7.6.1 of the EAD Rules and is subject to the approval of the FEI Tribunal. Consequently, it will be communicated to the Parties with a right of appeal in accordance with Article 12.2 of the EAD Rules.

*** End Quote***

VI. Approval of Agreement

- 30.** Having reviewed the Case Summary, the Full Reasoning for the Agreement and the terms of the Agreement, the Tribunal takes note that the Parties agree the PR has established on a balance of probability – how Stanazolol entered the Horse's system and was consequently present in the samples taken at the Event.
- 31.** The Tribunal acknowledges that the PR and the FEI have agreed on terms for the closure of proceedings in accordance with Article 7.6.1 of EADRs as detailed at Section IV of this Decision.
- 32.** The Tribunal wishes to emphasise that it did neither evaluate whether the PR has met the burden of proof regarding the source of the Prohibited Substances, nor his degree of fault. Furthermore, the Tribunal highlights that the present agreement does not constitute jurisprudence, and as such when reviewing it did not consider previous case law.
- 33.** To conclude, the Tribunal finds that the Agreement between the Parties could be considered as within the consequences that are mandated by the EADRs.
- 34.** Therefore, and in accordance with the mutual consent of the Parties, the Tribunal hereby directs the Parties to fully comply with all the terms of the Agreement, and to revise the results, including team results if applicable, of the Event accordingly. Further, this Decision shall terminate the present cases 2020/BS11 HALO.

VII. Decision

- 35.** The Tribunal rules that the Agreement reached between the FEI and the PR, Mr De Luca concerning the cases 2020/BS11-HALO is hereby ratified by the Tribunal with the consent of the Parties, and its terms set out in Section IV above, which are incorporated into this Decision.
- 36.** This Decision is subject to appeal in accordance with Article 12.2 of the EADRs. An appeal against this Decision may be brought by lodging an appeal with the Court of Arbitration for Sport (CAS) within twenty-one (21) days of receipt hereof.
- 37.** This Decision shall be notified to the PR, to the Secretary General of the ITA-NF of the PR, and to the FEI.

- 38.** This Decision shall be published in accordance with Article 13.3 of the EADRs.

VIII. DECISION TO BE FORWARDED TO:

- a. The Parties: Yes**
- b. The Secretary General of the NF of the person sanctioned: Yes**
- c. Any other: No**

FOR THE FEI TRIBUNAL

A handwritten signature in blue ink, appearing to read 'Armand Leone', is positioned above a horizontal line.

Dr Armand Leone (USA), One-Member Panel