

DECISION of the FEI TRIBUNAL  
dated 25 June 2021  
(Reference No. FEI Tribunal: A21-0004)

In the matter of

Mr Daniel Bluman (“the Appellant”)  
Represented by Morgan Sports Law

vs.

FÉDÉRATION EQUESTRE INTERNATIONALE (“FEI” or “the Respondent”)

together “the Parties”

I. COMPOSITION OF THE FEI TRIBUNAL PANEL:

Ms Harveen Thauli (CAN)

II. SUMMARY OF FACTS:

**Case File:** The Tribunal duly took into consideration all the Parties’ written submissions and communications received up to date, as well as oral arguments presented during the hearing on 17 June 2021.

**Hearing:** 17 June 2021 at 4 pm (Central European Time by videoconference (via Cisco WebEx).

**Present:**

- The FEI Tribunal Panel
- Mr. Gautier Aubert, FEI Tribunal Clerk

Appellant:

- Mr. Daniel Bluman

Counsel for the Appellant:

- Ms. Liza Lazarus
- Ms. Emma Waters
- Ms. Ellen Kerr

Appellant's Witness:

- Mr Ken Lalo

For the FEI:

- Mr. Mikael Rentsch, FEI Legal Director
- Ms. Áine Power, FEI Deputy Legal Director

III. DESCRIPTION OF THE CASE FROM A LEGAL VIEWPOINT

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

Statutes 24th edition, effective 19 November 2019 ("Statutes").

General Regulations 24th edition, updates effective 1 January 2021, ("GRs").

FEI Regulations for Equestrian Events at the Olympic Games, effective for the Olympic Games Tokyo 2020 23 July-8 August 2021 ("Olympic Regulations")

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

2. The Relevant Legal Provisions

FEI Statutes Article 38.1:

"Subject to Articles 38.2 and 38.4, the FEI Tribunal shall decide all cases submitted to it by or through the Secretary General, whether Appeals from or matter not otherwise under the jurisdiction of the Ground Jury or Appeal Committee. These cases may be:

- i. Any infringement of the Statutes, General Regulations, Sport Rules, or Procedural Regulations of a General Assembly or of violation of the common principles of behaviour, fairness, and accepted standards of sportsmanship, whether or not arising during an FEI meeting or Event;

### **GRs Article 139 (Owners and Lessees of Horses)**

1. NFs must keep a register of the Owners and lessees of Horses with official passports. Changes of Owners and records of leasing agreements must be entered in the FEI and/or national passport and authenticated by the stamp and signature of an NF official.
2. The nationality of a Horse is that of its Owner or of the Lessee, where a lease is current, or of the country in which the company owning or leasing it is registered. A company may, however, own a Horse in partnership with an individual.
3. When one or more Horses belong to a partnership of Owners of different nationalities, the Owners must declare to the FEI, before making the first entry, the nationality under which the Horse or Horses will compete and that nationality must be entered in the FEI and/or national passport. The Horses must retain that nationality until the partnership is dissolved or the Horses are sold. Any consequent change of nationality must be reported to the FEI.
4. Horses entered for the Olympic Games must be the property of Owners of the same nationality as the Athlete by 15th January of the year of the Games (see Olympic Regulations).
5. Athletes may take part in all Events except Olympic Games with Horses belonging to Owners of a different nationality (see also Article 118 Person Responsible).

### **GRs Article 162 (Appeals)**

#### **Article 162.1 (General Principles)**

An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorised under the Statutes, GRs or Sport Rules, provided it is admissible (see Article 162.2 below):

- a. With the FEI Tribunal against Decisions of the Ground Jury or any other person or body.
- b. With the CAS against Decisions by the FEI Tribunal. The person or body lodging such Appeal shall inform the FEI Legal Department.

#### **Article 162.5 (Process for Filing an Appeal against other FEI Decisions)**

Appeals to the FEI Tribunal against other FEI Decisions (i.e. other than an Appeal against a Decision arising from a Protest) must be dispatched to the FEI Tribunal (fei.tribunal@fei.org) and signed by the appellant or his/her authorised agent and accompanied by supporting evidence in writing or by the presence of one or more witnesses at a designated hearing and must reach the FEI Tribunal within twenty one (21) days of the date on which the notification of the earlier Decision was sent.

### **Article 162.7 (Process for Filing an Appeal to CAS)**

Appeals 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.

### **Article 165.1 (Time of Implementation of Decisions)**

Decisions are effective from the date of oral or written notification to the affected party or parties, so long as such notification is possible under the circumstances. Otherwise, Decisions are effective as of the date specified by the body or person authorised to make the Decision.

## **Olympic Regulations**

### **Article 606 – Eligibility of Athletes and Horses**

#### **Article 606.2.2 Ownership**

**2.2.1** Horses entered for the Equestrian Events at the Olympic Games must have been registered with FEI as property of owners of the same nationality as the Athlete, by **15 January 2021**.

**2.2.2** Horses, with multinational ownership, must be registered with FEI by **15 January 2021** (as per above paragraph), under the name of the nation for which the Horse will compete during the Olympic Games.

**2.2.3** National Olympic Committees (NOCs) in close consultation with National Federations (NFs) are responsible to ensure that Horses which do not meet ownership requirements as laid down by FEI, are not entered for the Equestrian Events at the Olympic Games.

### **Article 607 – Deadlines for Qualification of Nations, Minimum Eligibility Requirements and Certificates of Capability and Tokyo 2020 Entry Deadlines**

#### **Article 607.2 FEI Minimum Eligibility Criteria for participation at the Olympic Games**

**2.1** NFs qualified to take part at the Olympic Games must send a FEI Certificate of Capability for all Athletes and Horses nominated, on a form provided by the

FEI (see **Annex C**), to FEI no later than **21 June 2021** midnight (Swiss time).

Athletes and Horses for which FEI Certificates of Capability have not been received on time will not be accepted or allowed to participate.

[...]

#### **IRs of the FEI Tribunal Article 18.1:**

"In accordance with Article 38 of the FEI Statutes, the FEI Tribunal has the competence to hear and determine any matter properly submitted to it, including, but not limited to, Claims (as provided for in Article 30 of these Internal Regulations of the FEI Tribunal), those matters specified in Article 163 (Protests and Disciplinary cases) and Article 162 (Appeals) of the FEI General Regulations and all disputes and procedures arising under the FEI Anti-Doping Rules for Human Athletes and the FEI Equine Anti-Doping and Controlled Medication Regulations. (...)

#### **IRs of the FEI Tribunal, Article 23.1 (General Powers of a Hearing Panel):**

"A Hearing Panel (or, if urgent action is required before a Hearing Panel is appointed, the FEI Tribunal Chair) shall have all powers necessary for, and incidental to, the discharge of its responsibilities under the FEI Rules and Regulations and these Procedural Rules of the FEI Tribunal, including (without limitation) the power, whether on the application of a party or of its own motion:

[...]

(e) to expedite or to adjourn, postpone or suspend the proceedings, and/or to extend any deadline or time-limit otherwise provided for in these Procedural Rules of the FEI Tribunal or in its own directions or orders, upon such terms as it shall determine, where appropriate;

#### **Article 38 – Decision of the Hearing Panel**

**38.3** The Hearing Panel may decide to communicate the operative part of the Decision to the parties, prior to the reasons. The Decision shall be enforceable from such notification of the operative part by courier, facsimile and/or electronic mail. In exceptional circumstances, the Hearing Panel may advise the parties verbally of its Decision following the close of the hearing and the Decision shall be enforceable immediately unless the Hearing Panel specifies otherwise.

## Article 39 – Written Decisions

**39.2** The time to Appeal shall not begin to run until receipt of the written, reasoned Decision. The Hearing Panel (or the FEI where instructed by the Hearing Panel to do so) will send copies of the Decision to the parties and to any other Person that has a right of Appeal against the Decision.

### IV. DECISION

3. Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions and documentary evidence submitted during these the proceedings as well as the oral testimony given at the hearing held on the 17 June 2021. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present Appeal, the Tribunal will only refer to the submissions and evidence it considers necessary to explain its reasoning in this decision.

### V. FACTUAL AND PROCEDURAL BACKGROUND

4. In his 2 June 2021 Appeal Brief (the **Appeal Brief**), the Appellant, Mr. Daniel Bluman, stated, in summary, the following:
  - Since 2016, the Appellant's "sport nationality" has been Israel. As an Israeli jumping rider, the Appellant qualified for the 2020 Tokyo Olympic Games, which will take place in 2021 (the **Olympics**).
  - One of the six horses owned by the Appellant is GEMMA W (FEI ID: 105RR80) (**Gemma**) and the only suitable horse for him to compete on at the Olympics.
  - Recently, the Appellant became aware of what he considers to be an administrative error. The "Ownership" section of the FEI Database showed Gemma's nationality as USA.
  - Gemma's nationality should have been registered as Israel because the Appellant, in his personal capacity, has always been Gemma's sole owner. Gemma has never been owned by anyone other than the Appellant and has no sporting link whatsoever to the USA.
  - In the Appellant's view, the confusion about Gemma's nationality stems from his use of the *pseudonym* "Blue Star" when registering his horses. The Appellant states that Blue Star is not a company, holding group or syndicate and does not

exist at all. The Appellant chose this pseudonym to reflect his attachment to the Israeli flag, which has a blue star on it.

- The Appellant was aware of the rule that Gemma's nationality also had to be Israel for him to compete at the Olympics. He further acknowledged that he was aware of the 15 January 2021 deadline to ensure Gemma's nationality aligned with his.
  - On noting this "error" in the FEI Database, the Appellant first contacted the Unites States Equestrian Federation (**USEF**), given Gemma's USA registration, to ask USEF to correct this error. In email correspondence between USEF and the FEI, the FEI advised USEF that since Gemma's nationality is registered as USA and it was not changed before the 15 January 2021 deadline, Gemma could compete with an American rider only at the Olympics.
  - The Appellant then contacted the FEI on 18 May 2021 to request that the FEI update the FEI Database so that the error would not prevent him from competing with Gemma at the Olympics. On 20 May 2021, the FEI refused to correct the entry, referring to the 15 January 2021 deadline, and informed the Appellant that nationality changes could only be processed by Gemma's administering National Federation (the **NF**). (The FEI's letter of 20 May 2021 is considered the Decision under appeal [the **20 May Decision**] for the purpose of these proceedings and is discussed further below.)
  - On receiving the 20 May Decision and learning that the administering NF is responsible for correcting errors, the Appellant contacted the Belgian NF and requested that the Belgian NF take urgent action to update Gemma's nationality to Israel. The Belgian NF changed Gemma's nationality (but not Gemma's ownership, which appears as Blue Star Investments on the FEI Database). On 25 May 2021 and according to the Appellant, the Belgian NF asked the FEI to backdate Gemma's change in nationality so that the Appellant could compete with Gemma at the Olympics.
  - The Appellant alleges that the FEI refused to backdate the change in nationality on 26 May 2021 (the **26 May Decision**).
5. On 2 June 2021, the Appellant lodged an Appeal to the FEI Tribunal against the 26 May Decision under Article 162 of the GRs. In his Appeal, the Appellant stated, "*On May 26, 2021, we understand that the FEI replied to the Belgian NF, refusing to backdate the request. The appellant hereby appeals that Decision to the FEI Tribunal.*" The Appellant did not provide a copy of the 26 May Decision and stated in a footnote that, "*The Belgian NF has confirmed this orally to Mr. Bluman, but has not shared the related email correspondence with him.*"

6. On 3 June 2021, following the Tribunal's acknowledgment of the Appeal, the Appellant requested that his case be dealt with urgently since it impacted his participation in the Olympics, and requested an expedited oral hearing before the FEI Tribunal.
7. On the same day, the FEI responded that in its opinion, this matter was not urgent. In particular, the FEI stated that the deadline of 15 January 2021 for the Appellant to ensure his nationality aligned with Gemma's had already expired. The FEI further stated that the Appellant was aware of this issue in mid-April 2021, received the FEI's position in the 20 May Decision, but waited until 2 June 2021 to submit his Appeal. The FEI therefore requested that the Tribunal grant the standard amount of time to file its Answer, bearing in mind the workload of its Legal Department, including dealing with ongoing urgent issues related to the Olympics and several other appeals before the FEI Tribunal and the Court of Arbitration for Sport (**CAS**) as well as attending the FEI Board Meetings taking place on 15 and 16 June 2021.
8. On 3 June 2021, the Appellant insisted once more on the urgency of the present matter and stated that he required a decision before 23 June 2021, given the upcoming deadlines under the FEI Regulations for Equestrian Events at the Olympic Games (the **Olympic Regulations**). As an alternative, the Appellant proposed that the Parties agree to proceed directly to CAS pursuant to Article 39.3 of the FEI Statutes.
9. On 5 June 2021, the Tribunal acknowledged receiving the Appeal Brief as well as the email exchanges that followed between the Appellant and the FEI. The Tribunal gave the Parties a deadline of 7 June 2021 to indicate whether they would agree to proceed directly to CAS.
10. On 7 June 2021, the FEI informed the Tribunal that it did not agree to having the matter heard before CAS. On the same day, the Appellant requested that a hearing be held as soon as possible.
11. Later, on 7 June 2021, the FEI Tribunal Chair acknowledged receiving the Parties' email exchanges and informed them of the appointment of a one-member hearing panel (Article 19.1 of the IRs). The Parties were invited to submit objections to the constitution of the nominated hearing panel by 10 June 2021 (Article 19.3 of the IRs). The Parties were further informed that given the circumstances, the Tribunal had decided to expedite the present proceedings pursuant to Article 23.1(e) of the IRs. Thus, a hearing would take place (via videoconference) on 17 June 2021 (the **Hearing**), and the FEI was granted a deadline of 16 June 2021 to submit its Answer. The Tribunal Chair agreed to issue the operative part of its decision on 18 June 2021. Finally, the Tribunal Chair requested that the FEI also submit the 26 May Decision that was allegedly sent to the Belgian NF, also by 16 June 2021.



12. On 9 June 2021, the Appellant confirmed having no objection to the constitution of the hearing panel.
13. On 9 June 2021, the FEI also confirmed having no objection to the constitution of the hearing panel. Given the Tribunal Chair's request, the FEI conducted an extensive search for the 26 May Decision but could not find any record of it. The FEI then highlighted that Article 40.2 of the IRs clearly provides that the Appellant is required to submit the "Decision" being appealed, together with the Notice of Appeal, as a pre-requisite to the validity of his Appeal. The FEI submitted that since the Appellant had the obligation to submit the "Decision" and did not do so, the Appeal should be declared invalid and the Appeal dismissed. The FEI recognised that the Tribunal needed time to consider the FEI's position, so the FEI did not request a stay of the proceedings and indicated that it would continue to work towards the 16 June 2021 deadline to file its Answer.
14. In the late evening (Swiss time) of the 9 June 2021, the Appellant responded to the FEI's correspondence of the same day. The Appellant stated that he attempted to obtain the 26 May Decision from the Belgian NF but to no avail. He indicated that the communication may have taken place by telephone, which would explain the lack of a written record. The Appellant then took the position that the 20 May Decision, which was submitted as Exhibit 4 to his Appeal Brief, should be considered the alternative "Decision" under appeal since it resulted in the same outcome, i.e. the Appellant's inability to compete with Gemma at the Olympics. If the Tribunal accepted the 20 May Decision as the "Decision" under appeal, the Appellant's deadline for filing his Appeal would be the next day on 10 June 2021. The Appellant therefore requested the Tribunal's confirmation that he did not have to refile a renewed Appeal against the 20 May Decision.
15. On 10 June 2021, the Parties were informed that their respective submissions had been duly forwarded to the attention of the FEI Tribunal Chair and the panel member appointed to hear this case.
16. In the late evening (Swiss time) of 10 June 2021, the Appellant submitted the names of the witnesses he intended to call at the Hearing.
17. During the night between the 10 and the 11 June 2021 (Swiss time), the Appellant submitted a renewed Appeal and exhibits to ensure his Appeal met the new deadline of 10 June 2021, and asked the Tribunal to maintain the original schedule.

18. On 11 June 2021, the FEI requested the Appellant to provide a marked-up (red-lined) version of the renewed Appeal, showing the changes from the original Appeal. The FEI did not oppose maintaining the original schedule set by the Tribunal and further requested the Tribunal to indicate which Appeal it should respond to.
19. On 11 June 2021, the Tribunal acknowledged receiving the email correspondence of 9, 10 and 11 June 2021 submitted by the Parties. The Tribunal informed the Parties that it had already made its decision before receiving the latest correspondence from the Parties but given the tight deadline for the Appellant to file a renewed Appeal and the difference in time zones, the Tribunal's decision could not be issued any sooner. While the Tribunal agreed with the FEI that there is indeed a prerequisite in the IRs that there must be a decision to appeal against and such decision be provided by the Appellant, it was however satisfied, under the current circumstances, that the 20 May Decision could be considered as the "Decision" under appeal. The Tribunal further deemed that it was not necessary for the Appellant to file an additional Appeal and accepted the 2 June 2021 Appeal Brief as the Appeal against the 20 May Decision. The FEI was therefore directed to provide its Answer to the 2 June 2021 Appeal Brief. Finally, the Tribunal informed the Parties that the initial schedule would remain the same and the Appellant and Mr. Lalo would be witnesses at the Hearing.
20. On 11 June 2021, at about the same time as the Tribunal's letter was sent out to the Parties, the Appellant submitted his second Appeal Brief in a marked-up version.
21. On 16 June 2021, the FEI submitted its Answer to the Appeal, accompanied with the relevant exhibits, which will be summarised below, under paragraph VI.B. Later the same day, the FEI submitted, on behalf of the Parties, a tentative schedule for the hearing to take place the following day.
22. On 16 June 2021, the Tribunal sent a letter to the Parties asking them to come prepared to answer certain questions, including: the importance and role of Administering NFs; notifications such as the Horse Ownership/Nationality Requirements; the Appellant's horses, Danna RJ and Ladriano Z; and the Appellant's website.
23. On 16 June 2021 in late evening (Swiss time), the Appellant submitted emails exchanged between himself and/or his office and the Belgian NF. The Appellant clarified that he did not request that these emails be admitted into the record in the event the FEI would object, but wanted nonetheless to share them for transparency purposes.

24. The Hearing took place on 17 June 2021 at 16:00 Swiss time. The Appellant appeared personally, assisted by his legal counsel, and was duly questioned by all Parties and the Tribunal. Mr. Ken Lalo, President of the Israeli Equestrian Federation (the **Israeli NF**), also gave a witness testimony, which will be summarised below.
25. On 18 June 2021, given the urgency of the present matter, the Tribunal issued the Operative Part of its Decision.

## VI. SUBMISSIONS BY THE PARTIES WITH THE RESPECTIVE POSITIONS

*In the following, a short summary of the written and oral submissions made by the Parties concerning the merits of the Appeal is provided. While the Tribunal has taken into consideration all submissions, only the ones relevant for the Decision are outlined below.*

### A. APPELLANT:

26. The Appellant's position in his written and oral submissions addressed the following key points:
  - 26.1 The factual background is summarised in section V.
  - 26.2 Article 139.2 of the GRs states, in part, that: *the nationality of a horse is that of its owner*. Since the Appellant is Israeli and Blue Star does not exist, it is impossible for Gemma to have any other nationality but Israeli.
  - 26.3 The Appellant has always been Gemma's owner since he initially bought her in 2016. Article 139.4 of the GRs provides that: *Horses entered for the Olympic Games must be the property of Owners of the same nationality as the Athlete by 15<sup>th</sup> January of the year of the Games*. The Appellant submits that Gemma has been his property since 2016 and therefore, he has complied with the terms of Article 139.4.
  - 26.4 In support of his position that he has always been Gemma's owner, the Appellant submitted the Bill of Sale dated 29 November 2016 that indicated the Appellant as the buyer. The Appellant further submitted the invoice dated 30 November 2016 that was addressed to him, and the receipt for Gemma's FEI passport that was issued in the Appellant's name by the Belgian NF. In addition, the Appellant states that Blue Star has no SafeSport obligations. Therefore, once he completed the SafeSport obligations, they show as completed by Blue Star, which proves they are one and the same.

- 26.5 Since the Appellant believes Article 139.4 of the GRs is about ownership and not about registration, he is not requesting the Tribunal to apply any exception to him. In his opinion, he and Gemma are indeed of the same nationality, i.e. both are Israeli, and therefore, he is compliant with Article 139.4.
- 26.6 Article 606.2.2.1 of the Olympic Regulations states: *Horses entered for Equestrian Events at the Olympic Games must have been registered with FEI as property of owners of the same nationality as the Athlete, by 15 January 2021.* The words “must have been registered” in this Article do not appear anywhere else in the GRs and this Article is the only provision that makes reference to “registration”. His position is that the intent of the rule is to ensure that the horse and the owner are of the same nationality. Therefore, he states he has fulfilled the rule’s intent. In his view, the registration is mainly a formality and it is the integrity of the FEI Database that is the important factor. In support of this view, the Appellant submits that the Belgian NF only had to change his address in the Ownership section of the FEI Database to have Gemma’s nationality changed to Israel. The Belgian-NF easily changed the address but was not able to backdate it.
- 26.7 Therefore, the Appellant’s position is that Article 139.4 of the GRs and Article 606.2.2.1 of the Olympic Regulations are in conflict with each other and therefore, any conflict must be resolved in accordance with the principle of *contra proferentum*, i.e. in the Appellant’s favour.
- 26.8 The Appellant further adds that this is not a disciplinary or doping case. This is instead a case of an Athlete who loves his sport and only wishes to compete at the Olympics with Gemma, but he is not allowed to do so because of an administrative error.
- 26.9 As for the admissibility of his Appeal, he submits that neither the 15 nor 19 April 2021 email exchanges should be considered as a formal “Decision” pursuant to the GRS for determining whether his Appeal is timed barred. The Appellant states the email exchanges were with a junior IT employee, who has no authority to render a decision pursuant to the FEI Statutes. He maintains that the 20 May Decision was the correct “Decision” to appeal against and therefore, he submitted his Appeal on time.
- 26.10 In view of the above, the Appellant respectfully requests that the Tribunal:

- (a) sets aside the Decision, on the basis that it is a misinterpretation of the GRs;
- (b) orders that GEMMA W's "horse detail" be backdated to reflect the nationality of Israel, effective from first registration.
- (c) orders that GEMMA W be considered eligible to compete at the Olympic Games with an Israeli rider.

## B. FEI:

27. The FEI's position in its written and oral submissions addressed the following key points:

- 27.1 The present case can be divided into three pillars: a procedural, a legal and a factual pillar. Each of these pillars should lead the Tribunal to the conclusion that the Appeal should be dismissed. The procedural pillar concerns the FEI's position that the Appeal is time-barred (cf. below, par. 27.2). The legal pillar refers to the applicable rules and regulations, which show that the Appellant did not fulfill the legal requirements so that he and Gemma would be eligible to compete together at the Olympics (cf. below, par. 27.3 to 27.4). Finally, the factual pillar shows that the Appellant's explanations about nationality and ownership of Blue Star Investments and Gemma are not credible (cf. below, par. 27.5 and following).
- 27.2 The FEI states that the Appellant received a clear and valid "Decision" on 19 April 2021 (the **19 April Decision**) that Gemma would not be eligible to compete for Israel at the Olympics. The 19 April Decision was issued by Ms. Victoria Rydborn, a FEI manager and IT Support Team Leader who is the main contact at the FEI for all registration related issues. In her email to the Appellant on 19 April 2021, she wrote, in part: *"If you change the nationality/owner of this Horse, the Horse would no longer be eligible for the Olympic Games – the nationality was declared on the 15 January 2021 was USA, this is the only nationality under which this Horse can compete at the Olympic Games this year."* Therefore, the FEI submits that the Appellant should have appealed the 19 April Decision. Since he did not file his Appeal by the 21-day deadline, i.e. on or before 10 May 2021, his Appeal is invalid and time barred. The FEI pointed out that the Appeal Brief *"omitted"* the emails between Ms. Rydborn and the Appellant.

- 27.3 The FEI rules and regulations, i.e. Article 139.4 of the GRs and Article 606.2.2.1 of the Olympic Regulations, are clear and do not conflict with each other. Article 139.4 specifically cross-references the Olympic Regulations as this Article concludes by stating, “see Olympic Regulations”. Therefore, since there is no conflict between the Articles, the principle of *contra proferentem* is not relevant. The Olympic Regulations provide for an additional detail/requirement that there is a necessity to ensure a horse is properly registered in the FEI Database by 15 January 2021.
- 27.4 The FEI informed all National Federations by email notice stating in the subject line, “Tokyo2020 Olympic Games: Horse Ownership/Nationality REMINDER!” (the **Deadline Notice**). The Deadline Notice specifically advised of the requirements that, “*The nationality of the Owner of a Horse competing at the Olympics must be the same as the nationality of the Athlete riding the Horse*” and “*The Owner of the Horse and its nationality must be entered in the FEI Database by 5 January 2021.*” The foregoing highlighting is in the Deadline Notice. The FEI does not accept the Appellant’s position that this is merely an administrative error. In fact, Gemma’s nationality showed as the USA in the FEI Database since 15 May 2017, or almost four years. The Appellant had sufficient time to correct what he alleges to be an administrative error. The National Federations were also given the Deadline Notice on 6 December 2019 (deadline of 15 January 2020) before the Olympics were postponed for one year due to the Covid-19 pandemic, and then again on 15 December 2020 (deadline of 15 January 2021). The FEI states it would have been a simple exercise for the Athlete/his NF to check the nationality of Gemma on the FEI Database but regrettably, neither did so until it was too late.
- 27.5 The Appellant’s claim that Blue Star Investments is a “pseudonym” is not credible or consistent with the Appellant’s conduct and dealings with his other horses. Gemma is not registered as “Blue Star” but “Blue Star Investments”, which sounds much more like a corporate/financial entity than a pseudonym. Blue Star Investments is currently registered as a “corporation” in the FEI Database. The Appellant states that his use of Blue Star Investments is intended to reflect his attachment to the Israeli flag but the Appellant’s nationality did not change from Columbia to Israel until 23 December 2017. However, Gemma was registered under the owner, Blue Star Investments with USA nationality since 28 January 2015.
- 27.6 The Appellant’s theory is also not credible because the ownership of his horse, Ladriano Z is split among the Appellant (1%), Blue Star Investments

(97%) and another stable (2%), which is another indication that Blue Star Investments is indeed a different entity from the Appellant.

- 27.7 The Appellant is further familiar with the principle of ownership and nationality because Ladriano Z's ownership changed seven times, and its nationality, three times (from American to Colombian, then from Colombian to American, and lastly from American to Israeli).
- 27.8 The Appellant is listed as one of two "Authorized Person(s)" for a company called Blue Star Equestrian LLC, registered in Florida at the same address as the Appellant's and Gemma's in the FEI Database. This only adds to the confusion about the Blue Star pseudonym and Blue Star Investments.
- 27.9 The Appellant's position on the status of Blue Star Investments is not consistent. On 14 April 2021, the Israeli Sports Director informed the FEI that Blue Star Investments was the Appellant's US firm. On 15 April 2021, the Appellant told the FEI that Blue Star Investments is a "group of owners" that includes him. Finally, in support of his Appeal Brief, the Appellant indicated that Blue Star Investments does not exist at all, is entirely owned by him, and nothing more than a pseudonym.
- 27.10 In further support of the Appellant's inconsistency about the ownership of Blue Star Investments, the FEI read the following statement from an article entitled "Daniel Bluman's best year yet" posted on the World of Showjumping website on 18 September 2019: *Part of the success is also Bluman's supporters, that either co-invests in or co-owns the horses with him. "There is Blue Star Investment, the original group we founded ourselves and that different people have been part of over the years and invested in. Everyone involved in this group has made profits, and that is something I'm very proud of," Daniel tells.*
- 27.11 The Appellant's current statement that Blue Star Investments is not a company, a holding group or a syndicate actually suggests Gemma does not have any owner at all. An Owner, pursuant to the GRs, is a "Person or entity having a property interest in whole or in part of one or more horses". If Blue Star Investments is neither a person nor an entity, Gemma does not meet the first part of Article 139.4 that states, "*Horses entered for the Olympic Games must be the property of Owners of the same nationality...*" because Gemma is not registered with the FEI as the property of any "Owner".
- 27.12 The sales documents submitted by the Appellant are irrelevant. They only show that at one point in time, the Appellant bought Gemma in November

2016. There is no way in knowing what happened since November 2016 or what other side arrangements might have been in place. In any event, what is relevant for the present case is that Gemma's ownership on 15 January 2021 was USA and not Israel.

27.13 The Appellant relies on hearsay evidence to support his Appeal and did not provide any sufficient proof. For example, the Appellant states that in correspondence between the USEF and the FEI in April 2021, it was "mistakenly thought that Blue Star was an American corporation" but the Appellant did not provide any supporting statements from USEF.

27.14 The FEI must apply the rules in question extremely strictly and with 100% consistency. The Appellant is not the first and only person who has missed the 15 January 2021 deadline. The FEI submitted exhibits of email exchanges indicating that the FEI has always refused similar requests as the Appellant's. The reasons for the FEI to adopt this strict approach are as follows: (i) the rules are clear and the FEI ensures that all NFs are made aware of the rule by sending the Deadline Notice to the NFs; (ii) the FEI needs to ensure transparency and treat all Athletes and NFs equally and fairly: If the 15 January 2021 deadline is missed, the consequences are the same for everyone; and (iii) the competition at stake is the most important one for Athletes and NFs. For this reason, all NFs and Athletes have a right to know that everyone is competing on the same terms and conditions and have the same eligibility requirements.

27.15 The FEI states the Tribunal is obligated to interpret a rule with how the rule maker intended it and not in a way that would frustrate or run contrary to that intention.<sup>1</sup> The registration rule is crucial given the fact that the FEI is not the entity in charge of determining the ownership or nationality of a horse. The FEI therefore needs a mechanism to verify that the nationality of the horse and the Owner match. The requirement to have their nationality registered in the FEI Database by the 15 January 2021 deadline is that mechanism. It enables the FEI to ensure that the same verification process is applied to all horses entered in the Olympics.

27.16 The FEI – and the Tribunal – cannot grant an exception to a rule where the regulations do not provide for one. The wording of Article 139.4 of the GRs and Article 606.2.2.1 of the Olympic Regulations do not include any

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<sup>1</sup> CAS 2001/A/354 & CAS 2001/A/355, par. 7 ; CAS 2012/A/2762 par. 108



exceptions whereas other articles in the GRs (e.g. Article 119.2.2, Article 137.7, Article 104.2.1.1) provide exceptions.

27.17 The FEI relies on a 2019 precedent decided by a different hearing panel in the UAE v. FEI Appeal (UAE v. FEI, FEI Tribunal Decision, 27 February 2019)(the **UAE Decision**), where it was stated that, whenever the rule does not provide for exceptions, then it is neither the FEI nor the Tribunal's role or authority to grant exceptions to the rules. The FEI therefore has no authority to backdate an owner's nationality to make Gemma eligible to compete at the Olympics, nor does the Tribunal.

27.18 The FEI explained the change in nationality of the Appellant's horse, Danna RJ to Israel on 14 January 2021. At the Tribunal's request, the FEI also sent the Tribunal a summary prepared by the FEI's IT Department explaining what had happened, after the Hearing. The Belgian NF entered the Appellant as owner of Danna RJ on 14 January 2021. However, the Belgian NF used an incorrect profile and FEI ID (under ref. 10173887) for the Appellant. This profile and ID had been mistakenly created by USEF in 2018 and had never been used. The Appellant's correct profile and FEI ID already existed under reference 10055402. When the FEI IT Department noticed this error, an IT member reached out to the Belgian NF to ask questions about what had happened. The Belgian NF confirmed that the profile should be changed to the Appellant's correct profile and that Danna RJ would not be competing in the Olympics. The FEI IT Department then linked Danna RJ's ownership to the Appellant's correct profile on 19 January 2021. By doing so, Danna RJ's ownership auto-corrected to Israel as at the date inputted by the Belgian NF on 14 January 2021. The FEI emphasized that the Appellant did not intend to compete with Danna RJ at the Olympics.

27.19 In view of the above, the FEI respectfully requests that the Tribunal:

- (a) declares the appeal invalid on the basis that it is time barred;
- (b) alternatively, dismiss the appeal in its entirety; and
- (c) orders the Appellant to pay a contribution towards the FEI's legal fees and other expenses incurred in the connection with these proceedings, in accordance with Article 159.4 of the FEI GRs and the FEI Guidelines for Fines and Contributions towards Legal Costs.

### C. Summary of the Appellant's testimony at the Hearing:

28. At the Hearing, the Appellant provided his testimony. He was questioned by his counsel, the FEI and the Tribunal. In summary, the Appellant provided the following additional information:

28.1 He was born in Colombia and was a Colombian national. He and his family moved to the USA for a few years but later returned to Colombia.

28.2 The Appellant was approached by various people from the Jewish Community, who wanted to support him by "investing" in him. He later decided to change his nationality to Israel and compete under the Israeli flag. He has a connection to Israel because his grandfather is Israeli and his other grandfather survived the Holocaust.

28.3 The Appellant sees himself as a humble person. He chose the pseudonym "Blue Star" to represent his Jewish faith and acknowledge the many people who support him and are Israeli. This pseudonym, representing the Israeli flag, made sense to him.

28.4 Blue Star Investments has no employees and no directors and it is only meant to serve as an acknowledgement to those who have supported the Appellant's Olympic dream. Blue Star Investment does not have any contracts and nobody owns any interest in it.

28.5 The Appellant purchased Gemma with his personal savings in 2016 and has always owned her. Gemma has only competed at events with the Appellant.

28.6 The Appellant never thought about double checking whether the registration was correct, since in his opinion, Gemma was always his and Blue Star Investments does not exist.

28.7 When the Appellant first saw or heard about the registration mistake, he initially thought that it could be easily corrected.

28.8 Blue Star Investments has a post office box in Florida because this is where the Appellant's mother lives. It is easier for the Appellant to have his mail delivered there given the amount of travelling he does to compete in equestrian events.

- 28.9 The Appellant explained that the FEI showed the Belgian NF the registration error for his horse, Danna RJ, and claimed the FEI backdated it to 14 January 2021. At this time, the Appellant also learned that the Belgian NF had three profiles for him - one was misspelled, one showed his nationality as Columbian and the other as American.
- 28.10 Bluman Equestrian is his website but he stated that he does not manage it himself. It is managed by his wife and sometimes by interns.
- 28.11 While the Appellant uses Gemma's FEI Passport at competitions, he does not check his horses' Passports because he believes this duty is the responsibility of his secretary and manager.
- 28.12 Blue Star Equestrian LLC is a registered company with a bank account, a tax ID, income and expenses. It was funded last year by the Appellant and his brother and formed to manage businesses for inexperienced trainers in Long Island.
- 28.13 Gemma became the Appellant's option to be his Olympic horse during the course of 2020 after the Olympics were postponed in March 2020. The Appellant stated that Gemma was too young to compete if the Olympics had taken place in 2020 and he was registered to compete with his other horse, Ladriano Z.

**D. Summary of Mr. Lalo's testimony at the Hearing dated 17 June 2021:**

29. At the Hearing, Mr. Lalo (the **Witness**) provided his testimony and was then questioned by the Appellant's counsel. In summary, the Witness indicated the following:

- 29.1 He has been the President of the **Israeli NF** for several terms but not consecutive terms.
- 29.2 The Appellant is by far the best rider for Israel and he is also the anchor rider. Following the Appellant's decision to join the Israeli NF, several other riders decided to change their nationality to join the Israeli team as well.
- 29.3 During and outside of competitions, the Appellant always acts with integrity and is a "*perfect gentleman*".

- 29.4 Dr. Amichai Alperovich, who has a PhD in sports and is the Israeli NF's Sports Director, trainer and chef d'equipe, is in charge of coordinating events for the Israeli team and its international riders. He is the link between the Israeli NF and the FEI. According to the Witness, Dr Alperovich loosely used the word, "firm" when referring to Blue Star Investments in his email of 14 April 2021 to the FEI, without actually knowing who the owner was or the type of entity.
- 29.5 The Witness is not involved with the registration process or in verifying any documents.
- 29.6 In the Witness' opinion, there would be no reason to believe that a horse ridden by an Israeli rider would not be Israeli itself.

**E. Summary of concluding arguments at the Hearing dated 17 June 2021:**

**i. FEI's position:**

30. In its closing arguments, the FEI submitted that the present matter is about fairness, pursuant to Article 100 of the GRs ("The General Regulations (GRs) are established so that individual Athletes and teams of Athletes from different National Federations (NFs) may compete against each other under fair and equal conditions with the welfare of the Horse as paramount").
31. The FEI further emphasized that: the "rule is the rule" and not simply a formality; there are no exceptions to the rule; and it must be applied consistently among the NFs to ensure a "*level playing field*". The FEI submitted various exhibits (6a to 6e) evidencing that it takes the 15 January 2021 deadline very seriously and applies it consistently in all cases, even those cases that could be considered as "exceptional circumstances".
32. The FEI submitted that it is outside the Tribunal's jurisdiction to grant an exception to the rule mentioned above. Referring to the UAE Decision, the FEI highlighted that the hearing panel in that case stated that unless the rule expressly provides for exceptions, no exceptions can be granted.
33. The FEI stated that if, following the Appellant's arguments, Blue Star Investments is considered as "nonexistent", then Gemma has no owner at all, and this is also a violation of Article 139.4 of the GRs.
34. The FEI disagreed that the MHS Going Global case has similarities with the present case. In that case, the horse in question was registered with the same nationality as

the Athlete by the deadline of 15 January 2016 for the 2016 Rio Olympic Games. The FEI made inquiries because of a complaint it received about the nationality of “Caledonia Stables” on the FEI Database. Ultimately, the FEI was satisfied that the horse and Athlete met the nationality requirement to participate in the 2016 Rio Olympic Games. The FEI did not carry out any “investigation” as the Appellant tried to put forward.

ii. **Appellant’s position:**

35. The Appellant is the “heart and soul” of the Israeli jumping team.
36. The Appellant submits that he has always owned Gemma and since he is Israeli, Gemma must be considered Israeli, too. Furthermore, there is no evidence in the file, whatsoever, showing that Gemma ever had any American ownership. The Appellant takes responsibility for Gemma’s “messed up” registration. But, ultimately, the main question to ask is: Does he own Gemma? The answer is yes.
37. The Appellant further submits he complied with Article 139.4 of the GRs. He adds that Article 139.4 of the GRs conflicts with Article 606.2.2.1 of the Olympic Regulations. If the Tribunal accepts the Appellant’s submission, i.e. that Gemma is Israeli, he has complied with Article 139.4 but not Article 606.2.2.1. Alternatively, if the Tribunal considers that Gemma is American, then Article 606.2.2.1 is satisfied but not Article 139.4. Therefore, taking into consideration that the rules conflict and the principle of *contra proferentum*, the Appellant states the Tribunal must choose ownership over registration and decide in favour of the Appellant.
38. The Appellant states the MHS Going Global case is relevant because there were potential integrity issues. The Appellant’s case is similar because should the FEI leave the situation as is, Gemma would be entitled to compete for the USA at the Olympics when all the evidence points towards the fact that she never had any links with the USA. The Appellant also states that what happened to Danna RJ’s registration is also relevant. In that case, the FEI Database flagged that Danna RJ’s nationality was registered as Columbian on 14 January 2021 when her nationality was actually Israel. The FEI subsequently changed Danna RJ’s nationality to Israel in the FEI Database. He states that the registration issue of nationality is the same for both horses. Therefore, he claims that the FEI backdated Danna RJ’s nationality to 14 January 2021 whereas the FEI will not do so for Gemma.
39. The Appellant states USEF asked him to change Ladriano Z’s ownership so that his name appeared together with Blue Star Investments. USEF requested this change so that it is clear that Ladriano Z is Israeli because the Appellant is Israeli.

40. Finally, the Appellant states this case is not about a doping or cheating. It is about an administrative error, which is preventing the Appellant to pursue his dream of participating at the Olympics with his horse, Gemma.

## VII. JURISDICTION & ADMISSIBILITY OF THE APPEAL

41. The Tribunal has jurisdiction over this matter pursuant to Article 38.1 of the Statutes, Articles 18.1 and 40 of the IRs and Article 162 of the GRs. The jurisdiction of the Tribunal is undisputed.

42. As indicated above, the Tribunal considered the 20 May Decision as the “Decision” under appeal. The 20 May Decision is considered as a “Decision made by any person or body authorised under the Statutes, GRs or Sport Rules”, as defined in Article 162.1 of the GRs.

43. In its Answer, the FEI contested the admissibility of the Appeal and sought to have it declared invalid on the basis that it was time-barred. In the FEI’s view, the correct “Decision” under appeal was the 19 April Decision when Ms. Rydborn informed the Appellant that Gemma was not eligible to compete at the Olympics. The FEI maintains that the Appellant should have appealed the 19 April Decision. Since he did not file his Appeal within 21 days of the 19 April Decision pursuant to Article 162.5 of the GRs, his Appeal is invalid and time-barred.

44. Before receiving the FEI’s Answer, which highlighted the email exchanges of 14 to 19 April 2021 between the Appellant and the FEI, the Tribunal had already ruled on 11 June 2021 that the 20 May Decision was the Decision under appeal. If the FEI had the opportunity to find and disclose the April 2021 email exchanges in its response of 9 June 2021, the Tribunal may have ruled differently. In this same response, the FEI also did not object to the admissibility of the Appeal. At the Hearing, the Tribunal advised the Parties that it did not have the authority under the FEI rules and regulations to overturn its own decision of 11 June 2021 and confirmed the admissibility of the Appeal. It was not necessary to hear any further arguments on this issue at the Hearing.

45. The Appellant is validly registered with the FEI, with reference FEI ID 10055402. The Appellant is a Member of the Israeli NF, and as such, a Member of the FEI, bound by its rules and regulations.

46. The Appellant has a legitimate interest in having the 20 May Decision overruled as it prevents him from participating in the Olympics.
47. The matter under review in the context of this Appeal concerns the qualification process and requirements for the Olympics Games, as specified in Section III of this decision. Therefore, these rules and regulations apply to this matter.
48. The Appeal, filed on 2 June 2021, was submitted within the 21-day deadline required in Article 162.5 of the GRs.
49. The Appeal complies with the other formal requirements required in Article 162 of the GRs.

## VIII. LEGAL DISCUSSION

50. Having considered all the applicable rules and regulations as well as the submissions and evidence (both oral and written) provided by the Parties, the Tribunal acknowledges that pursuant to Article 162 of the GRs, the Appeal is admissible and its jurisdiction is confirmed as set out in the previous section.

### A. PRELIMINARY MATTER

51. On 16 June 2021, the Appellant submitted additional documents, consisting of email exchanges between himself (and/or his office) and the Belgian NF. The Appellant indicated that should the FEI object to such submission, he would not ask the Tribunal to admit these emails into the record.
52. At the Hearing, the FEI objected to the submission of the additional emails.
53. Pursuant to Article 45.2 IRs, where an oral hearing is held, new evidence should not be presented unless there is good cause shown for why it was not available for the original proceeding (if an original proceeding took place).
54. The Tribunal told the Parties at the Hearing that it would not allow the additional emails to be entered into the record as evidence. The prerequisites set out in Article 45.2 of the IRs were not met or challenged by the Appellant.

## B. MERITS

55. Article 139.4 of the GRs and Article 606.2.2.1 of the Olympic Regulations are set out in Section III. In brief, each Article requires that horses entered for the Olympic Games must be the property of Owners of the same nationality as the Athlete by 15 January in the year of the Olympic Games. Article 139.4 concludes with “see Olympic Regulations” and Article 606.2.2.1 adds a registration requirement. Neither Article 139.4 of the GRs nor Article 606.2.2.1 of the Olympic Regulations has any exceptions.

### *Interpretation*

56. The Appellant submits that Article 139.4 of the GRs is about ownership. His position is that the intent of the rule is to ensure that the horse and Owner are of the same nationality before 15 January 2021. The Appellant purchased Gemma on 29 November 2016 according to the Bill of Sale. He states that since he has always owned her and is the only Athlete who has competed on her at events, Gemma must be considered Israeli like him. The Appellant adds that there is no evidence showing that Gemma ever had any American ownership. Therefore, the Appellant states he has fulfilled the requirements of Article 139.4 because both he and Gemma are Israeli.

57. The Appellant further submits that registration is a formality and it is the integrity of the database that is important. In support of his position, he referred to what he alleges were registration issues with MHS Going Global and his horse, Danna RJ. He states that if the Tribunal considers that Gemma is American, then he has satisfied the requirements of Article 606.2.2.1 but not Article 139.4. Therefore, he maintains that the two Articles conflict. In this situation, the principle of *contra proferentum* applies and the Tribunal must resolve this conflict by deciding for the Appellant.

58. The FEI submits that there is no conflict between the two Articles and Article 139.4 specifically cross references the Olympic Regulations. It states “see Olympic Regulations” at the end of the Article. The FEI adds that neither Article 139.4 or Article 606.2.2.1 allows any exception.

59. The FEI further submits that the intent of these Articles is to ensure transparency and a level playing field for all the Athletes and NFs as well as guaranteeing equal and fair treatment in an Olympic year. Therefore, if the 15 January 2021 deadline is missed, the consequences are the same for everyone. In support of its position, the FEI provided exhibits where the FEI refused to backdate a horse’s nationality to a date before the 15 January 2020/2021. Each case presented exceptional circumstances of varying degrees.



60. The Tribunal agrees with the FEI's position that there is no conflict between Article 139.4 and Article 606.2.2.1. The language of the two Articles is similar and each mention ownership. Article 606.2.2.1 adds the registration requirement. Article 139.4 cross references the Olympic Regulations by stating "see Olympic Regulations". The Olympic Regulations state, in part, at Article 600: "*This booklet sets out the rules and qualification procedures for the Equestrian Events at the Olympic Games. It must be read in conjunction with the Olympic Charter applicable at the time of the Olympic Games, FEI Statutes, FEI General Regulations (GRs)...*". [Emphasis added.] The Tribunal therefore finds that Article 139.4 and Article 606.2.2.1 are intended to be read together and as a result, ownership and registration are connected to each other.
61. The Tribunal acknowledges that proper registration on FEI Database is paramount to the FEI because the FEI is not the entity responsible for inputting a horse's nationality. This is the responsibility of the NFs and Athletes. The FEI relies on its Database as the mechanism to ensure that the rules and regulations are complied with.
62. The Tribunal agrees that the intent of the two Articles is to create a level playing field as well as ensure equal and fair treatment among all NFs and Athletes. If the FEI did not strictly adhere to the 15 January deadline, this could potentially "open the floodgates" for Athletes to attempt to change a horse's nationality in an Olympic year based on exceptional circumstances, which in some cases, could be merely an attempt to change to a superior horse and nothing more. Furthermore, this could also lead to the possibility that a competitor files a protest on site at the Olympics on the eligibility of the Athlete/Horse in question pursuant to Article 161.3 of the GRs.
63. The Tribunal has the benefit of jurisprudence of the Court of Arbitration for Sport (CAS) where CAS clearly stated that hearing panels are obliged to interpret a rule with how the rule maker intended it and not in a way that would frustrate or run contrary to that intention. This is in line with the general principles of legal interpretation under Swiss law, the latter being the applicable law in the present case, as confirmed by the Parties (Appeal Brief, para. 2.6; FEI's Answer, par. 3.11). According to CAS, "*the Panel is obliged to interpret rules in question in keeping with the perceived intention of the rule maker and not in a way that frustrates it.*"<sup>2</sup> To interpret Articles 139.4 and 606.2.2.1 as being in conflict with each other would frustrate or run contrary to the rule maker's intention and given the examples in the previous paragraph, this could create havoc in an Olympic year. It is only logical that these two Articles are intended to be read together.
64. The Tribunal also has the benefit of jurisprudence of a previous hearing panel on whether exceptions may be granted. In the UAE Decision, the hearing panel held that

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<sup>2</sup> CAS 2012/A/2762 Bayer 04 Leverkusen v. Union of European Football Associations (UEFA), award of 15 March 2013, par. 108 and the references mentioned.

if a particular rule does not actually provide for granting of exceptions, then no exceptions may be granted. The findings in the UAE Decision set an important precedent. The hearing panel states in paragraph 6.8:

*"The Tribunal considers that the wording of the relevant provisions is clear and the ERs do not provide for any exceptions. The Tribunal also notes the FEI's position in this regard, namely that the particular rule itself does not actually provide for granting of exceptions, and that the implication was that if a rule does not state that exceptions are possible, no exceptions may be granted. The Tribunal fully agrees."* [Emphasis is added.]

65. It is clear from the UAE Decision that the Tribunal does not have the authority to grant any exception to Articles 139.4 or 606.2.2.1 because neither Article permits this.
66. The Tribunal will comment on the matters, MHS Going Global and Danna RJ. MHS Going Global is not relevant. The important point in this case was the horse in question was indeed registered with the same nationality as the Athlete by the deadline of 15 January 2016 for the 2016 Rio Olympic Games. As for the Appellant's horse, Danna RJ, there is no doubt there was confusion because of an erroneous profile that was created for the Appellant. However, the important point is the Belgian NF inputted the change in nationality of Danna RJ on 14 January 2021. It was not backdated by the FEI. The FEI registration system auto-corrected to the date it was inputted by the Belgian NF. This was explained in the memo of the FEI's IT Department that the Tribunal requested from the FEI at the end of the Hearing. Why the Belgian NF did this for Danna RJ and not Gemma will remain a mystery. Furthermore, there was no evidence in the file material indicating that the Appellant had any intention of riding Danna RJ in the Olympics. The deadline in Articles 139.4 and 606.2.2.1 specifically refer to horses in an Olympic year.

#### *Other Factors*

67. There are other factors that contributed to the Tribunal's decision to dismiss the Appeal. They are as follows:
  - The Appellant knew that Gemma's nationality had to align with his for him to be eligible to compete on her at the Olympics. The Appellant was aware of the 15 January 2021 deadline and acknowledged his mistake in an email of 15 April 2021 to Ms. Rydborn and at the Hearing.
  - The Appellant has owned Gemma since November 2016, more than five years, and never checked her ownership status on the FEI Database until it was too late. He acknowledged at the Hearing that this was ultimately his responsibility.
  - The Appellant understands the principle of ownership, nationality and therefore,

registration because Ladriano Z's ownership changed six times (according to the Tribunal's count) and his nationality three times in the FEI Database.

- The NFs received the Deadline Notice, not once but twice because of the postponement of the Olympics in March 2020. The Deadline Notice is clearly marked as a "Reminder" and the deadline of 15 January 2021 is highlighted.
- The Appellant's explanation of Blue Star Investments was unclear to say the least. First it was a group of owners and then it became a pseudonym. However, it was registered as a corporation on the FEI Database. It is not necessary for the Tribunal to carry out an in-depth analysis of the ownership of Blue Star Investments because the Tribunal has ultimately rendered its decision based on its interpretation of the two Articles together with the case precedents. The Tribunal states, however, that if Blue Star Investments does not exist and is not a person or entity as stated by the Appellant in his submissions and at the Hearing, the FEI makes a good point by highlighting that Gemma does not meet the first part of Article 139.4 because Gemma is not registered with the FEI as the property of any "Owner".

## IX. DECISION

68. As a result, the Tribunal therefore decides as follows;

1. The Appeal is admissible.
2. The Appeal is dismissed.
3. The FEI Decision is upheld.
4. No Deposit shall be returned to the Appellant.
5. Each Party shall bear its own costs in these proceedings.

69. According to Article 168 of the GRs, this decision is effective from the date of oral or written notification to the affected party or parties.

70. According to Articles 162.1 and 162.7 of the GRs, this decision may be appealed before the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

DECISION TO BE FORWARDED TO:

- a. The Parties: Yes
- b. The NF of the Appellant: Yes
- c. Any other: No

FOR THE TRIBUNAL

A handwritten signature in blue ink, appearing to read "Harveen Thauli", is centered on the page. The signature is written in a cursive, flowing style.

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Ms Harveen Thauli (CAN), One-Member Panel