

DECISION of the FEI TRIBUNAL

dated 11 March 2024

In the matter of

FÉDÉRATION EQUESTRE INTERNATIONALE (the "FEI")

vs.

Ms. Katarzyna MILCZAREK– Athlete (the "Athlete" or the "PR")

together the "Parties"

(Reference No. FEI Tribunal: C23-0052)
(FEI Case number: 2022/HD04)

I. Composition of the FEI Tribunal Hearing Panel:

Ms Diane Pitts (USA), Panel Chair.

II. Articles of the Statutes/Regulations which are applicable:

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

General Regulations 24th edition, effective 1 January 2023 (the "GRs").

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

FEI Anti-Doping Rules For Human Athletes, effective 1 January 2021 (the "ADRHAs").

The World Anti-Doping Code - International Standard – Prohibited List – January 2022 ("Prohibited List").

III. Parties.

1. The FEI is the IOC-recognised international governing body for the equestrian sport disciplines of Dressage and Para-Equestrian Dressage, Jumping, Eventing, Driving And Para-Driving, Endurance And Vaulting.
2. Ms Katarzyna Milczarek (FEI ID 10003275) is an Athlete registered with the National Equestrian Federation of Poland (the "POL-NF") in the discipline of Dressage. The Athlete has been registered with the FEI since 2008, has participated in approximately 230 FEI competitions since her first registration, and competed with the horse GUAPO (the "Horse"), (FEI ID 107DX32), at the FEI World Championships held in Herning (DEN), from 5 to 14 August 2022 (the "Event"). The Athlete was tested during the Event and returned a positive result consistent with the exogenous origin of Testosterone and metabolites (all markers of the steroid profile) belonging to Class S1.1 Anabolic Androgenic Steroids (AAS), Prohibited Substances according to the 2022 Prohibited List¹ (the "Prohibited List").
3. As a member of the POL-NF, which is a member of the FEI, the Athlete was bound by the ADRHAs, which specify the circumstances and conduct for violations of the ADRHAs.

IV. Procedural Background:

4. A urine sample was taken from the Athlete on 7 August 2022 for testing under the ADRHAs. The sample was divided into an A Sample and B Sample and sent to a World Anti-Doping Agency ("WADA")-accredited laboratory, Aker University Hospital in Oslo, Norway (the "Laboratory"), for analysis. The Athlete's samples were given reference number 1050153 (collectively, the "Sample").
5. The Laboratory analysed the Athlete's A Sample and reported an Adverse Analytical Finding (an "AAF") with the exogenous origin of Testosterone and metabolites. All markers of the steroid profile. Testosterone and metabolites are included in the class S1.1 Anabolic Androgenic Steroids (the "AAS") according to the 2022 Prohibited List. The AAS are designated as Non-Specified Substances prohibited at all times (In and Out-of-Competition).
6. The AAF with the exogenous origin of Testosterone and metabolites in the Athlete's Sample gave rise to violation of Article 2.1 and/or Article 2.2 of the ADRHAs.

¹2022 Prohibited List, effective 1 January 2022: https://www.wada-ama.org/sites/default/files/resources/files/2022list_final_en.pdf

7. The FEI checked if the Athlete had an applicable Therapeutic Use Exemption (a "TUE") granted or to be granted as provided by the International Standard for Therapeutic Use Exemptions in accordance with Article 7.2.2 of the ADRHAs. The FEI determined as follows:
 - (i) According to the FEI's and POL NADO's records, the Athlete did not have a TUE to justify the Presence of AAS in her system; and
 - (ii) There was no apparent departure from the International Standard for Testing and Investigations or from the International Standard for Laboratories that could reasonably have caused the AAF of AAS in the Athlete's Sample.

8. Consequently, the FEI notified the Athlete through the Notification Letter dated 27 September 2022 (the "Notification Letter") stating, amongst others, that:
 - the Athlete's Sample collected at the Event revealed a presence of the exogenous origin of Testosterone and metabolites, all markers of the steroid profile;
 - the positive finding of the exogenous origin of Testosterone and metabolites in the Athlete's sample may constitute a violation of Article 2.1 ADRHAs, Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample; and/or Article 2.2 ADRHAs, Use of a Prohibited Substance;
 - a 20-day deadline was granted to the Athlete in order to provide an explanation in relation to the alleged Anti-Doping Rule Violation (the "ADRV")
 - that in accordance with Article 7.4.1 of the ADRHAs, the FEI provisionally suspended the Athlete as of the date of the Notification Letter since the Prohibited Substances detected in the Athlete's Sample were Non-Specified Substances;
 - that the Athlete had the right to request analysis of the B Sample within 10 days of the Notification Letter..

9. On 3 October 2022, the Athlete informed the FEI that she did not intend to request the analysis of the B Sample. Therefore, in accordance with the Article 5.1.2.1(c) of the International Standard for Results Management (the "ISRM") the B Sample analysis was considered irrevocably waived.

10. In reply to the Notification Letter dated 27 September 2022, the Athlete stated that the source of the AAF in her Sample must have been from the medication she was taking to treat age-related heavy adverse menopausal symptoms she was experiencing. As such, the Athlete applied for a retroactive TUE to the FEI TUE Committee in accordance with the ADRHAs and the International Standard for Therapeutic Use Exemptions (the

“ISTUE”).²

11. On 14 February 2023, the retroactive TUE for Prasterone (dehydroepiandrosterone, DHEA) was denied by the TUE Committee as they found that “adequate medical justification was not provided to justify the use of the DHEA for post-menopausal symptoms as a substitute for a traditional hormone replacement therapy”, and therefore the Athlete was not entitled to a retroactive TUE.
12. Consequently, on 23 February 2023, the FEI charged the Athlete with a violation of Article 2.1 of ADRHAs (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample) and Article 2.2 ADRHAs (Use of a Prohibited Substance).
13. On 16 November 2023, the FEI submitted the case to the FEI Tribunal (the “Tribunal”) and requested that a hearing panel be appointed to adjudicate the case. The FEI also submitted its Response with the relevant exhibits and annexes.
14. On 20 November 2023, the Tribunal informed the Parties of the appointment of a one-person hearing panel (the “Panel”) to adjudicate this case and gave the parties until 23 November 2023 to object to the constitution of the Panel. The Athlete was given until 9 December 2023 to reply to the FEI’s submissions. Finally, the Parties were granted a deadline of 12 December 2023 to indicate whether they requested a hearing.
15. On 20 November and 21 November 2023, the FEI and the Athlete respectively informed the Tribunal that they did not have any objections to the constitution of the Panel.
16. On 18 December 2023, the Athlete provided her Reply (including written submissions and exhibits) to the Panel. A hearing was not requested by either party.
17. On 22 December 2023, the Panel issued its Operative Award of the Decision (“Operative Decision”) in this case as follows:
 - The Panel imposed on the PR a Period of Ineligibility of 16 months, commencing from the date of the Operative Decision. The Provisional Suspension already served was to be credited against the imposed Ineligibility Period. Accordingly, the Provisional Suspension was to be lifted as of 26 January 2024, at midnight Swiss time (CET).
 - Each Party was to bear their own costs resulting from the proceedings to date;
 - This Decision was notified to the Athlete, to the FEI and to Equestrian

² WADC International Standard for Therapeutic Use Exemptions, available at: https://www.wadaama.org/sites/default/files/resources/files/international_standard_istue_-_2021.pdf

Federation of Poland.

V. The Submissions by and on behalf of the Parties³

i. The Submissions of the Athlete:

18. In reply to the Notification Letter dated 27 September 2023, the Athlete submitted an initial explanation for this ADRV which can be summarised as follows:

- That she was a 57-year-old Polish dressage rider who has been experiencing adverse menopausal symptoms for several years, mainly related to thermoregulation, sleep and mood disturbances, which negatively affected her daily life and her training with horses;
- That on the advice of her pharmacist, the Athlete tried a number of dietary supplements in order to alleviate the adverse menopausal symptoms, which did not contain Prohibited Substances, i.e., isoflavones, melatonin, as well as soya hops, flax and red clover extracts;
- That the above-mentioned supplements did not alleviate her symptoms and the Athlete was not eligible for hormone replacement therapy (“HRT”) due to a history of cancer in her mother;
- Consequently, the Athlete was medically advised to try a product called “Biosteron” which contained DHEA and which, from a clinical perspective, appeared to be the best and safest form of treatment for the Athlete;
- The Athlete was advised that Biosteron acted as a hormone precursor produced naturally in a woman’s body, and as such it was not prohibited for use in sporting competition;
- That as the Athlete bought Biosteron in a pharmacy, she assumed it was “legal” and started using the product at the start of June 2022 (one tablet per day). Therefore, she was not using it for a very long time before an AAF was returned at which time she stopped using the product completely;
- That Biosteron was used by the Athlete for therapeutic purposes only and to bring her health to a level of normal everyday functioning;
- That, as further supported by the CAS judicial practice⁴, dietary supplements may cause a risk of an AAF in a doping control sample, consuming them could not be considered a significant fault with regards to a violation of the ADRHAs (in other words, the sole fact of using a dietary supplement, regardless of its kind, purpose or producer, was not per se synonymous with the Athlete’s acceptance of the risk

³ The following section contains a summary of the relevant facts, allegations and arguments based on the Parties’ written submissions, pleadings submitted by them and their respective witnesses and experts throughout the proceedings. Although the Panel has fully considered all the facts, allegations, legal arguments and evidence presented in these proceedings, the Panel will only refer to the submissions and evidence it considers necessary to explain its reasoning in this decision.

⁴ CAS 2014/A/3685 Evi Sachenbacher-Stehle v International Biathlon Union (IBU), award of 4 February 2015.

- of returning an AAF in the doping control sample);
- That she did not intend to use a Prohibited Substance and was not aware that her behaviour would result in a violation of the ADRHAs and that she consciously ignored such risk;
 - That she did not know that the consumption of Biosteron (recommended to her for a therapeutic purpose only and not linked with sporting performance), was a prohibited substance in and out of sports competition;
 - That the Athlete acted with fairness and transparency when she disclosed the use of Biosteron for the treatment of menopausal symptoms during these proceedings and this information was recorded on the Doping Control Form;
 - That by disclosing the use of Biosteron, the Athlete was not aware that her behaviour constituted an ADRV;
 - The Athlete stated that there was no national team doctor within the POL-NF and therefore no guidance or appointed personnel were available to deal with queries regarding TUEs and/or who could instruct athletes of their obligations in this respect. Thus, the Athlete only became aware of the opportunity to apply for a TUE when she received the Notification Letter from the FEI on 27 September 2022;
 - That dressage was a niche sport in Poland and poorly subsidised by public funds, as such the POL-NF did not have the necessary financial resources to provide its riders with proper organisational support (such as working with qualified sports doctors and/or conducting anti-doping training) which in turn resulted in a poor awareness of ADRHAs among the Polish athletes;
 - That despite her years riding professionally, she had never participated in any anti-doping training or education on the ADRHAs (including those related to obtaining a TUE). As such, the Athlete was unaware of her duty to file a TUE before she started using Biosteron. She further noted that CAS jurisprudence⁵ confirmed that circumstances of this kind constituted mitigation and lowered the Athlete's level of Fault;
 - That since these proceedings commenced, the Athlete had promptly admitted the ADRV and co-operated fully with the FEI to establish the nature and scope of the potential ADRV;
 - That the Athlete was very remorseful for her actions and expressed full readiness to participate in the FEI anti-doping educational programmes, which would serve to increase the awareness of the risks associated with the use of food supplements, especially by female athletes of menopausal age;
 - That the use of a Prohibited Substance rarely resulted in improved athletic performance especially in dressage;
 - That the Athlete's current participation in sport competitions was a lifelong passion, particularly when it came to working with horses, which she had

⁵ CAS 2012/A/2822 Erkand Qerimaj v. International Weightlifting Federation (IWF), award of 12 September 2012.

dedicated her entire life to so far;

- That the Athlete deemed that ADRHAs often provided exceptional circumstances and exemptions for very young athletes, however her particular case showed that ADRHAs should also provide a specific approach to mature athletes who were exposed to other ailments typical of their age (such as menopause in women). Also, she believed more tailored regulations should be adopted for athletes who wanted to continue their athletic career while trying to alleviate the effects of an age-related health condition;
- That in her long career, the Athlete had never violated any anti-doping or disciplinary regulations;
- That taking into account all the submissions provided to date, the Athlete demonstrated that her level of Fault or Negligence was “light” in relation to the ADRV and that she should be sanctioned in accordance with the existing jurisprudence.

ii. Submissions of the Polish National Federation

19. On 4 December 2023, the Polish Equestrian Federation submitted a letter to the FEI in support of the Athlete, summarized in part as follows:

- Confirmed that the Athlete used the Prohibited Substance for therapeutic purposes and not to improve performance;
- That, historically the Athlete had an impeccable record of discipline and professionalism and has never before been involved in anti-doping violations; and
- Requested that the penalty be determined a “standard” degree of fault.

iii. The Submissions of the FEI:

a) Violation by the Athlete - Article 2.1 of the ADRHA:

20. The FEI referred to Article 3.1 of the ADRHAs pursuant to which it is the FEI’s burden to establish an ADRV occurred to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation made. The FEI noted that the elements of an Article 2.1 violation are straightforward i.e., *‘It is not necessary that intent, Fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1’*. Instead, it is a *‘Strict Liability’* offence, established simply by proof that a Prohibited Substance was present in the Athlete’s Sample.

21. The FEI confirmed that the results of the analysis of the A Sample confirmed the exogenous origin of Testosterone and metabolites (all markers of the steroid profile)

and constituted sufficient proof that a violation of Article 2.1 of the ADRHAs occurred. The FEI noted that the Athlete did not dispute the presence of exogenous origin of Testosterone and metabolites in her Sample; that the Athlete admitted to using a product containing DHEA in the period of time around her sample collection and as previously explained DHEA can be converted in human peripheral tissues to androstenedione, testosterone and dihydrotestosterone, and both are aromatized to estrogens.⁶

22. Accordingly, the FEI submitted that it had discharged its burden of establishing that the Athlete violated Article 2.1 of the ADRHAs.

b) The presumption of intentional character of the violation and/or significant Fault or Negligence:

23. The FEI referred to Article 10.2.1 of the ADRHAs, which provided an athlete with no previous doping offences who violates Article 2.1 and/or 2.2 of the ADRHAs and whose violation involved a Non-Specified Substance is subject to a period of ineligibility of four years unless the athlete can establish that the ADRV was not intentional (in which case the Ineligibility period shall be two years in accordance with Article 10.2.2 of the ADRHAs).

24. More, the FEI noted that the term “intentional”, as used in Article 10.2 of the ADRHAs is meant to identify those athletes or other persons who engage in conduct which they know constitutes an ADRV or know that there is a significant risk that their conduct might constitute or result in an ADRV and manifestly disregard that risk.⁷

25. Furthermore, the FEI explained that the ADRHAs provided that once the athlete proves the non-intentional character of their violation, their sanction may be further reduced or eliminated if they are able to establish No Fault or Negligence (Article 10.5 of the ADRHAs) or No Significant Fault or Negligence (Article 10.6.2 of the ADRHAs). In order to do so, the FEI stated that the athlete must establish to the satisfaction of the FEI Tribunal (it being the athlete’s burden of proof) on the balance of probability⁸:

- How the Prohibited Substances (here, Testosterone and metabolites) entered their system; and
- That they bear No Fault or Negligence for that occurrence, i.e., that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they have used or been administered

⁶ See for example: <https://pubmed.ncbi.nlm.nih.gov/8943796/>;
<https://www.tandfonline.com/doi/pdf/10.3109/13685539809148602>;
<https://journals.physiology.org/doi/full/10.1152/ajpendo.00678.2007>;

⁷ Art. 10.2.3 ADRHA.

⁸ Art. 3.1 ADRHA.

the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule (in which case, the period of Ineligibility will be eliminated completely pursuant to Article 10.5 of the ADRHAs);

- That they bear No Significant Fault or Negligence for that occurrence, bearing in mind the definition of No Fault or Negligence, i.e., the duty of utmost caution (in which case, the period of Ineligibility may be reduced depending on their degree of Fault pursuant to Article 10.6.2 of the ADRHAs but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable, meaning below 1 year).

c) The 'threshold' requirement: proving how the exogenous Testosterone and metabolites entered into Athlete's system:

26. With respect to Article 10.2.1.1 of the ADRHAs, the FEI noted that while it was theoretically possible for an athlete or other person to establish that an ADRV was not intentional without showing how the Prohibited Substance entered one's system, it was highly unlikely that under Article 2.1 of the ADRHAs an athlete would be successful in proving they acted unintentionally without establishing the source of the Prohibited Substance.
27. The FEI also submitted that the ADRHAs stipulated, and the jurisprudence of the Tribunal and the CAS was very clear, that it was a strict threshold requirement of any plea of No (or No Significant) Fault or Negligence that the athlete proves how the Prohibited Substance(s) entered their system. Indeed, this requirement must be strictly applied because without such proof it would be impossible to assess the athlete's degree of Fault or Negligence for the presence of the Prohibited Substances in their body.
28. The FEI noted that the Athlete stated that the source of the AAF was from a product that contained DHEA and which she took around the time of the Sample Collection in treatment of the heavy adverse menopausal symptoms she had been experiencing. The FEI also noted that at the beginning of the proceedings the Athlete applied for a retroactive TUE for DHEA, however her application was ultimately denied by the TUE Committee as they found that "adequate medical justification was not provided to justify the use of the DHEA for post-menopausal symptoms as a substitute for a traditional hormone replacement therapy".
29. The FEI also submitted that even though the Athlete did not fulfil the criteria for the issuance of the retroactive TUE covering the date of the positive doping control test (as stipulated in the ISTUE), the FEI found that the age of the Athlete as well as

documents submitted by the Athlete to the FEI showed, on a balance of probabilities, that the Athlete suffered from adverse menopausal symptoms and agreed with her doctors that the use of the product would be the most suitable form of treatment of those adverse symptoms.

30. Consequently, the FEI was satisfied that the Athlete discharged her burden of proof of establishing how Testosterone and metabolites entered her body and the “threshold requirement” was fulfilled in this case.

d) Non-intentional character of the violation.

31. With regard to the “intentional character of the violation”, the FEI referred to Article 10.2.3 of the ADRHAs, which defines the term “intentional”, and is meant to identify those athletes or other persons who engage in conduct which they know constitutes an ADRV or know that there is a significant risk that the conduct might constitute or result in an ADRV and manifestly disregard that risk. The Athlete submitted that, due to her age, she had been suffering from adverse menopausal symptoms for several years and she used the product solely to bring her health condition to normal everyday functioning.

32. Due to a lack of anti-doping education, the FEI noted that the Athlete stated that she was unaware that by consuming a product recommended for therapeutic purposes only she had ingested a Prohibited Substance prohibited. As such, the Athlete confirmed she did not intend to use a Prohibited Substance, that her behaviour could result in an ADRV and that she consciously ignored such a risk.

33. The FEI also agreed with the Athlete’s submissions regarding the non-intentional character of the present ADRV. In addition, the FEI noted the Athlete declared the use of the product on the Doping Control Form (evidencing the bona fide actions of the Athlete). Furthermore, since the beginning of these proceedings, the Athlete promptly admitted the ADRV and co-operated fully with the FEI to establish the nature and scope of the ADRV by submitting detailed information about the source of the Prohibited Substance and the surrounding circumstances.

34. Finally, the lack of the Athlete’s anti-doping education contributed to the poor perception of what actions could result in an ADRV. Consequently, the FEI was satisfied that the Athlete demonstrated the non-intentional character of the ADRV committed.

e) Fault/Negligence for the rule violation.

35. In terms of the Athlete’s degree of Fault or Negligence for the ADRV under Article 2.1.1 and 2.2.1 of the ADRHAs, the starting point of any evaluation is the “personal duty” of

the Athlete to ensure that no Prohibited Substances enters his body.

36. To assess the Athlete's degree of Fault or Negligence, it is necessary to examine the definitions of Fault, No Fault or Negligence and No Significant Fault or Negligence, as defined in Appendix 1 of the ADRHAs, as follows:

***Fault:** Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete's or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Protected Person, special considerations such as impairment, the degree of risk that should have been 6 Article 10.2.2 ADRHA 7 Article 10.2.1.2 ADRHA 8 Although hearing panels have found that an Athlete did not act intentionally without the Athlete establishing the source, this is rare and there are only a (numerically) small number of cases in which hearing panels have deviated from this principle. Page 9 of 26 perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only has a short time left in a career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2.*

***No Fault or Negligence:** The Athletes or other Persons' establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. [...]*

***No Significant Fault or Negligence:** The Athlete or other Person's establishing that any Fault or Negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. [...]*

37. The FEI submitted that it was clear from the overall circumstances of the case that the Athlete did not qualify for the application of the No Fault or Negligence provision. The FEI noted that the Athlete submitted that her level of Fault or Negligence was not significant, should be considered as "light" and that she should be sanctioned in accordance with existing jurisprudence. In this case, the FEI noted the following elements:

Against the Athlete:

- a) The Prohibited Substance, DHEA was clearly mentioned on the package of the product as well as on the accompanying leaflet. Therefore, a simple internet search would have revealed to the Athlete that Biosteron contained a Prohibited Substance according to the WADA Prohibited List and should have not been consumed prior to obtaining a TUE.
- b) In accordance with the Scope of the ADRHAs, the Athlete was considered an International-Level Athlete as she was ranked in the top 300 athletes in the FEI Dressage World Rankings on 1 January 2022. The Athlete was also registered with the FEI since 2008 and attended around 230 FEI competitions since her first registration. The Athlete participated in the FEI World Equestrian Games in Aachen (GER) in 2006, in the FEI World Equestrian Games in Lexington (USA) in 2010, in the 2012 Olympic Games in London (GBR), the 2022 FEI World Championships held in Herning (DEN) and in seven Dressage European Championships.
- c) Because of her International-Level status, the FEI considered that as an experienced Athlete she should have taken steps to become aware of the requirements of the ADRHAs. The Athlete was also expected to be pro-active in her duties as a higher level of diligence was required from International-Level Athletes in comparison to athletes who do not possess such status.

In favour of the Athlete:

- a) The Athlete used the product for therapeutic purposes only - in order to alleviate the adverse menopausal symptoms and to bring her health condition to normal everyday functioning. The use of the product was unrelated to her sport activities and performance.
- b) The Athlete ultimately made the decision to use the product on the advice of her physician as at that time this product appeared to be the best and safest form of treatment for the Athlete.
- c) The Athlete bought the product in a pharmacy, hence the reinforcement of the Athlete's wrong understanding that the product must have been "legal" and safe to use in professional sport.
- d) The Athlete disclosed the use of the product for the treatment of menopausal symptoms during the doping control process and this information was recorded on the Doping Control Form.
- e) The Athlete acted in a fair and transparent way throughout the entire testing process and proceedings by promptly admitting the ADRV and actively co-operating in establishing the nature and scope of the potential violation.
- f) Despite having led a sporting career for many years, the Athlete never participated in any training or education in ADRHAs, in particular about the

obligation to obtain a TUE, be it by the FEI or NADO Poland.

- g) The Athlete was never under the care of a national team doctor in the POL-NF as none was employed by this organisation. Therefore, no personnel within the POL-NF were responsible for issues related to athletes' TUEs and/or could instruct athletes on their obligations in this respect.
- h) The Athlete did not receive any emails (as confirmed by the FEI Communications Department) sent by the FEI to the participating athletes ahead of the World Championships 2022. These emails contained a link to the FEI Doping & Medication Control Guide, which provided an overview of all the doping and medication control systems and processes in place for both Equine and Human Athletes (including information on the TUE process and requirements), as well as useful links to additional online resources and contact details for help and advice.
- i) The Athlete was very remorseful for her actions and expressed full readiness and commitment to participate in the FEI anti-doping educational programmes.

38. After considering the arguments in favour and against the Athlete, the FEI found that the Athlete's Fault or Negligence was not significant in relationship to the ADRV, and the Athlete's case qualified for the application of the No Significant Fault or Negligence provision.

39. Given that the Prohibited Substances in this case were Non-Specified, the FEI confirmed that Article 10.6.2 of the ADRHAs applied. This Article provides that if an athlete establishes in an individual case that they bear No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced based on the athlete's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable (i.e., a sanction range between 1-2 years of Ineligibility period).

40. In order to assess the appropriate sanction in this matter, the FEI submitted that the legal analysis provided in the Johaug⁹ and Cilic¹⁰ CAS awards, which explained how to determine the length of a period of Ineligibility within that range, were relevant.

41. In short, the CAS Panel in the Johaug matter decided that:

'An athlete bears a personal duty of care in ensuring compliance with anti-doping obligations; he or she cannot delegate away his or her responsibilities to avoid doping. The

⁹ CAS 2017/A/5015 International Ski federation (FIS) v. Therese Johaug & Norwegian Olympic and Paralympic Committee and Confederation of Sports (NIF) & CAS 2017/a/5110 Therese Johaug v. NIF, award of 21 August 2017.

¹⁰ CAS 2013/A/3327 Marin Cilic v. International Tennis federation (ITF) & CAS 2013/A/3335 International Tennis Federation (ITF) v. Marin Cilic, award of 11 April 2014 (operative part of 25 October 2013).

standard of care for top athletes is very high in light of their experience, expected knowledge of anti-doping rules, and public impact they have on their particular sport. It follows that a top athlete must always personally take very rigorous measures to discharge these obligations. The prescription of medicine by a doctor does not relieve the athlete from checking if the medicine contains forbidden substances or not. Athletes always bear personal responsibility, and the failure of a doctor does not exempt the athlete from personal responsibility. Furthermore, athletes have a duty to cross-check assurances given by a doctor even where such a doctor is a sports specialist.'

'Within the "no significant fault" category, a greater degree of fault may lead to a sanction of 20 – 24 months, a normal degree of fault may lead to a sanction of 16 – 20 months, and a light degree of fault may lead to 12 – 16 months. Having determined the relevant level of "no significant fault", a CAS panel must then turn to any subjective elements that can be used to move a particular athlete up or down within that category.'

'179. To determine the category or level of fault in Ms Johaug's circumstances, it is instructive to turn to the approach set out in CAS 2013/A/3327 which provides relevant considerations as to the "objective" and "subjective" levels of fault. The Panel stated:

71. In order to determine into which category of fault a particular case might fall, it is helpful to consider both the objective and subjective level of fault. The objective element describes what standard of care could have been expected from a reasonable person in athlete's situation. The subjective element describes what could have been expected from that particular athlete, in light of his personal capacities. (...)

74. At the outset, it is important to recognise that, in theory, almost all anti-doping rule violations relating to taking a product containing a prohibited substance could be prevented. The athlete could always (i) read the label of the product used (or otherwise ascertain the ingredients), (ii) cross-check all the ingredients on the label with the list of prohibited substances, (iii) make an internet search of the product, (iv) ensure the product is reliably sourced and (v) consult appropriate experts in these matters and instruct them diligently before consuming the product.'

42. The Johaug case concerned a top International-Level athlete with a direct access to advice from the most experienced sports doctors in the country. Ms Johaug tested positive to an Anabolic Agent, Clostebol, after using an over-the-counter product intended to help healing athlete's sunburnt lips and given to her by the national team sport doctor. In this case the Prohibited Substance Clostebol was clearly noted on the leaflet of the product and the product itself carried a red "doping warning" on the label. Ms Johaug was ultimately sanctioned with 18-months Ineligibility by the CAS panel.

43. The FEI noted that in the current case, the Athlete was an International-Level Athlete who did not perform any anti-doping checks on the product (apart from asking her doctor on the appropriateness of the product for her medical condition) before consuming it. Notwithstanding her equestrian experience, the FEI noted that the product was used for therapeutic purposes unrelated to sporting performance and combined with a lack of anti-doping education, would have dulled the Athlete's anti-doping awareness in this regard.
44. Consequently, the FEI submitted that the objective elements of this case placed the Athlete in the "greater degree of Fault" range (20-24 months), however the subjective elements pointed to a lower range within this category (20 months).
45. As such and after having considered all the specific facts as set out above, the FEI was satisfied that a period of Ineligibility of twenty (20) months was a proportionate sanction for this case. The FEI further noted that the imposed Ineligibility period should commence on the date of the Panel's final Decision in this matter, but the Provisional Suspension served by the Athlete until the final Decision should be credited against the imposed Ineligibility period in accordance with Article 10.13.2.1 of the ADRHAs.

f) Disqualification of results:

46. In respect of Article 9 of the ADRHAs, the FEI noted that an ADRV *'in connection with an In-Competition test automatically leads to Disqualification of the result(s) obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes'*. This rule will be applied even if the period of Ineligibility is reduced or eliminated under Article 10 of the ADRHA, e.g., on the basis of No (or No Significant) Fault or Negligence.
47. Furthermore, Article 10.1 of the ADRHAs provides that *an ADRV "occurring during or in connection with an Event may, upon the decision of the FEI Tribunal, lead to Disqualification of all of the Athlete's results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.2. Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Athlete's anti-doping rule violation and whether the Athlete tested negative in the other Competitions.'*
48. The FEI submitted that the Athlete admitted to using the product containing DHEA on a daily basis from June 2022. In addition, the Sample provided by the Athlete on 7 August 2022 returned an AAF for exogenous origin of Testosterone and metabolites. Consequently, all results obtained by the Athlete at the FEI World Championships 2022 held in Herning (DEN) must be disqualified with all resulting consequences in accordance with the Articles 9 and 10.1 of the ADRHA (NB. The Athlete participated in

one competition during the FEI World Championships 2022 held in Herning, namely on 6 of August 2022).

49. The FEI also referred to Article 10.10 of the ADRHAs wherein it is provided that *'In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Athlete obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.'*
50. The FEI noted that the Athlete participated in two more competitions between the dates of the positive Sample collection and the Provisional Suspension imposed in the Notification Letter of 27 September 2022.
51. The FEI confirmed that no special circumstances existed in the present matter which prevented cancellation of the Athlete's subsequent competitive results and as such requested that all the competitive results obtained from the date of the collection of the positive Sample should be disqualified with resulting consequences i.e., forfeiture of all medals, points, prize money, etc. The FEI therefore submitted that all the competitive results of the Athlete obtained from the date of the positive Sample Collection until the day of the Tribunal's decision in this case shall be disqualified with resulting consequences i.e., forfeiture of all medals, points, prize money, etc in accordance with the Article 10.10 of the ADRHAs.

g) Fine and costs:

52. The FEI referred to Article 10.12.1 of the ADRHAs wherein it is stated that *'Where an Athlete or other Person commits an anti-doping rule violation, the FEI Tribunal may, in its discretion and subject to the principle of proportionality, elect to (a) have the FEI recover from the Athlete or other Person costs associated with the anti-doping rule violation and/or (b) fine the Athlete or other Person in an amount up to 15'000 Swiss Francs, and in accordance with the FEI Guidelines for Fines and Contributions towards Legal Costs¹¹.'*
53. Additionally, Article 10.12.2 of the ADRHAs specifies that *'the imposition of a financial sanction or the FEI's recovery of costs shall not be considered a basis for reducing the Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules.'*
54. In particular the FEI referenced "the FEI Guidelines for Fines and Contributions towards Legal Costs" which provided guidelines on a suggested range for fines and legal costs

¹¹ FEI Guidelines for fines and contributions towards legal costs, available at: https://inside.fei.org/sites/default/files/FEI_Guidelines_Legal_Costs-Final-Effective_1_January_2021-Updates_05May2021.pdf

in human doping cases where the Ineligibility period was reduced based on the No Significant Fault or Negligence provisions. However, the Guidelines are not mandatory and that depending on the facts and circumstances of each case, the Tribunal may determine that no purpose is served by imposing fines and contributions to legal costs within the range provided in these Guidelines. In some cases, fines and contributions to legal costs below the stated range, or no fines and contributions to legal costs at all, may be warranted. An athlete may make an application to the Tribunal and explain any exceptional circumstances/facts and reasons as to why the fine and/or contribution to legal costs to be imposed, if any, should be lower than the “standard” fine and/or contribution to legal costs. For example, if the Person Responsible competes at lower levels only (such as 1* and 2* competitions) and/or has “low” revenues/income. (Page 2 of the Guidelines).

55. In the present case, the Athlete submitted an application to the FEI to lower the fine and contribution towards legal costs due to her difficult financial situation. After reviewing the submitted documents, the FEI agreed that the financial situation of the Athlete warranted a reduction of fine and legal costs below the prescribed levels in the Guidelines as follows:

- Fine of five hundred Swiss Francs (500) CHF.
- Legal costs of five hundred Swiss Francs (500) CHF.

56. Therefore, the FEI requested the Panel:

- a) uphold the charge that the Athlete has violated ADRHA Articles 2.1 and 2.2;
- b) impose a period of Ineligibility of twenty (20) months on the Athlete commencing on the date of the Tribunal's final decision in this matter (the Provisional Suspension served by the Athlete shall be credited against the imposed Ineligibility period);
- c) disqualify all results obtained by the Athlete at the Event, with all resulting consequences, including forfeiture of any medals, points, and prizes pursuant to ADRHA Articles 9 and 10.1;
- d) disqualify all other competitive results obtained by the Athlete from the date of sample collection (7 August 2022), with all resulting consequences, including forfeiture of any medals, points, and prizes pursuant to ADRHA Article 10.10;
- e) impose a fine on the Athlete of CHF 500; and
- f) order the Athlete to pay 500 CHF as a contribution to the legal costs that the FEI has incurred in these proceedings.

57. In reply to the FEI's Response dated 16 November 2023, the Athlete submitted her

Response on 18 December 2023, which can be summarised as follows:

- The Athlete fully maintained her position as previously set out in the earlier part of these proceedings and detailed at paragraph 17 of this Decision;
- The Athlete also reaffirmed her agreement with the FEI's position that the Athlete had established the non-intentional character of her ADRV;
- The Athlete expressed her agreement to the FEI's findings that her circumstances warranted a finding of No Significant Fault or Negligence in these proceedings but disputed the proposed range of the sanction by the FEI of 20 months' Ineligibility;
- The Athlete submitted again that her degree of Fault fell within a "normal degree of fault" range of between 16-18 months' Ineligibility and repeated the same reasons as already summarised at paragraph 18 of this Decision.

VI. Jurisdiction:

58. The Tribunal has jurisdiction over this matter pursuant to Article 38 of the Statutes, Article 159 of the GRs, Articles 8.1.1.1 and 8.1.2.1 of the ADRHAs, as well as Article 18 of the IRs. The Athlete is a member of the POL-NF, and as such is bound by the ADRHAs. The jurisdiction of the Tribunal is undisputed.

VII. Legal Discussion:

59. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, it will only refer to the submissions and evidence it considers necessary to explain its reasoning in this decision.

i. General considerations

a) The Burden of Proof

60. Pursuant to Article 3.1 of the ADRHAs, the FEI bears the burden of establishing the ADRV. However, if the FEI can establish that an ADRV has been committed, the Athlete bears the burden of establishing the specified facts or circumstances on which they rely.

61. As confirmed by various CAS and FEI panels, the Athlete must present facts substantiated with concrete evidence. Speculation or theoretical possibilities are not sufficient. Furthermore, it was suggested by various CAS panels that the 51% threshold was understood as meaning that panels should separately compare each alternative scenario with the scenario invoked by the Athlete. The Athlete's scenario has to reach a 51%

threshold for it to be successful.¹²

b) The Standard of Proof

62. According to Article 3.1 of the ADRHAs different standards of proof apply in doping proceedings: on the one hand, “[t]he standard of proof shall be whether the FEI has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which is made.” On the other hand, the PR’s “standard of proof shall be by a balance of probability”.

ii. Did the Athlete commit an ADRV?

63. The Athlete’s sample confirmed the presence of the exogenous origin of Testosterone and metabolites, all markers of the steroid profile which are included in the class S1.1 AAS according to the 2022 Prohibited List. The AAS are designated as Non-Specified Substances prohibited at all times (In and Out-of-Competition).

64. As set forth in Article 2.1 of the ADRHAs, sufficient proof of an ADRV is established by the presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample.

65. The Panel is satisfied that the report relating to the A Sample reflects that the analytical tests were performed in an acceptable manner and that the findings of the Laboratory are accurate. Therefore, the Tribunal is satisfied that the test results evidence the presence of the exogenous origin of Testosterone and metabolites taken from the Athlete at the Event.

66. As a result, in accordance with Article 2.1.2 of the ADRHAs, the FEI has established that the Athlete committed an ADRV.

iii. If so, did she commit the ADRV intentionally?

67. The Panel notes that Article 10.2.1 of the ADRHAs provides that an athlete with no previous doping offences who violates Article 2.1 and/or 2.2 of the ADRHAs and whose violation involves a Non-Specified Substance is subject to a period of ineligibility of four years unless the athlete can establish that the ADRV was not intentional (in which case the Ineligibility period shall be two years in accordance with Article 10.2.2 of the ADRHA). Furthermore, in accordance with Article 10.2.3 of the ADRHAs, the term “intentional” is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an

¹² See for example Viret, M., “Evidence in Anti-Doping at the Intersection of Science & Law”, *Asser International Sports Law Series*, Springer 2016, (pp. 521-538), as well as CAS 2011/A/2234 & 2386, UCI v. Contador & RFEC, and CAS 2010/A/2230, IWBF v. UKAD & Gibbs. See for example also FEI Tribunal Decision 2017/BS32 SAURA DE FONDCOMBE dated 24 February 2020.

anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk”.

68. Taking the latter definition of the term “intentional” into account, the Panel accepts the evidence submitted by the Athlete that the source of the positive result in her doping control Sample arose from the product which contained the DHEA and which she was taking around the time of the Sample Collection. In addition, the Panel acknowledges that at the beginning of the process the Athlete also applied for a retroactive TUE for DHEA, however her application was ultimately denied by the TUE Committee as it found that “adequate medical justification was not provided to justify the use of the DHEA for post-menopausal symptoms as a substitute for a traditional hormone replacement therapy”.
69. Furthermore, despite the fact that the Athlete did not fulfil the criteria for the issuance of the retroactive TUE covering the date of the positive doping control test (as stipulated in the ISTUE), the Panel accepts that the age of the Athlete as well as documents submitted by the Athlete to the FEI attest, on a balance of probabilities, that the Athlete suffers from adverse menopausal symptoms. As such, the Panel understands why she had accepted the medical advice that the use of this product would be the most suitable form of treatment for those adverse symptoms.
70. Consequently, the Panel is satisfied that the Athlete has discharged her burden of proof of establishing how Testosterone and metabolites entered her body and the “threshold requirement” has been fulfilled in this case. Moreover, the Panel takes note of the Athlete’s limited anti-doping education and the cooperative behaviour demonstrated by the Athlete since these proceedings commenced, which support the non-intentional character of her ADRV.

iv. In the absence of intention, can the standard period of ineligibility be eliminated or reduced?

71. Pursuant to the ADRHAs, if the Athlete proves the non-intentional character of their violation, their sanction may be further reduced or eliminated if they are able to establish No Fault or Negligence (Article 10.5 of the ADRHAs) or No Significant Fault or Negligence (Article 10.6.2 of the ADRHAs). As noted, the Panel accepts the non-intentional character of this ADRV and as such the Athlete is entitled to benefit from the Fault-related reductions of No (Significant) Fault or Negligence under the aforementioned Articles 10.5 or 10.6 of the ADRHAs.

c) Application of Article 10.5 of the ADRHAs

72. In accordance with Article 10.5 of the ADRHAs, the Panel notes that If an Athlete can establish that she bears No Fault or Negligence, the presumptive two-year period of

Ineligibility will be eliminated completely under Article 10.5 of the ADRHAs, i.e.

“Elimination of the Period of Ineligibility where there is No Fault or Negligence, If the Athletes or other Persons establish in an individual case that they bear No Fault or Negligence, then the otherwise applicable period of Ineligibility shall be eliminated”.

73. However, from the particulars presented throughout this case, the Panel cannot apply the No Fault or Negligence provision. In any event, the application of Article 10.5 of the ADRHAs was not argued by the Athlete. Conversely, the Athlete had in fact submitted that her level of Fault or Negligence was not significant, should be considered as “light” and that she should be sanctioned in accordance with the existing jurisprudence.

d) Application of Article 10.6.2 of the ADRHAs.

74. The Panel confirms that since the Prohibited Substances in this case are Non-Specified, Article 10.6.2 of the ADRHA applies. This Article provides that if an athlete establishes in an individual case that they bear No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced based on the athlete’s degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable (a sanction range between 1-2 years of Ineligibility period).

75. The Panel accepts that the FEI’s application of the CAS hearing panel’s Cilic and Johaug Decisions is appropriate in this matter and agrees that the objective elements should be foremost in determining into which of the three relevant categories a particular case falls: significant degree of fault, normal or moderate degree of fault, or light degree of fault.

76. In that regard, the Panel notes that the facts that the Athlete used the product for therapeutic purposes only and bought the product in a pharmacy reinforce the Athlete’s incorrect perception that the product must have been “legal”. She did not, however, support her conclusions with any concrete evidence. For example, she did not state whether she:

- a) read the label of her medication (or otherwise ascertained its ingredients);
- b) cross-checked the ingredients on the label with the Prohibited List;
- c) conducted an Internet search of his medication;
- d) reviewed the Guide for the Event; and
- e) consulted appropriate experts in these matters.

77. The Panel notes that the Athlete explained that she had only been taking this medication for several months due to suffering from years of adverse menopausal symptoms. During these years, it would appear that she did not take any steps to become familiar with the

ADRHAs. Although she did not receive any education on the ADRHAs from the FEI or the POL-NF, this was neither the FEI's responsibility nor the POL-NF's because the starting point for any ADRV is her own "personal duty" to ensure that no Prohibited Substances entered her system. Furthermore, there is an abundance of information available online that explains the ADRHAs in understandable language.

78. Upon review of the objective elements, the Panel finds that the case falls into the "normal degree of fault".

79. Having examined the objective elements of this case, the Panel then reviewed the subjective factors in order to assess the appropriate sanction, i.e. "what could have been expected from that particular athlete in light of her personal capacities". The Panel has examined relevant CAS jurisprudence¹³ in addition to the CAS jurisprudence referenced in detail by the FEI at paragraph 40 of this Decision¹⁴ wherein the CAS Panel in the Johaug matter decided that:

'Within the "no significant fault" category, a greater degree of fault may lead to a sanction of 20 – 24 months, a normal degree of fault may lead to a sanction of 16 – 20 months, and a light degree of fault may lead to 12 – 16 months. Having determined the relevant level of "no significant fault", a CAS panel must then turn to any subjective elements that can be used to move a particular athlete up or down within that category.'

80. In examining the subjective elements, the following factors were considered by the Panel:

- The Athlete is an International-Level rider in the discipline of Dressage. She was ranked in the top 300 athletes in the FEI Dressage World Rankings on 1 January 2022. The Athlete has been registered with the FEI as of 2008 and attended around 230 FEI competitions since her first registration. However, despite her extensive career of many years, the Athlete had never participated in any training or education on anti-doping rules, including those related to the obligation to obtain a TUE, be it by the FEI or POL-NF.
- In addition, The Athlete was never under the care of the national team doctor from the POL-NF as one was not employed by this organisation. Therefore, no anti-doping support personnel existed within the POL-NF to deal with issues relating to athletes' TUEs and/or could instruct athletes on their obligations in this respect. Thus, the Athlete only became aware of the opportunity to apply for

¹³ Nose v Slovenian Cycling Federation, CAS 2007/A/1356; Stewart v Federation Internationale de Motocyclisme, CAS 2015/A/3876; WADA v Stauber & Swiss Olympic Association, CAS 2006/A/1133; WADA v Sundby & FIS, CAS 2015/A/4233; Dominguez v FIA, CAS 2018/A/5904.

¹⁴ CAS 2017/A/5015 International Ski federation (FIS) v. Therese Johaug & Norwegian Olympic and Paralympic Committee and Confederation of Sports (NIF) & CAS 2017/a/5110 Therese Johaug v. NIF, award of 21 August 2017.

a TUE from the Notification Letter sent by the FEI on 27 September 2022. As such anti-doping education was not reasonably accessible by the Athlete.

- The Athlete did not receive any emails (as confirmed by the FEI Communications Department), which were sent by the FEI to the participating athletes ahead of the World Championships 2022. These emails contained a link to the FEI Doping & Medication Control Guide which provided an overview of all the doping and medication control systems and processes in place for both Equine and Human Athletes (including information on the TUE process and requirements), as well as useful links to additional online resources and contact details for help and advice.
- The Panel accepts that the Athlete had no intention of gaining an unfair advantage with the medication prescribed and it was for therapeutic purposes only i.e., in order to alleviate the adverse menopausal symptoms and to bring her health condition to normal everyday functioning. The Athlete did not conceal the use of the Prohibited Substances and disclosed the use of the product during the doping control process, and this was recorded on the Doping Control Form.
- The Panel acknowledges that the Athlete acted in a fair and transparent manner at the time of testing and throughout the entire proceedings by promptly admitting the ADRV and actively co-operating in establishing the nature and scope of the ADRV by submitting detailed information about the source of the Prohibited Substance.

81. The Panel notes that the case before us is very similar to the Case UKAD v Tony Thompson¹⁵ wherein the athlete was diagnosed with Hypertension and was taking a medication containing Hydrochlorothiazide to treat his medical condition. Similarly, Mr Thompson did not obtain a TUE before competing and subsequently failed to obtain a retroactive TUE following his positive doping control. Mr Thompson also provided the Results Management body with some documents attesting his medical condition which unfortunately did not meet the criteria stipulated in the ISTUE. The Tribunal concluded that while his attitude towards the anti-doping process can be described as lackadaisical at best, at no point did he display any mischievous or dishonest intent. Mr. Thompson was ultimately sanctioned with eighteen (18) months of ineligibility period.

82. The Panel has determined that this case falls in the “normal degree of fault” category. Further, the Panel finds that the subjective nature of this Decision in addition to

¹⁵ 2014 UKAD v Tony Thompson.

comparisons with relevant CAS Jurisprudence, the Athlete's full readiness to participate in the FEI anti-doping educational programmes going forward and her remorseful and forthcoming attitude during these proceedings, that a period of Ineligibility of sixteen (16) months is reasonable and justified.

VIII. Sanctions:

83. For the reasons described above, the Panel imposes a period of ineligibility of sixteen (16) months on the Athlete based on Article 10.6.2 of the ADRHAs. In accordance with Article 7.4.1 of the ADRHAs, the Athlete was provisionally suspended as of the date of 27 September 2023 and, crediting the Provisional Suspension served by the Athlete against the imposed ineligibility period, the Athlete's period of Ineligibility is lifted as of 26 January 2024 at midnight Swiss Time (CET).

84. In addition, pursuant to Articles 9 and 10.1 of the ADRHAs, the Panel disqualifies all the results of the Athlete obtained in the Event, with the consequent forfeiture of all medals, points, prize money, etc. that she may have won.

85. All other competitive results obtained by the Athlete from the date of their sample collection (i.e. 7 August 2022) are also disqualified, with all resulting consequences, including forfeiture of any medals, points and prizes pursuant to Article 10.10 of the ADRHAs.

86. The Panel also notes the Athlete's application for exceptional circumstances to lower the fine and the contribution to legal costs and particulars contained therein submitted to FEI on 21 August 2023 and confirms the FEI's request for a fine of CHF 500 and a contribution to legal costs of 500 CHF in accordance with the FEI Guidelines for Fines and Contributions towards Legal Costs and Article 10.12.1 of the ADRHAs. For reasons similar to those outlined above in paragraph 52, the Panel decides that each party shall bear their own legal costs and that no fine will be assessed.

IX. Terms of Decision:

87. The Panel finds that the FEI has established to its comfortable satisfaction that the Athlete has committed an ADRV. This Decision includes additional terms to those specifically dealt with in the abbreviated Operative Decision issued on December 22, 2023. Accordingly, the Panel confirms the following terms in this Decision:

- a. Ms. Katarzyna Milczarek has infringed Articles 2.1 and 2.2 of the ADRHAs.
- b. Ms. Katarzyna Milczarek shall be suspended for a period of sixteen (16) months in line with Article 10.14 of the ADRHAs. The period of ineligibility will be effective

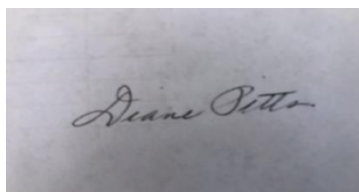
from the day of notification of the Operative Decision (the Provisional Suspension imposed on Ms. Milczarek beginning on 27. September 2022 shall be credited against the imposed ineligibility period);

- c. All results obtained by Ms. Katarzyna Milczarek at the Event are disqualified, with all resulting consequences, including forfeiture of any medals, points and prizes pursuant to Articles 9 and 10.1 of the ADRHAs;
- d. All other competitive results obtained by Ms. Katarzyna Milczarek from the date of sample collection (7 August 2022) until the imposition of the Provisional Suspension are disqualified, with all resulting consequences, including forfeiture of any medals, points, and prizes pursuant to Article 10.10 of the ADRHAs;
- e. No fine shall be imposed on Ms. Katarzyna Milczarek .
- f. Each party shall pay their own legal costs incurred in these proceedings.

88. This decision is subject to appeal in accordance with Article 13.2 of the ADRHAs. 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.

89. This decision shall be published in accordance with Article 14.3 of the ADRHAs.

FOR THE TRIBUNAL

A rectangular box containing a handwritten signature in cursive script, which appears to read "Diane Pitts".

Ms. Diane Pitts, Panel Chair