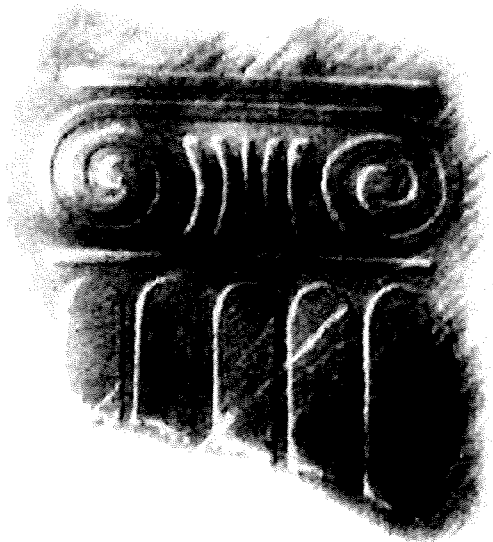


TAS / CAS

Tribunal Arbitral du Sport
Court of Arbitration for Sport
Tribunal Arbitral del Deporte



ARBITRAL AWARD

UAE Equestrian and Racing Federation, Abu Dhabi, United Arab Emirates

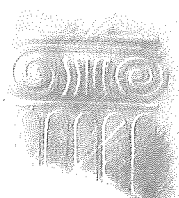
Dubai Equestrian Club, Nad Al Sheba, United Arab Emirates

Emirates International Endurance Village, Abu Dhabi, United Arab Emirates

v.

Fédération Equestre Internationale, Lausanne, Switzerland

CAS 2020/A/7448 - Lausanne, March 2021



Tribunal Arbitral du Sport
Court of Arbitration for Sport

**CAS 2020/A/7448 UAE Equestrian and Racing Federation, Dubai Equestrian Club
and Emirates International Endurance Village v. Fédération Equestre
Internationale**

ARBITRAL AWARD

rendered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy
Arbitrators: Mr Jeffrey G. Benz, Barrister and Attorney-at-Law, London, United
Kingdom, and Los Angeles, California, USA
Hon. Michael J. Beloff QC, Barrister, London, United Kingdom

in the arbitration between

UAE Equestrian and Racing Federation, Abu Dhabi, United Arab Emirates

Represented by Dr Ghanem Al Hajri, Secretary General, Mr Mahmoud Zyoud, Head of
Endurance, Mr Mike Morgan and Ms Lisa Lazarus, Attorneys-at-Law with Morgan
Sports Law in London, United Kingdom, and Dr Jan Kleiner and Mr Lukas Stocker,
Attorneys-at-Law with Baer & Karrer AG in Zurich, Switzerland

Dubai Equestrian Club, Nad Al Sheba, United Arab Emirates

Represented by Mr Mohammed Essa Al Adhab, General Manager, Mr Mike Morgan and
Ms Lisa Lazarus, Attorneys-at-Law with Morgan Sports Law in London, United
Kingdom, and Dr Jan Kleiner and Mr Lukas Stocker, Attorneys-at-Law with Baer &
Karrer AG in Zurich, Switzerland

Emirates International Endurance Village, Abu Dhabi, United Arab Emirates

Represented by Mr Musallem Al Almeri, General Manager, Mr Mike Morgan and Ms
Lisa Lazarus, Attorneys-at-Law with Morgan Sports Law in London, United Kingdom,
and Dr Jan Kleiner and Mr Lukas Stocker, Attorneys-at-Law with Baer & Karrer AG in
Zurich, Switzerland

- Appellants -

and

Fédération Equestre Internationale, Lausanne, Switzerland

Represented by Ms Aine Power, Deputy Legal Director, and Mr Jonathan Taylor QC and
Ms Lauren Page, Attorneys-at-Law with Bird & Bird in London, United Kingdom

- Respondent -

I. THE PARTIES

1. The UAE Equestrian and Racing Federation (“UAEERF”) is the national federation for equestrian sport in the United Arab Emirates. The UAEERF has its seat in Abu Dhabi, United Arab Emirates, is affiliated to the Fédération Equestre Internationale and is a member of the FEI Regional Group VII. The UAEERF was established in 1992 under the guidance of its founder, His Highness Sheikh Zayed bin Sultan Al Nahyan, and in 2019 had a very large number of registered athletes and horses.
2. The Dubai Equestrian Club (“DEC”) is the organising committee for the 2020 Sheikh Mohammed Cup, a 160km endurance event for horses held on 4 January 2020 (the “2020 Sheikh Mohammed Cup”). DEC has its headquarters in Nad Al Sheba, United Arab Emirates.
3. The Emirates International Endurance Village (“EIEV”) is the organising committee for the 2020 President’s Cup, also a 160km endurance event for horses held on 8 February 2020 (the “2020 President’s Cup”). EIEV has its headquarters in Abu Dhabi, United Arab Emirates.
4. The Fédération Equestre Internationale (the “FEI” or “Respondent”) is the international sports federation recognised by the International Olympic Committee as the sole authority for all forms of equestrian sport. The FEI is a Swiss law association established in accordance with Articles 60 et seq. of the Swiss Civil Code, headquartered in Lausanne, Switzerland.
5. DEC and EIEV are referred to as the “Organising Committees” and jointly with the UAEERF as the “Appellants”. The Appellants and the Respondent are collectively referred to as the “Parties”. The 2020 Sheikh Mohammed Cup and the 2020 President’s Cup are jointly referred to as the “2020 Events”.

II. FACTUAL BACKGROUND

6. Below is a summary of the main relevant facts, as established on the basis of the Parties’ written submissions and the evidence examined in the course of the present appeal arbitration proceedings. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning. Additional facts may be set out, where relevant, in connection with the legal analysis.
7. In essence, the dispute considered in this Award concerns the organisation of the 2020 Events, which took place as “national events” (“CNs”). FEI disputed this characterization, and found that it constituted a breach of certain provisions of the FEI General Regulations (the “GR”) because the 2020 Events were to be considered as “international events” (CIs”), and therefore sanctioned the Appellants. The Appellants deny any violation and request the sanctions to be set aside. The facts relating to the organisation of the 2020 Events relate to discussions that took place in 2019 with respect to the adoption of new FEI rules applicable to endurance events

(see below).

8. In October 2018, the FEI established the FEI Endurance Temporary Committee (the “ETC”) *“with a remit to urgently assess the issues currently affecting the sport of Endurance and carry out an in-depth review of the rules in order to identify the most effective way of bringing the discipline back to its original roots of Endurance riding as opposed to Endurance racing, with horse welfare and horsemanship at its core, while still maintaining the competitive aspect of the sport.”*

9. On 19 November 2018, a FEI Regional Groups Meeting with the Bureau took place in Manama (Bahrain). On that occasion, as the summary minutes report:

The UAE NF Secretary General took the floor and thanked the Bureau for the opportunity to speak on behalf of the Endurance community, specifically from Group VII, to express concerns about the current developments in Endurance.

His Group had some apprehensions about the recently created Endurance Temporary Committee specifically, the Temporary Committee’s timeline to review the rules. Group VII felt that the existing 2018 rules should remain in place ... to allow the Committee to properly evaluate the recommendations and studies which had been discussed at the Endurance Conferences held in Dubai.

The President thanked the UAE Secretary General and his National Federation for the excellent Conference in Dubai; it had been very interesting with different views however no consensus had not been reached. The 2nd Vice President which had been added to the Temporary Committee as an Observer, commented that the Committee had only been in place for one month, but had held already one meeting. In addition, an person meeting would take place on 12 December, in order set the priorities as a Committee and also focus on the various stakeholders groups to reach out including athletes, organisers, officials, NFs and regional voices. It was important to take all of them into consideration.

The President invited the UAE SG to actively collaborate with the Temporary Committee. So far the latter, had proven to be efficient and Group VII region was represented by the most important stakeholder, with elected Endurance athlete’s Representative who came from Saudi Arabia. The UAE would have the opportunity to be heard before and during the Sports Forum.

10. On 21 February 2019, the ETC met with stakeholders in Lausanne *“to allow stakeholders to provide the Temporary Committee with feedback on a series of topics, including the qualification system, mandatory rest periods, track design covering natural features, number of loops, access to water and proximity of cars, elimination codes, heart rates and presentation times, weight of athletes, officials, increased sanctions for anti-doping violations, limits on number of starters and continuous crewing”*. The Secretary General of the UAEERF, Dr Ghanem al Hajri, attended the meeting relating to countries of Group VII (which includes the UAE), along with Mr Mohammed Essa Al Adhab, a UAEERF Official and General Manager of the DEC. In respect of such meeting, the FEI:

- i. pointed in this arbitration to certain passages of the minutes, which read as follows:

Conclusions

Group VII feels accused of not being transparent with the FEI and therefore not supported.

MEA [Mohammed Essa Al Adhab] said that he wants the FEI to be more flexible otherwise the OCs will stop organizing FEI competitions.

SCO [Sarah Coombs] explained that there is so much adverse publicity for the FEI coming from Group 7 and that it affects all the equestrian disciplines.

GAH [Ghanem al Hajri] pointed that the training program of the official within the FEI must be improved.

Group VII really wants to have staggered start approved by the FEI for welfare reasons, as these competition have a very high completion rate.

- ii. underlined some comments made by Mr Mohammed Essa Al Adhab, as reported in the transcript:

There is one simple point I would like to highlight. As we are a FEI community it is not difficult to move the things and make it out of FEI as we have done it previously when we had a problem of the doping cases and it is being raised in the wrong way instead of ensuring that we are controlling our events and making a lot of MCP to ensure that we are in right direction that cases are being taken in different way that people are cutting a lot of drugs in our events and the direction has been changed.

So what that cause us to do to [is] stop FEI rides and move to national ride. That would be my comments. So by doing our rules we are not going to help. Definitely am going to think how to come up with something. going to help. So don't push me to do this You just try to be more flexible. You need to control. You have your right to control. Don't showing me that you are policing me in a way that that end of the day, fine if that is what you think I am going will take my plan and do my own way of working.

- 11. On 16 April 2019, the ETC presented its 16 reform recommendations at the FEI Sports Forum. Seven UAEERF representatives attended (including, for the UAEERF, Mr Zyoud and Dr Ghanem). In respect of this meeting also the FEI pointed in this arbitration to the following statements as made by Dr Ghanem al Hajri:

... We as a National Federation, we are unable to tell people not to participate, especially now when you are restricting the - extending the rest period, and at the same time, the pre-qualification is increased to five, and that is a long time to achieve. Therefore, it's becoming very difficult for people to perform the sport they love. This is a sport, and it is a competition. You are looking, unfortunately, in a very narrow area, and forgetting about the success which this sport has achieved during the past decades. There is more than 80% of riders who have achieved great results and having the best welfare ever – we don't appreciate them, we only consider the 30% of your people – this is not fair. We have a responsibility for all the stakeholders – the owners, the trainers, the committees, everybody who is involved – we should appreciate their work, and there is a lot of work being done – they must be appreciated. This is a sport where a lot of people invested a lot of

money and now we are telling- we are going to punish the owners. The owners, we know, they are the main distributor of the sport. They invest in the horses, and they give it to the trainer, the trainer improves it and then they select someone to take it over and so on. So it's a very large economic cycle of the whole sport – this is very important, we have to look at it.

The study we are depending on and basing our changes in, this study is one study, which is not fair – we need to have more studies, and Professor Tim Parkin will comment on this because you need more factors in order to determine. Based on two factors only – it's not fair. Give it a time, give the people a time to have a proper study, implemented gradually and so on, and then you will achieve the best for all of us.

This, we all work for this, don't think we have less concern on the welfare, the welfare is our top priority, it is our religion, our faith, our culture – we love this sport, but by restricting all of this you will force everyone to go into the national ride – this is not the solution. I hope you will take a point of all what is being said in here.

12. On 8 July 2019, the first draft of the 2020 Endurance Rules was published. The FEI National Federations (“NFs”) were permitted to submit comments on it by the end of August 2019.
13. On 6 August 2019, the UAEERF sent a letter to all NFs indicating that in its opinion some of the proposed changes would hinder the growth of the sport, especially in the countries where the sport is developing.
14. On 8 September 2019, the UAEERF announced that the 2020 Sheikh Mohammed Cup and the 2020 President’s Cup would be held as “CNs”, *i.e.* national events.
15. On 22 October 2019, a final draft of the proposed new Endurance Rules was circulated to NFs.
16. On 16-19 November 2019, the FEI General Assembly was held in Moscow.
17. On 19 November 2019, the General Assembly voted on the proposed new endurance rules (the “2020 FEI Endurance Rules”) and their implementation date, opting for a partial implementation on 1 January 2020 with the rest to be implemented on 1 July 2020. The 2020 FEI Endurance Rules were approved by majority vote. The UAEERF was one of 19 NFs that voted against the adoption of the 2020 FEI Endurance Rules.
18. On 27 November 2019, the FEI published the complete 2020 FEI Endurance Rules as approved at the FEI General Assembly on the FEI website.
19. On 20 December 2019, the FEI offices closed for the Christmas and New Year holidays and did not reopen until 6 January 2020.
20. On 1 January 2020, some of the 2020 FEI Endurance Rules came into force.
21. On 4 January 2020, the 2020 Sheikh Mohammed Cup took place. The total prize

money for such event was AED 8,000,000, *i.e.* around CHF 2,100,000.

22. On 6 January 2020, Mr Marc Chovelon, Manager of FEI Endurance & Driving, asked the UAEERF for copy of the results of the 2020 Sheikh Mohammed Cup.

23. On 7 January 2020, the UAEERF responded as follows:

We acknowledge receipt of your email requesting the result for the CEN 160 km HH Sh Mohd bin Rashid Al Maktoum Cup held on 4th January 2020.

As you are aware this was a National ride held under the Rules and Regulations of the National Federation and this being a National event the normal procedure is that the results are not sent to FEI. Would appreciate if you could let us know the reason for the request.

24. On 7 January 2020, Mr Chovelon replied as follows:

Thank you for your email. I understand your point. However we received several complaint/information regarding the non-respect of art. 101.3.2 of the FEI General Regulations ... and wanted to investigate on this.

25. On 7 January 2020, Mr Zayoud wrote to Mr Chovelon that:

Will get back to you soon.

26. On 7 January 2020, however, Mr Chovelon informed Mr Zayoud that he had found on the Internet the information he was seeking.

27. On 7 January 2020, in addition, Mr Chovelon sent an email, with the subject heading “*Residency of Athletes that competed in DUBAI (UAE) CEN 160 Km 04.01.20*”, to several NFs, detailing the athletes concerned and requesting whether “*any of these athletes ... are living Outside their country of nationality (i.e not in your country anymore).*”

28. On 10 January 2020, Mr Zayoud pursued the exchanges with Mr Chovelon, as follows:

With all due respect, can you provide us the complaints and the complainant as the concern ride mentioned is organized under the UAE Nationals Endurance Rules and we want to clear the things regarding the matters under our jurisdiction.

29. On 10 January 2020, Mr Chovelon replied as follows:

Thank you for your email. We received correspondences on the fact that your CEN did not respect the provisions of art. 101 of the FEI General Regulations of on National Events, in which we are investigating on our side. We will keep you updated once our investigation are closed on this subject and inform you of the next steps, information/clarifications that we may need from you and the potential consequences if the FEI Rules have been breached.

30. On 19 January 2020, the UAEERF wrote a letter to Mr Mussallem Al Almeri,

General Manager of the EIEV, stating as follows:

We would like to inform you that we have received an email from FEI in connection with the CEN 160 kms to comply with the following FEI General Regulations:

Art. 101.3. 2 Any other CN with more than four (4) NFs and/or more than fifteen (15) foreign Athletes (not counting "Athletes Living Outside their Country of Nationality" as per Article 119.6) is not allowed. If a CN under such conditions takes place, there will be no ranking or qualification points earned. Furthermore, after consultation with the NF, the OC can be subject to further sanctions and eventually to a fine in an amount commensurate with the violation and taking into account the circumstances of the violation and possibly up to the total prize-money paid out at such Event, if any."

We kindly request you to comply with this article in order to avoid any consequences due to violation of the above rule and hence we recommend to you to not invite more than four countries and/or more than fifteen (15) foreign Athletes for the HH The President of UAE Endurance Cup. ...

31. On 21 January 2020, the FEI Secretary General, Ms Sabrina Ibañez, wrote a letter to the UAEERF stating as follows:

I am writing to you regarding the HH Sh. Mohd Bin Rashid Al Maktoum Endurance Cup that was held as a CEN 160k on Saturday, 4 January 2020 at Dubai Endurance City (UAE) (the "Dubai CEN").

As you know, according to Article 101.1 of the FEI General Regulations ...

According to Article 101.3, ...

CEAII and CEI2* Events are classified as CIMs according to the Appendix E of the FEI General Regulations.*

Article 803. 1 of the FEI Endurance Rules classifies CEIs as follows: ...

Thus, the Dubai CEN, being a ride of 160km, did not come within the definition of a CIM with the consequence that, not counting Athletes Living Outside their Country of Nationality, a maximum of four (4) NFs and fifteen (15) foreign Athletes were permitted to compete in the Dubai CEN. However, according to the official start list ..., Athletes from 33 different National Federations participated in the Dubai CEN. We therefore have a number of urgent questions for your National Federation concerning the Dubai CEN.

- 1. Please confirm how many of the participants in the Dubai CEN come within the definition of "Athletes Living Outside their Country of Nationality".*
- 2. Please confirm what specific checks were in place to ensure that the Dubai CEN met the CN criteria set out in Article 101 of the FEI General Regulations.*

Please kindly note that according to Article 101.3 of the FEI General Regulations, if the conditions for a National Event are not complied with "...there will be no ranking or qualification points earned. Furthermore, after consultation with the NF, the OC can be subject to further sanctions and eventually to a fine in an amount commensurate with the violation and taking into account the circumstances of the

violation and possibly up to the total prize-money paid out at such Event, if any.”

We note that a number of other CENs will be held in the UAE in the coming weeks and months. It is essential that these CENs are held in accordance with the FEI General Regulations. Therefore, please provide us with specific information on how your National Federation will ensure in advance of each CEN that the criteria set out in Article 101 of the FEI General Regulations will be complied with. If the FEI is not satisfied that sufficient controls are in place to ensure that those CENs comply with the FEI General Regulations, the FEI reserves the right to take appropriate action. ...

32. On 21 January 2020, the UAEERF addressed the FEI regarding the foreign quota rule set by Article 101 GR in the following terms:

We need a clarification regarding FEI General regulations Art. 101.3.2 ...

For the Individual Foreign national athletes who are living here, some of them who have obtained residency recently (for example a month back) who are eligible and have a written permission from their NF will they be included as athletes under Art. 101.3.2 ? they are full time employed by different stables as riders, also as you are aware there are athletes from more than 60 nationalities working in Endurance filed as riders; which is their livelihood, also we have several foreign owners who own stable in UAE and want to ride their own horses but they don't have residency. To avoid any issues and fully comply with the mentioned article.

Please advise on these points for the upcoming CEN 160 HH The President of UAE Cup 8/2/2020

33. On 24 January 2020, Mr Manuel Banderia De Mello of the FEI replied as follows:

Firstly please reply to our letter of the 21 January. We need to understand what is going on and in due time we will reply to the below e-mail.

34. On 26 January 2020, the UAEERF answered the letter of FEI dated 21 January 2020 on the following terms:

We understand that the questions contained in your letter relate to an inquiry being undertaken by the FEI following several complaints received by the FEI alleging the event was held in 'non respect of art. 101.3.2 of the FEI General Regulations' (as per Mr Marc Chovelon's email of Tuesday, January 7, 2020 12:32 PM).

Please note that the UAEERF is more than happy to assist the FEI in addressing the complaints in full. We propose both the FEI and UAEERF co-operate in formulating responses to each of the complaints, confirming with evidence that the event was not in violation of art. 101.3.2 of the FEI General Regulations. In order to do so, we request copies of all the complaints received concerning the event so that we can better understand the basis of the complaints.

We suspect that the complaints are somewhat misguided and are not based on the factual circumstances upon which the event was held. By providing a copy of the complaints, the FEI will greatly assist us in ascertaining the complainants' misunderstandings as to the event. Following which we will be able to evaluate the facts & findings to clear the prevailing conditions and move forward.

Thank you for your attention to this letter and for your prompt actioning of the requests contained here.

35. On 27 January 2020, the FEI replied as follows:

We are slightly surprised by your letter asking to receive “copies of all the complaints received concerning the event..” We have requested information from the UAE NF to enable the FEI to fully to assess the situation and thereby verify whether the Event earlier in January was conducted in compliance with FEI Rules and Regulations. Therefore please be sure to provide us with the information included in my letter of 21 January 2020 no later than 28 January 2020 23:39 CET.

36. On 27 January 2020, the UAEERF published a “Circular” to “Riders/Trainers/Owners and all concerned”, stating that:

We are in the process of opening the entries for the HH President of the UAE Cup to be held in Al Wathba on 8th February 2020, participation in this prestigious ride is open to eligible UAE national athletes and resident foreign nationals with the proof of residency and written permission from their respective NFs (as per FEI Art. 119.6 and 101.2).

37. On 29 January 2020, the UAEERF requested “some more time to collect the information and submit the details as requested” in the correspondence sent by the FEI Secretary General.

38. On the same 29 January 2020, the FEI insisted that the information requested be provided without delay.

39. On 30 January 2020, the UAEERF sent a letter to FEI stating as follows:

We refer to your letter dated 21st January 2020, wherein you have asked us to provide you with some detailed information about an Endurance event held in Dubai on 4 January 2020 because FEI had received complaints about it.

We replied that we would have been happy to evaluate such complaints. This was done by us in a spirit of loyalty towards FEI and in line with our aspiration to do always the right thing for the good of the Equestrian Sport. However, taking into consideration that the Endurance event of 4 January 2020 was not a National Event in the meaning of the FEI rules and regulations, but an event totally outside of the federative jurisdiction, like other similar events in the world (e.g. the Teviscup in the US).

What we can confirm to you is that to our knowledge, the Endurance event held on 4 January 2020 did not lead to any ranking or earning of qualification points. The idea of this event was to give an opportunity to many aspiring riders from all over the world to compete in such a prestigious event.

Anyway, the information you requested with regards to the participants in the HH Sh. Mohd Bin Rashid Al Maktoum Endurance Cup that was held as a 160km on Saturday, 4 January 2020 at Dubai Endurance City (UAE) that come within the definition of “Athletes Living Outside their Country of Nationality”, there were 108 registered foreign athletes who participated in this event, these athletes are

registered with UAE Federation under the rules & regulations of Endurance events in UAE, they have been participating in the rides being held in UAE with the written permission from their respective National Federations.

We can assure you that the UAEERF will continue, as ever, to comply with FEI Statutes and Regulations and to work hard for the good of Equine sport in our country and in the world.

40. On 31 January 2020, the FEI replied as follows:

I refer to my letter of 21 January 2020 regarding the HH Sh. Mohd Bin Rashid Al Maktoum Endurance Cup that was held as a CEN 160k on Saturday, 4 January 2020 at Dubai Endurance City (UAE) and your reply of 30 January 2020.

In my letter of 21 January, I asked you the following two very specific questions:

- 1. Please confirm how many of the participants in the Dubai CEN come within the definition of "Athletes Living Outside their Country of Nationality"*
- 2. Please confirm what specific checks were in place to ensure that the Dubai CEN met the CN criteria set out in Article 101 of the FEI General Regulations.*

Regrettably, your letter of 30 January 2020 did not address either of these questions.

Instead, your letter stated that the "Endurance event of 4 January 2020 was not a National Event in the meaning of the FEI rules and regulations, but an event totally outside of the federative jurisdiction". However, we noted that your NF's own website described it as a CEN (see the screenshot below): ...

The official start list, a copy of which was attached to my email of 21 January also clearly described the event as a "CEN" (screenshot below): ...

It is the position of the FEI that the event in Dubai on 4 January 2020 was in fact under the authority of the UAE NF.

Even if it were the case that the Dubai event was not under the authority of the UAE NF, despite the evidence above indicating the contrary, this would in fact make the situation even more serious because then it would automatically fall within the definition of an "Unsanctioned Event" under the FEI General Regulations:

"Unsanctioned Event: An event and/or a competition that is neither published in the official Calendar nor authorised by a NF and/or a National Event authorised or organised by a NF that is suspended by the FEI."

We note your comments about the Tevis Cup in the USA and this is something we are looking into. If you have any information about similar Endurance rides that are held outside the jurisdiction of the FEI and/or a NF, please share them with us so that we can make the necessary follow ups in order to ensure a uniform application of the FEI Rules and Regulations.

We note that despite my direct question, you provided no information on what measures were in place to ensure the Dubai ride on 4 January 2020 complied with the FEI rules. Instead, you provided a general statement that "there were 108 registered athletes who participated in this event, these athletes are registered with UAE Federation under the rules & regulations of Endurance events in UAE, they

have been participating in the rides being held in UAE with the written permission from their respective National Federations". However, you have not provided any proof of their registration with the UAE or any information on how the residency status of these Athletes was checked in advance.

Furthermore, your statement directly contradicts the information the FEI has obtained based on our own direct correspondence with the NFs of the participating foreign athletes. The following NFs: ARG, BEL, BUL, CAN, CHI, CZE, ECU, FRA, GBR, GER, ITA, LIT, NED, POL, POR, SLO, USA each confirmed to the FEI that the residence of all their athletes who participated in the Dubai event is their home country and not UAE. This amounts to 52 athletes whose residence, as confirmed by their respective NFs, is not in the UAE. Not all the other NFs responded to the FEI, so we can say that the minimum number of foreign athletes who participated was 52, far in excess of the maximum permitted number of 15. Similarly, the total number of NFs that participated was 33, again exceeding the permitted number of 4.

It is clear that the Dubai event was not held in accordance with Article 101 of the FEI Rules and Regulations. Therefore, you are hereby informed that the FEI intends to apply Article 101.3 of the FEI General Regulations, which states that if the conditions for a National Event are not complied with ".....there will be no ranking or qualification points earned. Furthermore, after consultation with the NF, the OC can be subject to further sanctions and eventually to a fine in an amount commensurate with the violation and taking into account the circumstances of the violation and possibly up to the total prize- money paid out at such Event, if any."

Please inform us no later than Monday, 3 February 2020 what the total prize money for the Dubai event was. We will also verify this independently.

CEN 160km, HH The President of UAE Cup, Al Wathba – 8 February 2020

We have taken note of the circular dated 27 January 2020 ... regarding the entry criteria for the upcoming The HH President of UAE Cup which states that participation is only open to "eligible UAE national athletes and the resident foreign national athletes with the proof of residency and written permission from their respective NFs (as per FEI GR Art. 119.6 and 101.2)". We thank for you this clarification but we would have appreciated if you would have informed us directly about this position; the FEI will also inform the NFs about this circular. The FEI will be closely monitoring the participants, in cooperation with the NFs of any foreign athletes who intend to participate in the HH President of UAE Cup, to verify that only those foreign Athletes who meet the stated criteria actually take part.

If it is the case that the CEN criteria are not followed in the HH President of UAE Cup and given the fact that the Dubai event of 4 January 2020 already breached the FEI Rules and Regulations, the FEI reserves the right to take further disciplinary action up to and including the potential suspension of the UAE NF.

41. On 31 January 2020, the FEI published on its website the UAEERF circular of 27 January 2020 (as referenced above), accompanied by the following statement:

... entry is limited to eligible UAE riders and foreign riders with proof of residency in the UAE and who have the written permission of their National Federations (as per Article 119.6 of the FEI General Regulations). We urge you to ensure that any

of your Athletes that intend to participate meet these criteria. The FEI will be carrying out its own checks to ensure these criteria are respected in order to ensure that the event is held in accordance with the FEI General Regulations, in particular Article 101.3.

42. On 3 February 2020, the UAEERF wrote to the Secretary General of the FEI, noting that:

... the UAE National Federation is following the FEI Regulations in all the events held in the UAE. We had in fact written to the FEI Legal and Endurance section on 21st January 2020 (attached copy) to clarify certain points in order to comply with the FEI rules and regulations for the Presidents Cup. Unfortunately, we have not received any reply relating to this request as yet.

We believe there is a significant misunderstanding between the FEI and the UAE National Federation in this matter. In reply to your letter of 21st January 2020, we had mentioned that the foreign athletes that participated in the event were registered with the UAEERF under the rules and regulations of endurance events. These athletes are living and working in the UAE and have been participating in the rides being held in UAE with the written permission from their National Federations to participate under Art. 101.2 and 119.6. Hence, such athletes are allowed to participate as per NOCs' received from their respective NFs'. Furthermore, a great deal of the athletes are career riders, whose job it is to ride for the professional stables under their full employment. These career riders and their participation in the event in question may indeed be the root of the misunderstanding.

The discipline of endurance has evolved into a professional sport in certain countries where the popularity of the sport has seen progressive increases. Privately owned endurance stables are seeking to develop the best training and competition strategies to ensure the highest rates of successful completions. As such, skilled endurance athletes from all over the world are invited to ride full time for stables during the endurance season.

These career riders, along with a great number of the stable support staff (grooms, stable lads and so on), rely on their roles within this professional framework to support themselves and their families back in their home countries.

Please note that we are happy to provide you with the details of all the foreign riders in order to substantiate the facts detailed in this letter.

We ask the FEI to consider the role that professional stables set ups have in the sport of endurance. If career riders cannot be accommodated under the existing rules of the FEI, then alternative accommodations must be investigated.

We strongly feel that the UAE NF is being unreasonably and unfairly treated by the FEI in this matter. We respectfully request a pause to the threats of sanctions against the UAE NF for the purpose of facilitating a meeting between the UAE National Federation and the FEI to further discuss the role of career riders in endurance and how the FEI can best accommodate such under the existing FEI Regulations.

43. In a letter of 5 February 2020, the FEI replied stating as follows:

I refer to your letter of 3 February 2020. Although you have claimed that the foreign riders that participated in the ride held in Dubai on 4 January 2020 were “living and working in the UAE”, despite several requests you have still not provided any proof of this or any evidence regarding what checks were in place prior to the ride of 4 January 2020 to verify this. We would have expected to receive copies of residency cards, proof of the Athletes’ registered address in the UAE or, at the very least, a list of the riders that were considered by your NF as being resident in the UAE. You also mentioned that these foreign athletes were “registered with the UAEERF” but, again, no proof of such registration was provided. In the absence of such proof it is very difficult for the FEI to accept the vague explanations provided by your NF so far especially because, as already mentioned in my letter of 31 January 2020, the NFs of many of these foreign riders have confirmed to the FEI that the riders are not in fact residents of the UAE.

Regarding the reference in your letter to the email sent by Mr Mahmoud Zyoud to the FEI Legal and Endurance Department on 21 January 2020 requesting clarification on certain points, it is not correct to say that you did not receive any reply or that it was ignored. In fact, the FEI Legal Director and the FEI Endurance Director spoke with Mr Zyoud directly by telephone and informed him that the FEI was still waiting for a reply to my letter sent earlier that day regarding the 4 January ride and the FEI would not be providing any clarifications until your NF responded to my letter. Furthermore, the FEI Legal Director explained to Mr Zyoud that the Article 101.3.1 requirements allowing more than 4 NFs and/or more than 15 foreign Athletes only apply to CENs that are not CIMs.

Regarding what you have called a “misunderstanding” on our respective understandings of how Article 101 of the FEI General Regulations is interpreted, it is very important to the FEI that the rule allowing a limited number of resident foreign Athletes to participate in CENs is properly enforced. As you know well, the new FEI Endurance Rule took effect on 1 January 2020 and it is important that rides are correctly classified as “CIs” where the quota of 4 NFs/15 foreign Athletes (not resident in the country of the ride) is exceeded. Regarding Mr Zyoud’s statement in his email that there are “several foreign owners who own stable in UAE and want to ride their own horses but don’t have residency”, it is clear that these owners must be considered as non-resident foreign Athletes and are therefore subject to the quota of 4 NFs/15 foreign Athletes that applies to CENs (that are not CIMs).

If the experience of your National Federation is that you have a high number of foreign Athletes and Owners wanting to participate in rides in the UAE but who are not formally resident there, our suggestion would be to hold the CENs at distances of 140k and over as CIs instead.

Finally, and most importantly, in my letter of 31 January 2020 I asked you to confirm, by 3 February 2020, what the total prize money for the Dubai event was. You have still not confirmed this. Please provide me with that information as a matter of urgency and no later than close of business on Thursday 6 February 2020.

44. On 5 February 2020, the UAEERF sent to the FEI the list of prospective participants for the 2020 President’s Cup.

45. On 6 February 2020, the UAEERF wrote a letter to the FEI in relation to Article 101 GR stating as follows:

Referring to your letter dated 21st January 2020, you clearly asked the UAEERF to provide you with specific information on how the UAEERF will ensure in advance that the coming events will comply with Article 101 of the FEI General Regulations, based on that Mr. Zyoud sent an email to the Legal and Endurance departments asking clarification on specific cases regarding FEI General regulations Art. 101. 3.2 for the upcoming 160 HH The President of UAE Cup 8/2/2020, which is different event and no relation to the event in question, we are very surprised from the reply which connect the clarifications to the answer requested.

We were expecting the FEI being the regulatory body to support and make all the efforts to clarify any doubts, and answer questions, because there was no answer and conditioned the reply, Mr. Zyoud had to call the FEI legal and the endurance departments, explaining both events are different and we were seeking the FEI support and clarifications in order to comply with the mentioned article during the president cup, still there was no official written answer as requested.

The relation between FEI and UAE NF should be based on mutual respect and understanding. We are cooperating as usual without imposing a deadline, as you are aware, we hosted and are hosting important big events in all disciplines under UAE NF especially this week & the weekend that makes our office including the UAE legal consultant and the Organizing Committees very busy. We will provide the requested documents, proofs and information on Monday.

46. On 8 February 2020, the 2020 President's Cup took place. The total prize money for such event was AED 15,547,474.14, i.e. around CHF 4,900,000.
47. On 10 February 2020, the UAEERF transmitted to the FEI in an email message "the link containing the information on the international riders" with respect to the 2020 President's Cup. Some correspondence thereafter ensued with respect to the information transmitted.
48. On 20 February 2020, the FEI proceeded to open a formal investigation against the UAEERF in relation to the 2020 Events, and sent a letter to the UAEERF starting as follows:

In view of the difficulties encountered by the FEI to obtain from your Federation, in a timely or clear manner, information concerning the number of foreign athletes and National Federations participating at the CEN 160 in Dubai on 4 January and CEN 160 President's Cup on 8 February, as well as the UAE NF's apparent failure to ensure that entries at these two Events complied with FEI General Regulations Art. 101.2 and 119.6, the Executive Board has tasked the FEI Headquarters to conduct a formal investigation.

This investigation will commence shortly and the UAE NF is expected to cooperate fully.

Please take note that the findings of such investigation will be presented to the FEI Board. The UAE NF will be invited to be heard by the Board to provide its

explanations, before the latter deliberates and decides on how to proceed, including on whether or not the imposition of sanctions would be appropriate.

The exact date and of the said meeting will be provided to you as soon as possible so that your NF can make the necessary arrangements.

49. On 22 February 2020, the UAEERF responded to the FEI's letter of 20 February 2020, in a letter welcoming the opportunity to meet with the FEI to discuss the matter and stating as follows:

We welcome the steps made by the FEI to invite us for a meeting in person with regard to the 160 km in Dubai on 4th January and the Presidents Cup on 8th February 2020. The meeting could help to review all other matters that may be necessary.

The UAE Equestrian and Racing Federation had provided all the information whenever requested, for both the rides. In fact, UAEERF had made an excel worksheet with the details of the list of foreign and UAE riders, with all required supporting documents.

The supporting documents provided by the UAE NF for the 160 km ride in Dubai held on 4th January include copies of the athletes' proof of residency and permission letters issued by the respective NFs as per the FEI GRs Art 101.2 and 119.6. The list of participants for the Presidents Cup of 8th February 2020 was sent to the FEI in advance prior to the event.

This subject has taken longer than expected and should be concluded as early as possible, even before the scheduled meeting in terms of foreign riders' participation at these two events, complied with FEI GR Art. 101.2 and 119.6.

Please do inform us of the meeting time well in advance so as to make the necessary arrangements for attending the meeting. Due to the hectic season here in the UAE, we propose the meeting time to be held one day after the April Sports Forum so that we could attend both at one visit. Kindly prepare the Agenda accordingly.

50. The availability of the UAEERF was confirmed in another letter of 23 February 2020.
51. On 8 May 2020, Bird & Bird, a law firm instructed by FEI to conduct a formal "investigation into the 3* 160km national endurance events held in the UAE in January and February 2020", contacted the UAEERF, transmitting:
- i. a letter to the UAEERF setting out the procedure for the investigation, questions for the UAEERF to answer, and deadlines by which the UAEERF was requested to respond; and
 - ii. a Preliminary Investigation Report, together with the appendices thereto.
52. On 20 May 2020, the UAEERF provided some comments and answers to the requests sent by Bird & Bird.
53. On 25 May 2020, Bird & Bird submitted to the UAEERF some follow-up questions, which the UAEERF answered on 27 May 2020.

54. On 1 July 2020, the 2020 FEI Endurance Rules came into force in full.
55. On 24 August 2020, Bird & Bird transmitted to the FEI its Final Investigation Report (the “Final Investigation Report”), recommending the following sanctions:
- 5.6.1 *Suspension of the UAE NF’s membership of the FEI, in accordance with Article 8.3 of the FEI Statutes, for a period of nine months, with reinstatement at the end of the nine months to be conditional on the UAE NF having procured full payments of the amounts set out below.*
 - 5.6.2 *Payment by the OC of the 2020 Sheikh Mohammed Cup of:*
 - 5.6.2.1 *the organising dues of CHF 41,445.21, calculated in accordance with Article 4.1 of the Financial Charges for the year 2020 (see Schedule 1); and*
 - 5.6.2.2 *a fine in an amount equal to 100% of the prize money awarded at the event, which is AED 8,000,000 (or CHF 2,119,537.12).*
 - 5.6.3 *Payment by the OC of the 2020 President’s Cup of:*
 - 5.6.3.1 *the organising dues of CHF 69,561.58, calculated in accordance with Article 4.1 of the Financial Charges for the year 2020 (see Schedule 1); and*
 - 5.6.3.2 *a fine in an amount equal to 25% of the prize money awarded at the event (including the monetary value of the non-cash prizes), which is AED 4,636,864.29 (or CHF 1,232,793.50).*
 - 5.6.4 *Payment of the costs of the investigation (i.e., Bird & Bird’s professional fees).*
56. On 7 September 2020, the UAEERF filed its observations to the Final Investigation Report, submitting that the approach adopted “*is not in line with the facts, evidence or applicable precedent and thus cannot be accepted*”.
57. On 16 September 2020, a hearing took place before the FEI Board.
58. On 24 September 2020, the FEI Board issued its decision (the “Decision”), holding as follows:
- 6.18.1 *The FEI membership of the UAE NF is suspended with immediate effect, as provided in Article 8.4 of the FEI Statutes, and as set out below:*
 - 6.18.1.1 *a full suspension of the UAE NF (all FEI disciplines) until 31 December 2020; and*
 - 6.18.1.2 *a suspension of the UAE NF’s activities in relation to the discipline of Endurance until 31 March 2021.*
 - 6.18.2 *In addition, the UAE NF shall bear the FEI’s legal costs in the amount of CHF 82,000.*
 - 6.18.3 *The UAE NF is jointly liable with the Organising Committees for the payment of the financial sanctions set out below. If those sanctions are not paid by 31 December 2020, the suspension of the UAE NF in relation to all disciplines will continue until they are paid in full to the FEI (see FEI*

GR Arts 159.5 and 164.5). ...

6.21.1 *Payment by the Organising Committee of the 2020 Sheikh Mohammed Cup of:*

6.21.1.1 *a fine in an amount equal to 50% of the prize money awarded at the event, i.e., a fine in the amount of CHF 1,059,768; and*

6.21.1.2 *the organising dues of CHF 41,445.21, calculated in accordance with Article 4.1 of the Financial Charges for the year 2020*

6.21.2 *Payment by the Organising Committee of the 2020 President's Cup of:*

6.21.2.1 *a fine in an amount equal to 10% of the prize money awarded at the event (including the monetary value of the non-cash prizes), i.e., a fine in the amount of CHF 493,117; and*

6.21.2.2 *the organising dues of CHF 69,561.58, calculated in accordance with Article 4.1 of the Financial Charges for the year 2020.*

59. In support of its Decision the FEI Board stated the following:

i. with respect to the "*Breach*":

5.1 *In relation to the 2020 Sheikh Mohammed Cup, the UAE NF and the Organising Committee for the event (the Dubai Equestrian Club) do not dispute that 31 Foreign Athletes from 14 NFs were invited and participated, i.e., far in excess of the Foreign Athlete Quota. According to the investigation report, a further 62 Foreign Athletes who participated were improperly classified as Resident Foreign Athletes (because they did not reside in the UAE, and/or their NF had not agreed to the UAE NF being their Host NF, and the FEI had therefore not registered the UAE NF as their Host NF). As a result, of the 242 starters, a total of 93 Foreign Athletes from 24 different NFs participated in the 2020 Sheikh Mohammed Cup.*

5.2 *In relation to the 2020 President's Cup, the UAE NF and the Organising Committee for the event (the Emirates International Endurance Village) note that after the FEI's intervention in January 2020, they withdrew invitations to all but 15 Foreign Athletes (from four NFs), and that the other 146 Foreign Athletes in the field qualified as Resident Foreign Athletes, and so did not count towards the Foreign Athlete Quota. However, according to the investigation report, 73 of those additional Foreign Athletes who participated were improperly classified as Resident Foreign Athletes (because they did not reside in the UAE, and/or their NF had not agreed to the UAE NF being their Host NF, and the FEI had therefore not registered the UAE NF as their Host NF). As a result, of the 319 starters, a total of 88 Foreign Athletes from 21 different NFs participated in the 2020 President's Cup.*

5.3 *The FEI Board finds that:*

5.3.1 *The respective Organising Committees of the 2020 Sheikh Mohammed Cup and 2020 President's Cup breached FEI GR Art 101.3.2, because they both featured too many Foreign Athletes to*

be treated as national events, but they were nevertheless both organised as national events and the UAE National Endurance Rules were applied, not the 2020 FEI Endurance Rules.

5.3.2 The UAE NF breached FEI GR Arts 102.1, FEI GR 109(2), and FEI GR 100.7.2, because it failed to ensure that the Organising Committees organised the events as international events to which the 2020 FEI Endurance Rules applied, but instead permitted the events to be organised as national events under the UAE NF's national endurance rules, even though both of them greatly exceeded the Foreign Athlete Quota and therefore had to be organised as international events to which the 2020 FEI Endurance Rules applied.

ii. with respect to the "Sanctions":

6A. General

6.1 The sanctions imposed for the breaches must have a legal basis in the rules, and must not be disproportionate. This means they must go as far as is necessary (but no further than is necessary) to serve the objectives underlying the rules, which are:

6.1.1 to sanction the UAE NF and the Organising Committees adequately for their wrongdoing, taking into account whether they acted deliberately or otherwise, the impact of their wrongdoing, and any other aggravating and mitigating factors;

6.1.2 to protect stakeholders and the sport from further wrongdoing;

6.1.3 to deter the UAE NF and the Organising Committees, and others, from repeating the wrongdoing; and

6.1.4 most importantly, to maintain the confidence of the sport's stakeholders that the FEI is ready to do what is necessary to maintain the integrity of the sport.

6B. Intention

6.2 The Sheikh Mohammed Cup and the President's Cup had been organised as FEI international events since at least 2008. It is not disputed that there was no material difference between 2020 and previous editions of the two events in issue. In 2020, the events had the same prestige as in previous years, a large field of athletes, including a large field of foreign athletes, significant prize money, and similar officials.

6.3 Therefore, a central question to this matter is why the UAE NF in September 2019 reclassified two of its most prestigious international endurance events as national events, when there were no material changes to the organisation of those events in 2020. Specifically, was it to avoid the application of the 2020 FEI Endurance Rules that the UAE NF had lobbied hard against and had voted against at the 2020 FEI General Assembly?

6.4 In its reply to the investigation report, the UAE NF insisted that that

was not (and could not have been) its intention, because the two events in issue were announced publicly as national events on 8 September 2019, i.e. before stakeholder consultation on the proposed new 2020 FEI Endurance Rules had even been concluded. At the hearing, the UAE NF's legal representatives stated that the decision to reclassify the events had been taken after the FEI Forum in April 2019, and therefore before the stakeholder consultation process and before the deliberations in the General Assembly.

6.5 *However, the chronology shows that the UAE NF was well aware by April 2019 that the ETC was proposing far-reaching reforms for the 2020 FEI Endurance Rules, and had already said that if such reforms were made it would re-classify its events as national events:*

6.5.1 *According to the minutes of the ETC stakeholder meeting with the UAE NF on 21 February 2019, the ETC discussed many of its ideas for proposed reforms at that meeting. During the meeting, the UAE NF representatives present objected to a number of the reforms. At the end of the meeting, Mr Essa Al Adhab, a UAE NF representative and also general manager of the Dubai Equestrian Club (i.e., the organiser of the Sheikh Mohammed Cup) stated that 'he wants the FEI to be more flexible otherwise the OCs will stop organizing FEI competitions.*

6.5.2 *The UAE NF's legal representatives accepted that the minutes were accurate and this comment had been made. They suggested that this comment was of general nature, because it referred to OCs generally, and not the UAE NF or OCs in the UAE specifically. However, in the view of the FEI Board this comment shows that the UAE NF and the OC for the Sheikh Mohammed Endurance Cup were ready to reclassify their events to avoid application of the new FEI Endurance Rules if reforms were introduced that they did not find acceptable.*

6.5.3 *At the FEI Forum in April 2019, the ETC reported on the results of its consultation with all stakeholders, and announced sixteen reforms that they planned to propose for the 2020 FEI Endurance Rules. Those reforms included several of the ideas that the UAE NF contingent had objected to at the consultation meeting on 21 February 2019.*

6.5.4 *According to the UAE NF's legal representatives at the hearing, it was after the FEI Sports Forum that the decision was made to re-classify the Sheikh Endurance Cup and the President's Cup as national events.*

6.5.5 *Further, by the time the UAE NF decided to reclassify the events, a first draft of the new endurance rules had already been circulated on 8 July 2019, and NFs were given an opportunity to comment by 31 August 2019.*

6.5.6 *The above all happened well before the deadline for the UAE NF to submit international events to be included on the FEI calendar,*

i.e. 1 October 2019 (see FEI GR Article 112.4).

- 6.6 *At the hearing, when specifically asked by the FEI Board why the UAE NF on 8 September 2019 had re-classified the two events in issue as national events for 2020, counsel for the UAE NF said it was because the UAE NF felt that the transitional arrangements for 2020 meant there would be a lot of uncertainty regarding the implementation of the new 2020 FEI Endurance Rules, what the changes would look like, and whether or not the officials would be in a position to implement them, and the UAE NF did not want that uncertainty but instead wanted to have a settled clear legal framework for its two marquee events. The FEI Board does not accept this explanation because at the time that the UAE NF reclassified the two events in September 2019, it did not know that there would be any transitional arrangements for the 2020 FEI Endurance Rules. The possibility of such transitional arrangements was not flagged to NFs until the end of October 2019, and the transitional arrangements were only decided upon at the FEI General Assembly on 19 November 2019. Furthermore, Mr Essa Al Adhab's comments at the 21 February stakeholder consultation meeting make clear that the UAE NF was not concerned about any uncertainty regarding the 2020 FEI Endurance Rules, but rather did not like the substance of what was being proposed, thinking they would deny the OCs the 'flexibility' they wanted.*
- 6.7 *The UAE NF also suggests that any breach of the rules was unintentional because it was confused about the meaning of the FEI rules, in particular in relation to the requirements for a Foreign Athlete to be considered a Resident Foreign Athlete. However:*
- 6.7.1 *That cannot be the case for the 2020 Sheikh Mohammed Cup. In particular, the UAE NF (which administered the entries for the event) admits that there were 31 Foreign Athletes from 14 NFs at that event, and does not even claim that any of them were Resident Foreign Athletes. Nor does it claim that there was any confusion about the Foreign Athlete Quota. The UAE NF's claim that it considered the other 62 Foreign Athletes that it entered in the event were Resident Foreign Athletes is irrelevant in this respect. Therefore, there is no doubt that the UAE NF knew that the number of Foreign Athletes entered for the event meant the event could not be organised a national event, subject to the UAE NF's national endurance rules, but instead had to be held as an international event, subject to the FEI 2020 Endurance Rules.*
- 6.7.2 *In relation to the 2020 President's Cup:*
- 6.7.2.1 *Again invitations were issued to far more than fifteen Foreign Athletes, from far more than four NFs. In other words, the intent was again to exceed the Foreign Athlete Quota, even though the event was being organised as a national event.*
- 6.7.2.2 *The only reason that some invitations were withdrawn*

was because the FEI intervened. If it had not done so, there would have been another deliberate breach of the rules.

6.7.2.3 *However, the UAE NF still greatly exceeded the Foreign Athlete Quota by allowing another 146 Foreign Athletes to compete as 'Resident Foreign Athletes', when in fact 73 of them did not qualify as Resident Foreign Athletes (because they were not resident for at least six months in the UAE and/or their own NF had not agreed to the UAE NF acting as their Host NF, and therefore the FEI had not registered them as Resident Foreign Athletes in its database). The UAE NF claims that it was confused as to the requirements for an athlete to qualify as a Resident Foreign Athlete, and the FEI Board accepts that therefore it may have genuinely thought all 146 athletes it entered in the event were Resident Foreign Athletes. Ignorance of the rules is no defence, but it does mean the breach for the President's Cup may be considered negligent rather than deliberate.*

6.8 *In light of the above, the FEI Board concludes that:*

6.8.1 *The breach of the rules in relation to the 2020 Sheikh Mohammed Cup was knowing, deliberate and significant.*

6.8.2 *The intended knowing and deliberate breach of the rules in relation to the 2020 President's Cup was ultimately avoided. Instead that breach was not intentional, but it was at least highly negligent.*

6C. *Severity of the breaches*

6.9 *The UAE NF submitted that even if the rules were breached, no harm resulted because its national rules effectively implemented the FEI Endurance Rule requirements that would have been in force from 1 January 2020, given that the main substantive reforms to the 2020 FEI Endurance Rules only came into effect from 1 July 2020. It also asserted that there were no allegations of any horse welfare concerns at the two events and that the key officials at those events were FEI-registered and so would have ensured that proper horse welfare standards were enforced.*

6.10 *The FEI Board cannot accept the UAE NF's 'no harm no foul' argument:*

6.10.1 *It is true that a number of important reforms to the 2020 FEI Endurance Rules came into effect only from 1 July 2020 (e.g. rules regarding the qualification system, mandatory out-of-competition periods, and officials). However, the Endurance Rules that came into force on 1 January 2020 included a number of very important substantive changes that had been carefully thought out by the ETC and approved by the FEI membership by overwhelming majority. For example, some of*

the substantive changes that came into force in January 2020 included the rules regarding minimum weights for athletes, increased penalties for removing a horse from a competition without undergoing a final inspection, requirements relating the number and length of loops on an endurance course, changes to the horse heart rate parameters and presentation times to be applied at horse inspections, rules prohibiting the use of dyes (including henna) on the horse (to prevent concealment of injuries or abuse), and new requirements for veterinary inspections in the event of visible blood on the horse. Each of those rules was proposed by the ETC to improve horse welfare, and was approved by the FEI membership. In particular, the FEI members specifically voted on the minimum weight requirements as a separate issue at the FEI General Assembly.

- 6.10.2 The UAE NF did not implement the January 2020 changes into its national endurance rules, and still has not done so, according to the version of its endurance rules currently available on its website. As a result, the January 2020 changes implemented into the FEI Endurance Rules were not applied to the 2020 Sheikh Mohammed Endurance Cup or the 2020 President's Cup. And therefore by definition there was no compliance with those rules.*
- 6.10.3 For the UAE NF to try to rely on the lack of any allegations of horse welfare issues at the events shows its lack of appreciation for the purpose of the FEI's governance and regulatory authority. The whole point of requiring the events to be classified as international events to which the FEI's rules apply is to allow for transparency and accountability to the FEI in respect of compliance with the FEI's rules. By deliberately frustrating that transparency and accountability, the UAE NF lost the right to rely on alleged lack of horse welfare issues at the events.*
- 6.10.4 Further, the fact that FEI-registered officials were present does not change the analysis, because they would have been applying the UAE national endurance rules (which did not include the January 2020 changes), and not the FEI Endurance Rules, which included a number of important amendments.*
- 6.11 The FEI Board also considered whether or not there were any mitigating or aggravating factors.*
 - 6.11.1 The UAE NF submitted that its suspension in March 2015 is entirely unrelated to the violations in issue now, and so cannot be considered as an aggravating factor. In particular, the UAE NF argued that the prior suspension concerned the failure to appropriately protect horse welfare, whereas the current matter concerns a violation of a mere administrative*

requirement (and not any concerns about horse welfare).

6.11.2 *The FEI Board disagrees. The UAE NF's suspension in March 2015 concerned non-compliance with FEI rules and regulations in the discipline of endurance. The same is in issue again here, as the UAE NF has again failed to comply with the FEI rules and regulations in the discipline of endurance.*

6.11.3 *In the FEI Board's view, the fact that this is a repeat offence constitutes a significant aggravating factor. It shows a pattern of lack of respect for the FEI's rules and for the FEI's regulatory authority.*

6.11.4 *On the other hand, the FEI Board accepts that the UAE NF may have been genuinely confused about the application of GR Article 119.6, and so did not fully appreciate that it could not classify Foreign Athletes as Resident Foreign Athletes unless and until the athlete's own NF had agreed it could be the athlete's 'Host NF' and the FEI had registered the UAE NF as the 'Host NF' for the athletes in the FEI database. According to the investigation report, if the UAE NF had made the necessary submissions to the FEI, it is possible that the FEI would have been satisfied that a number of the athletes who were improperly classified as Resident Foreign Athletes met the relevant requirements and so could have had the UAE NF as their 'Host NF'. This mitigates the breach to some extent in respect of the President's Cup (but not in respect of the Sheikh Mohammed Endurance Cup).*

6D. *Detrimental effect*

6.12 *The UAE NF suggests that the breach in issue involved a violation of a mere administrative rule, and so the proposed sanctions are wholly disproportionate.*

6.13 *The FEI Board agrees that the sanctions in issue would not be appropriate for a breach of mere administrative rule. But that is not the case here. Apart from the UAE NF's significant degree of fault, the detrimental effect of the breaches is also very serious: the events should have been organised as international events, under the FEI's jurisdiction and in accordance with the new 2020 FEI Endurance Rules. Deliberately classifying them as national events to avoid the application of the new 2020 FEI Endurance Rules strikes at the heart of the regulatory authority of the FEI and its member federations. If all of the FEI's members decided to pick and choose when to comply with the FEI Rules and Regulations, the regulatory integrity of the sport would be completely undermined. In order to regulate the sport properly, including the regulations designed to protect the health and safety of the horses, it is imperative that the FEI be able to apply its rules uniformly throughout the sport, and any attempt to circumvent those rules must be severely sanctioned.*

6E. *Deterrence and maintaining public confidence in the integrity of the*

sport's regulatory structure

6.14 *The FEI Board was concerned that the UAE NF legal representatives were not able to confirm that the two events will be classified as FEI international events going forward. A sanction needs to be imposed that serves as a strong deterrent against any repetition.*

6.15 *There were public comments in January 2020 about the UAE NF's deliberate flouting of the rules. The sanction imposed needs to be sufficient to assure the sport's stakeholders that the FEI is ready, willing, and able to act without fear or favour to protect the regulatory integrity of the sport and the policy objectives in terms of horse welfare that have been agreed by its member federations and incorporated into its rules.*

6F. *Sanctions*

6.16 *For the reasons set out above, the FEI Board is of the view that significant sanctions are required in order to achieve the objectives underlying the rules.*

III. PROCEEDINGS BEFORE THE CAS

60. On 15 October 2020, the Appellants filed their Statement of Appeal against the Decision at the Court of Arbitration for Sport (the "CAS") pursuant to Article R47 of the Code of Sports-related Arbitration (the "CAS Code"). In their Statement of Appeal, the Appellants nominated Mr Jeffrey G. Benz as arbitrator, and with the agreement of the Respondent, proposed the following expedited timetable in accordance with Article R52 of the CAS Code:

- (a) 21 October 2020 – deadline for the Appellants to file their Appeal Brief;
- (b) 10 November 2020 – deadline for the Respondent to file its Answer;
- (c) 12 November 2020 – CAS hearing by video-link.
- (d) 16/17 November 2020 – Panel issues its Award (operative part).

61. On 16 October 2020, the Respondent confirmed its agreement to the expedited timetable proposed by the Appellants.

62. On 19 October 2020, the CAS Court Office, on behalf of the President of the Appeals Arbitration Division, confirmed the expedited calendar agreed by the Parties.

63. On 19 October 2020, the Respondent nominated the Hon. Michael J. Beloff QC as arbitrator.

64. On 21 October 2020, the Appellants filed their Appeal Brief in accordance with Article R51 of the CAS Code.

65. On 29 October 2020, the CAS Court Office, on behalf of the President of the Appeals Arbitration Division, confirmed the constitution of the Panel as follows:

President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy
Arbitrators: Mr Jeffrey G. Benz, Barrister and Attorney-at-Law, London, United Kingdom, and Los Angeles, California, USA, and the Hon. Michael J. Beloff QC, Barrister, London, United Kingdom.

66. On 10 November 2020, the Respondent filed its Answer in accordance with Article R55 of the CAS Code.
67. On 10 November 2020, the CAS Court Office issued, on behalf of the President of the Panel, an order of procedure (the “Order of Procedure”), which was signed and returned by the Parties on 11 November 2020.
68. A video hearing was held between 12-13 November 2020. The Panel was assisted on 12 November 2020 by Mr Brent J. Nowicki, Managing Counsel, and on 13 November 2020 by Ms Sophie Roud, CAS Counsel. The hearing was joined by the following:

For the Appellants:

- Dr Ghanem Al Hajri, Secretary General of UAEERF
- Mr Mahmoud Zyoud, Head of Endurance of UAEERF
- Mr Mohammed Essa Al Adhab, General Manager of DEC
- Ms Lisa Lazarus, Counsel
- Mr Mike Morgan, Counsel
- Ms Donna Bartley, Counsel
- Mr Tom Seamer, Counsel
- Dr Jan Kleiner, Counsel
- Mr Lukas Stocker, Counsel
- Mr Benoit Keane, Counsel.

For the Respondent:

- Ms Sabrina Ibáñez, FEI Secretary General
 - Dr Sarah Coombs, Chair of the ETC
 - Mr Mark Samuel, FEI Vice President and FEI Board Liaison to the ETC
 - Ms Áine Power, FEI Deputy Legal Director
 - Mr Jonathan Taylor QC, Counsel
 - Ms Lauren Pagé, Counsel.
69. At the hearing, the Parties confirmed that they had no objection to the constitution of the Panel. They then had the opportunity to present their case, to submit their arguments, examine the witnesses and answer the questions posed by the Panel. More specifically, declarations were rendered by Mr Mohammed Essa Al Adhab, Mr Mahmoud Zyoud, Dr Ghanem Al Hajri, Ms Sabrina Ibáñez, Dr Sarah Coombs, and Mr Mark Samuel.
70. On 12 November 2020, at the end of the first day of the hearing, the Respondent, answering a request of the Panel, confirmed in an email to the CAS Court Office (i) that Articles 101 and 102 GR (drawing the distinction between national and international events and establishing the “foreign athlete quota”, but excluding the

provision on sanctions) were included in the GR since at least 2006, (ii) that the sanctions currently set out in Article 101.3.2 GR were added to the 2014 version of the GR, and (iii) that Article 119.6 was first adopted in the 2010 version of the GR. In a separate email, the Respondent next provided two corrections to the footnotes in the Answer.

71. At the conclusion of the hearing, the Parties confirmed that their right to be heard and to be treated equally had been respected.

IV. THE PARTIES' SUBMISSIONS

A. The Appellants

72. In their Statement of Appeal, the Appellants requested the Panel to:

- (a) *set aside the Decision;*
- (b) *order the Respondent to:*
 - (i) *reimburse their legal costs and expenses related to this appeal; and*
 - (ii) *bear any costs of the arbitration.*

73. In the Appeal Brief, the Appellants next requested the Panel to:

- (a) *set aside the Decision;*
- (b) *set aside every sanction imposed by the Decision, or alternatively:*
 - (i) *substantially reduce the extent and scope of the sanctions;*
 - (ii) *if any suspension is imposed, order that the suspension be lifted from the date of the CAS Award.*
- (c) *order the Respondent to:*
 - (i) *reimburse their legal costs and expenses related to this appeal; and*
 - (ii) *bear any costs of the arbitration.*

74. The Appellants' main arguments submitted in support of their requests may be summarised as follows:

- i. this case is about alleged breaches of the FEI's "foreign riders quota rule" as set in the GR, and was caused by a lack of clarity of what was needed to happen before foreign riders could be classified as "Athletes Living Outside their Country of Nationality" and, with respect to the 2020 President's Cup, because of the FEI's refusal to provide clarifications in that regard;
- ii. by way of corollary, this case is not about horse welfare, as no concerns in that respect were reported. In fact, the present case and an issue that arose in 2015 are entirely unrelated. In March 2015, the UAEERF was provisionally suspended by the FEI in relation to horse welfare concerns and non-compliance with FEI rules and regulations. The UAEERF immediately established protocols to rectify the identified concerns and committed to apply numerous protocols to guarantee that horse welfare and FEI rules would be fully respected. The FEI was happy with these protocols and, in

recognition of the UAEERF's commitments, in July 2015, reinstated the UAEERF to full membership. In addition, following the reinstatement, in an effort to turn the page and build a new era, the UAEERF underwent several changes of personnel in key positions. In short, the UAEERF today is vastly different both in terms of its protocols and its personnel to the UAERRF in 2015;

- iii. under FEI rules, NFs are permitted to organise events either as international events or as national events. Article GR provides the rules for national events (CNs). Under Article 101.1 GR, CNs take place under the rules of the NF. For UAE endurance events, this means that the UAE National Endurance Rules are applicable. Whilst NFs can organise CNs under their own rules, the FEI has in place certain rules concerning the participation of foreign riders in CNs: foreign riders may participate in CNs subject to Article 101.2, Article 101.3 or Article 119 of the GR. Under Article 101.2 GR, an unlimited number of foreign riders may take part in CNs if they are "Athletes Living Outside their Country of Nationality". However, excluding "Athletes Living Outside their Country of Nationality", no more than 4 NFs and/or more than 15 foreign riders can participate in CNs. The GR define an "Athlete living Outside His/Her Country of Nationality" as "*[a]n Athlete who spends more than six (6) months of a year in one foreign country (the "host country")*". Therefore, the definition makes no mention of a purported system, whereby the FEI (i) checks the residency position of the athlete, (ii) verifies whether the athlete's own NF is happy for the athlete's competition entries to be processed by the Host NF, and (iii) updates the "Host NF" for the Athlete on the FEI database, if it is satisfied with the information it has been provided. In fact, the Appellants were not aware that riders could not gain the status of "Athletes Living Outside their Country of Nationality" without FEI's prior approval, and FEI at no point in time pointed to this system;
- iv. the DEC accepts that, due to an administrative oversight, more foreign riders participated in the 2020 Sheikh Mohammed Cup than permitted by Article 101.3.2 GR. This was just an administrative issue, and thus a very minor breach, compared to other types of more serious rule violations;
- v. the EIEV does not accept that it breached Article 101.3.2 GR in relation to the 2020 President's Cup. The Final Investigation Report (at its para. 4.13) states that proof of residency and a letter of permission to participate in UAE events from the athletes' NFs were supplied in relation to 73 of the 88 athletes identified as "Foreign Athletes". Therefore, in accordance with the usual procedures operated by the FEI, and thus the principle of legitimate expectations, those 73 athletes could not be counted as "foreign athletes". Accordingly, only 15 "foreign athletes" must be deemed to have participated in the 2020 President's Cup (not counting "Athletes Living Outside their Country of Nationality"), in compliance with Article 101.3.2 GR. In any case, (i) any such breach was inadvertent, and (ii) the principle of estoppel must apply so as to preclude any finding of a breach and/or the imposition of any sanction, because whereas the UAEERF repeatedly sought guidance from the FEI to ensure that the 2020 President's Cup would be held in compliance

with FEI rules, the FEI flatly refused to assist the UAEERF unless it received information about another event (the 2020 Sheikh Mohammed Cup). After the 2020 President's Cup was held, and having refused to answer the UAEERF's questions, the FEI accused the EIEV and UAEERF of breaching the very rules in relation to which the UAEERF had sought guidance;

- vi. the UAEERF does not accept that it breached any of Articles 100.7.2, 102.1 or 109.2 of the GR, which relate to international, and not national, events. In any case, any such breach was inadvertent;
- vii. the Appellants case has to be decided on the basis of Swiss law. However, also EU competition law applies, together with general principles of law, such as (a) the principle of proportionality, (b) the principle of legal certainty, (c) the right to equal treatment, and (d) the principles of legitimate expectations and estoppel;
- viii. with respect to EU and Swiss competition law, it is clear, in light of decisions taken by competition authorities, that the rules governing the authorization of equestrian events by FEI place restrictions on the manner in which the NFs can hold events, and the Decision itself imposes restrictions having an effect upon trade within the EU. As a result, in order to comply with EU competition law, the Decision must: (i) pursue a legitimate objective, (ii) necessary to achieve that objective, and (iii) be proportionate. In the case at stake, the Decision fails to meet the condition of being necessary to achieve a legitimate objective, such as horse welfare, because its basis is not related thereto: the FEI is only concerned with the good functioning of its governance structure. In any case, the sanctions are grossly disproportionate, and go beyond what is necessary to achieve any legitimate objective. In addition, the suspension amounts to a refusal to deal and cannot be justified on legitimate business or efficiency grounds. Therefore, the Decision contravenes the prohibition of the abuse of dominant position;
- ix. the sanctions imposed by the Decision, which are "*wholly unprecedented*", should be annulled or, alternatively, "*dramatically reduced*". In fact:
 - there was no intent to breach or to avoid the application of FEI rules and no such intent can be inferred reasonably from the UAEERF's feedback on the proposed rule changes discussed in 2019. Notably, the only rule allegedly breached by the Appellants relates to the FEI's foreign athletes quota limit, which was not one of the proposed new rules;
 - given that this was the DEC's first breach of the foreign riders quota rule, the Appellants submit that no fine should be imposed, or alternatively that any fine should be at the very lowest end of the spectrum. A fine of CHF 1,059,768 for such an inadvertent, administrative, first-time, error is "*grotesquely disproportionate*". In the same way, given that the EIEV and the UAEERF proactively sought to avoid a breach of FEI rules in respect of the 2020 President's Cup, no fine can be imposed for a first-time offence, committed without any intention and in circumstances in which the FEI contributed to any

deemed failing;

- there is no provision in the FEI rules for any sanction to include organising dues;
- there is no provision in the FEI rules which allows a NF to be held jointly liable for any fine;
- the suspension is invalid and unenforceable as it was imposed without any valid legal basis and on the basis of a false premise, it is contrary to the rights to equal treatment and legitimate expectations, is a breach of competition law, and is grossly disproportionate:
 - Article 101 GR sets out the entire regime concerning the FEI's foreign riders quota and the consequences for any breach, *i.e.* deletion of ranking and qualification points and possibly a fine: there is no legal basis to impose any other sanction. Moreover, and notably, there is no FEI rule that foresees the possibility of suspending a NF following a breach by an organising committee of the foreign riders' quota;
 - the suspension of the UAEERF affects every member of the equestrian community in the UAE, even those outside the discipline of Endurance. If the suspension is sustained, there will have been no UAE equestrian events for almost ten months;
 - the suspension is based on the false premise that this case is a continuation of misconduct which resulted in the UAEERF's 2015 suspension and that the UAEERF's inability to commit to hosting the Events as FEI international events in future amounted to misconduct. The Appellants are not compelled to organise international events and are expressly permitted by FEI rules to organise national events. Thus, if the Appellants wish to organise the Sheikh Mohammed Cup and the President's Cup in the future as CNs and not as international events, they are free to do so. They cannot be punished for it. Indeed, the FEI's main concern is to protect its own commercial interests by deterring national federations from organising national events, and that this case has nothing to do with encouraging compliance with the rules;
 - the FEI has never before suspended a NF for a violation of this nature. The UAEERF has been treated entirely differently to others, contrary to the right to equal treatment, and in an utterly disproportionate manner. In addition, the Decision's sanctioning approach amounts to a breach of the principle of legitimate expectation that the disciplinary rules should be fairly and consistently applied;
 - any suspension would be disproportionate and result in the violation of competition law, also in light of its scope, broader than permissible; and
- no provision in the FEI rules grants the FEI Board the power to order a NF or an organising committee to meet costs incurred by the FEI

because of its choice to instruct external counsel to perform its regulatory work. In any case, those costs, as imposed by the Decision, are not consistent with the applicable FEI Guidelines on Costs.

B. The Respondent

75. In its Answer, the Respondent requested the Panel to:

- 8.1.1 *dismiss the appeal in toto, without granting the Appellants any of the relief they seek; and*
- 8.1.2 *order the Appellants to pay a contribution towards the FEI's legal and other costs in relation to these proceedings.*

76. In support of its requests, the Respondent submits that at stake on this appeal is the ability of the FEI and its members to enforce consistently throughout their sport the rules and regulations that they have agreed are necessary to protect the integrity of the sport and the health and safety of the horses that feature in it. In the Respondent's opinion, the Appeal Brief provides an incomplete and inaccurate account of the rules that apply in this matter, and of the facts that led to the sanctions imposed by the FEI Board. It also leaves the key question unanswered: why did the UAEERF re-classify its two "marquee events" in 2020 as national events rather than holding them as international events? Once the rules and facts of this case are properly understood, that question is answered: it re-classified them solely and specifically to avoid the application of the new horse welfare rules agreed by the FEI's members. It, therefore, becomes clear that the Appellants' attempts to blame the FEI for their breaches are baseless and their legal arguments challenging the sanctions imposed are without merit. The Appellants' actions were deliberate and extremely serious, striking at the heart of the regulatory integrity of the sport. The UAEERF, in addition, is a repeat offender. Consequently, the sanctions imposed are necessary to punish and deter such wrongdoing, and to maintain public confidence that the FEI and its members are ready, willing and able to protect the sport's integrity and the horses' welfare.

77. Indeed, when the FEI undertook to reform the Endurance Rules in order to place greater emphasis on horsemanship and horse welfare, the UAEERF made clear its implacable opposition to certain of the reforms proposed (in particular, to those that would limit the horse speed), and warned that, rather than implement them, they would stop organising international events (to which they would have to apply the reformed FEI rules) and instead would organise national events, to which they could apply their own (unreformed) national rules. And when the ETC nevertheless maintained its reform proposals, they re-classified their two "marquee events" for 2020 as national events, and applied their own (unreformed) national rules at those events instead of the new 2020 FEI Endurance Rules, with the new protections for horse welfare. This would have been permissible if the Appellants had changed those events so that they fitted the criteria for national events, specifically by complying with the strict limit on foreign riders who could participate. But they did not. Instead, they staged the events exactly as they had in previous years, with a field including a large contingent of international riders accepting invitations to

compete for enormous prize money, and even branded them as FEI events. Their conduct was not an “administrative error”: the Appellants perfectly knew the rules and their violations were, as the Decision found, “*knowing, deliberate and significant*”; the sanctions, therefore, were properly imposed.

78. In the Respondent’s opinion, the legal arguments advanced by the Appellants against the sanctions are “*without merit*” and should be dismissed:

- i. nothing that the FEI said or did caused or contributed to the Appellants’ rule breaches, and therefore the FEI is not estopped from sanctioning those breaches;
- ii. the rules applied do not lack legal certainty or predictability. Indeed, many of the same rules had already been applied to suspend the UAEERF in 2015;
- iii. there is sufficient legal basis for each of the sanctions imposed: the UAEERF failed to comply with the FEI rules and regulations, including the GR, in breach of Art 2.8 of the FEI Statutes. It is, therefore, liable to suspension pursuant to Article 8.3 of the FEI Statutes. In addition, Article 101.3.2 GR allows sanctions further to those therein contemplated. Therefore, the Decision correctly imposed the payment of the “organising dues” because the DEC and the EIEV should not be able to benefit from the windfall of avoiding them, as they should have been paid if the 2020 Events had been properly organised as international events. Legal costs for their part, find their basis on Article 159.4 GR, and are on line with the provisions of the Guidelines on Costs, which are non mandatory;
- iv. the requirements of equal treatment and respect for legitimate expectations have not been breached. The simple fact is that no other federation has ever committed such a knowing, deliberate and serious breach of the FEI rules, in order to circumvent important new horse welfare reforms. The FEI imposed unprecedented sanctions because the case is unprecedented;
- v. the temporary suspension of the UAEERF’s membership in such circumstances is well within the FEI Board’s margin of appreciation, and far from disproportionate. As the FEI Board noted, the conduct of the UAEERF “*strikes at the heart of the regulatory authority of the FEI and its member federations*”. Temporary suspension of membership is the only appropriate consequence for such a serious breach of a fundamental condition of membership of the FEI. It is the only way to deter the UAEERF and others from such serious wrongdoing moving forward, and the only way to maintain public confidence that FEI can and will protect the integrity of the sport’s regulatory structure and ensure the global application and enforcement of its horse welfare and other rules. While the Appellants complain about the collateral consequences on UAE athletes and owners, a long line of CAS cases confirms that the fact that the persons affiliated to the suspended member federation will be excluded from the sport is simply a natural consequence of the member's suspension, and does not, by itself, make that suspension disproportionate; and
- vi. finally, the competition law claims add nothing in support of the Appellants’

requests. Even if the various other fatal defects in the claims are ignored, the Appellants would still have to show that the FEI has acted disproportionately. However, strict enforcement of the obligation on member federations to ensure the application of the FEI's rules within their respective territories is absolutely fundamental to the proper and safe conduct of the sport.

V. JURISDICTION

79. Article R47 of the CAS Code states that “[a]n appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.
80. Ordinarily, and in accordance with Article 162.1(a) GR, an appeal from a decision of the FEI Board must be made to the FEI Tribunal.
81. In accordance with Article 39.3 of the FEI Statutes, however, the Parties expressly agreed to submit this dispute directly to the CAS and thereby bypass the FEI Tribunal.
82. By virtue of this agreement, the jurisdiction of the CAS was not contested by either Party.
83. Moreover, both Parties agreed to sign the Order of Procedure, where the jurisdiction of the CAS was confirmed.
84. The Panel, therefore, confirms that the CAS has jurisdiction to decide on the present dispute.

VI. ADMISSIBILITY

85. According to Article R49 of the CAS Code, “[i]n the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against”.
86. In furtherance to the Parties' agreement to refer this procedure to the CAS Appeals Arbitration Division, and in accordance with the expedited timetable agreed upon by the Parties (and confirmed by the President of the Appeal Arbitration Division), the Statement of Appeal dated 14 October 2020 and the Appeal Brief dated 21 October 2020 were timely filed and complied with the requirements set by the CAS Code.
87. The Panel, therefore, confirms that this appeal is admissible.

VII. SCOPE OF REVIEW

88. According to Article R57 of the CAS Code, the Panel has full power to review the facts and the law of the case. Furthermore, the Panel may issue a new decision which replaces the decision challenged, or may annul the decision and refer the case back to the previous instance. The Panel consequently hears the case *de novo* and is not limited to considerations of the evidence that was adduced before the Disciplinary Commission: The Panel can consider all new evidence produced before it. This implies that, even if a violation of the principle of due process occurred in prior proceedings, it may be cured by a full appeal to the CAS (CAS 94/129; CAS 98/211; CAS 2000/A/274; CAS 2000/A/281; CAS 2000/A/317; CAS 2002/A/378). In fact, the virtue of an appeal system which allows for a full rehearing before an appellate body is that issues relating to the fairness of the hearing before the tribunal of first instance “*fade to the periphery*” (CAS 98/211, citing Swiss doctrine and case law).
89. The Appellants had (and used) the opportunity to bring the case before CAS, where all of the Appellants’ fundamental rights have been duly respected. At the end of the hearing, the Appellants’ counsel expressly confirmed that the Appellants had no objections in respect of their right to be heard and to be treated equally in the arbitration proceedings. Accordingly, even if any of the Appellants’ rights had been infringed upon by the FEI in the proceedings before the FEI Board, including with respect to the presentation of evidence – as to which the Panel need and does not make any finding – these *de novo* proceedings before CAS would be deemed to have cured any such infringements.

VIII. APPLICABLE LAW

90. Article R58 of the CAS Code provides: “*The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision*”.
91. As a result, the FEI rules and regulations fall to be applied primarily. In this respect, the Panel notes Article 167 GR provides as follows:
- 167.1 These FEI General Regulations operate globally, regulating the conditions for participation in international-level events held around the world. As such, insofar as possible these FEI General Regulations are to be interpreted and applied not by reference to national or local laws, but rather as an independent and autonomous text, and in a manner that protects and advances the imperatives identified in the Preamble.*
- 167.2 These FEI General Regulations and any dispute arising out of or in connection with them (including any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with Swiss law.*

92. As a result, Swiss law, being the law of the country in which the FEI is domiciled and pursuant to Article 167.2 GR, fall to be applied subsidiarily.
93. A question arose in this arbitration with respect to the relevance of EU competition law for the determination of (certain aspects of) the dispute. In that regard, the Panel notes that compliance with EU competition law rules must be taken into account by this Panel, insofar as they constitute foreign mandatory rules (“*dispositions impératives du droit étranger*”), pursuant to Article 19 of the Swiss private international law statute of 18 December 1987 (the “PILA”), as recognised by the CAS panel in the award rendered on 20 August 1999 in CAS 98/200, *AEK Athens and Slavia Prague v. UEFA* (§§ 40-43).

IX. MERITS

94. The object of this arbitration is the Decision, which found the Appellants responsible for violations of FEI rules and sanctioned them. In more detail:
- i. the Organising Committees:
 - were found in breach of Art 101.3.2 GR because the 2020 Events had been organised as CNs even though they featured too many foreign athletes to be treated as CNs; and
 - were ordered to pay fines in amounts equal to 50% of the prize money awarded at the 2020 Events they organised, as well as the organising dues for them;
 - ii. the UAEERF:
 - was found in breach of Article 2.8 of the FEI Statutes and of Articles 102.1, 109.2, 109.2 and 100.7.2 GR because it failed to ensure that the Organising Committees organised the 2020 Events as CIs subject to the 2020 FEI Endurance Rules, but instead permitted them to be organised as CNs under the UAEERF’s national endurance rules, even though both of them greatly exceeded the “foreign athlete quota” and therefore had to be organised as CIs; and
 - had its FEI membership suspended with respect to all FEI disciplines until 31 December 2020 and in relation to the discipline of Endurance until 31 March 2021, was ordered to bear the FEI’s legal costs and found jointly liable with the Organising Committees for the payment of the sanctions imposed on them.
95. The Appellants dispute these conclusions and request the Decision to be set aside, and the sanction cancelled or reduced. The Respondent, on the other hand, requests this Panel to dismiss the appeal and to confirm the Decision.
96. As a result of the Parties’ respective requests and submissions, there are two main issues that need to be addressed by this Panel:
- i. are the Appellants responsible for the violations found by the Decision?

- ii. if so, what are the proper consequences to be applied?

i. The Violations

97. As indicated, the first question to be dealt with in this Award concerns the violation of the FEI rules setting a limit to the number of the foreign riders (*i.e.*, having a nationality other than that of the State host of the event) that may participate in a CN. In fact, the 2020 Events were considered as having been held in breach of such rules, as the number of foreign athletes participating exceeded the quota allowed for a CN (the “Foreign Athletes Quota”). Such violation would have been committed primarily by the Organising Committees, but was taken also as a basis for the finding of a violation by the UAEERF, for its failure to ensure compliance by the Organising Committees with the FEI rules.
98. The FEI rules, in fact, distinguish between “national events” (CNs), organised under the rules of a NF (Article 101.1 GR), and “international events” (CIs), organised under the rules of FEI (Articles 100.6 and 102). Such distinction is mainly based on the nationality of the athletes permitted to participate in each, in that:
- i. a CN is an event limited to national athletes (*i.e.*, having the nationality of the host State) (Article 101.1 GR). However, the participation of foreign athletes (*i.e.*, not having the nationality of the host State) in a CN is allowed, and the event does not lose its status as a “national event”, if:
 - the foreign athletes have obtained written permission from their own NF and from the NF of the organising committee concerned (Article 101.2 GR), and
 - no more than four NFs and/or more than fifteen foreign athletes attend, with the indication, however, that the “Athletes Living Outside their Country of Nationality” are non counted in the calculation of the number of foreign athletes (Article 101.3.2 GR);
 - ii. a CI is any other event in which foreign athletes participate, unless that event satisfies the conditions, defined by Appendix E to the GR, to be considered a Minor International Event (CIM) (Articles 101.3.1 and 101.4 GR).
99. In this context, the notion of “Athletes Living Outside their Country of Nationality” is crucial. Indeed, the violation of the FEI rules imputed to the Appellants regarding the number of foreign athletes who took part in the 2020 Events. The 2020 Events, in fact, as it is undisputed between the Parties, could not be considered as Minor International Events (CIMs), and therefore were subject to the limits imposed on foreign athletes, not counting the “Athletes Living Outside their Country of Nationality”.
100. According to Article 119.6 GR (referred to also by Article 101.3.1 GR), dealing with “Athletes Living Outside their Country of Nationality”:

An Adult Athlete Living outside his/her country of nationality can have his/her entries processed by his/her “host-NF” for participation in CNs, CIMs as well as

CIs if he/she is given permission of his/her own NF and the FEI. The Athlete, while keeping his/her own NF, comes under the jurisdiction of the host NF for the above-mentioned Events and must take part according to the relevant Sport Rules. This administrative facility is not a change of sport nationality. The Athlete will in all circumstances keep his/her "own NF", and always compete under its flag.

101. In other words, such provision allows an athlete to have a special status allowing him/her not to be considered as a "foreign athlete" and therefore compete in a CN even without (i) acquiring the sporting nationality of the host State (ii) being within the quota of foreign athletes. It, however, subjects the acquisition of such status to specific conditions: He or she should be "*An Adult Athlete Living outside his/her country of nationality*" and "*given permission of his/her own NF and the FEI*".
102. With respect to the 2020 Sheikh Mohammed Cup, the DEC and the UAEERF accept that it was organised as a CN, but featured more than 4 NFs and/or more than 15 foreign Athletes (not counting "Athletes Living Outside their Country of Nationality"). Accordingly, they accept that there was a breach, described to be inadvertent, of Article 101.3.2 GR. In fact, as noted both in the Final Investigation Report (paras 4.2-4.8), and in the Decision (para 5.1), 31 foreign athletes from 14 NFs were invited and participated, in excess of the number of foreign athletes allowed by Article 101.3.2 GR. In addition, according to the Final Investigation Report, a further 62 foreign athletes who participated were improperly classified as "Resident Foreign Athletes" because they did not reside in the UAE, and/or their NF had not agreed to the UAEERF being their host NF, and the FEI had, therefore, not registered the UAEERF as their Host NF. As a result, of the 242 starters, a total of 93 foreign athletes from 24 different NFs participated in the 2020 Sheikh Mohammed Cup. Consequently, the 2020 Sheikh Mohammed Cup was not properly classified as a CN. The failure of DEC to hold the 2020 Sheikh Mohammed Cup as a CI, therefore, constitutes a violation of Article 101.3.2 GR.
103. With respect to the 2020 President's Cup, the EIEV denies the violation of Article 101.3.2 GR and indicates that proof of residency and letters of permission to participate in UAE events from the athletes' NFs were supplied in relation to 73 of the 88 athletes identified as foreign athletes. Therefore, those 73 athletes cannot be considered foreign athletes. As a result, only 15 foreign athletes must be deemed to have participated in the 2020 President's Cup (not counting "Athletes Living Outside their Country of Nationality"), in compliance with Article 101.3.2 GR.
104. However, as noted both in the Final Investigation Report (para 4.11-4.13) and, in the Decision (para. 5.2), for 73 riders classified by the UAEERF as resident foreign riders, participating in the event further to the 15 foreign athletes allowed by Article 101.3.2 GR, the UAEERF never applied to the FEI for permission to be their host NF. Therefore, these riders do not qualify as "Athletes Living Outside their Country of Nationality", but instead are to be classified as foreign athletes. Article 119.6, quoted above, is clear: Not only the athletes in question should be "*living outside his/her country of nationality*", but they should also be "*given permission of his/her own NF and the FEI*" (underlining added). Therefore, because they had not obtained the permission of FEI, those athletes did not qualify as "Athletes

Living Outside their Country of Nationality”. As a result, 88 foreign athletes participated in the 2020 President’s Cup, in excess of the quota set by Article 101.3.2 GR. Consequently, the 2020 President’s Cup was not allowed as a CN. The failure of EIEV to hold the 2020 President’s Cup as a CI, therefore, constitutes a violation of Article 101.3.2 GR.

105. On the basis of the foregoing, the failure of the UAEERF to classify the 2020 Events as CIs must also be held to constitute a breach also of Article 100.7 GR and of Article 2.8 of the FEI Statutes. Such provisions, in fact, stipulate, in the relevant portions, as follows:

Article 100.7 GR [*Responsibilities of NFs*]:

7.2. *To ensure that all clubs and societies affiliated to NFs and all OCs abide by the GRs and Sport Rules when organising International Events or Competitions.*

7.3. *To ensure the implementation by OCs, of the Statutes, GRs and Sport Rules*
....

7.4. *To ensure that any Event is correctly managed by OCs, ...*

Article 2 [*Principles*] of the FEI Statutes:

2.8. *It is a condition of membership that National Federations comply with, and are bound by the FEI Rules and Regulations including but not limited to the Statutes, General Regulations, Sport Rules ...*

106. The Appellants, however, dispute the above conclusions, at least with respect to the 2020 President’s Cup, and submit that the violation was due to a lack of clarity in the relevant rules and to the FEI’s refusal to provide assistance. In that respect, the Appellants refer to the correspondence sent to FEI on 21 January 2020, seeking clarification as to Article 101 GR (see above), which, they submit, the FEI refused to answer in an attempt to “force” a reply to the queries advanced with regard to the 2020 Sheikh Mohammed Cup. As a result, the Appellants submit that the FEI should be estopped from finding a breach of the rules for which it refused to provide guidance.
107. The Panel does not agree with the Appellants’ submissions. In the Panel’s opinion, the FEI did not lead the Appellants to believe that the relevant rules (and chiefly Articles 101.3.2 and 119.6 GR) had to be interpreted in a specific way, *i.e.* that a written permission of the nationality’s NF was sufficient for athletes residing in the UAE to qualify as “Athletes Living Outside their Country of Nationality”, and subsequently changed its course of action, requiring also the FEI’s approval for the adoption of such status, to the detriment of the Appellants. To the contrary, the Panel notes that:
- i. the rules are clear: as already underlined above, Article 119.6 expressly provides that the athletes “*living outside his/her country of nationality*” should be “*given permission*” not only “*of his/her own NF*”, but also of “*the FEP*”. In other words, the mere permission of the NF of origin is clearly insufficient to allow the treatment of foreign athletes, even if living in the

State of the host NF, as “Athletes Living Outside their Country of Nationality”;

- ii. the rule in question has been in force for years (see above), without giving rise to any dispute as to its interpretation or meaning;
- iii. in the correspondence exchanged between the Parties, following the UAEERF’s letter of 21 January 2020 and before the 2020 President’s Cup, no “misleading” information was provided by the FEI. On the contrary, in the letter of 31 January 2020, for instance, the FEI, while taking note of the UAEERF’s circular dated 27 January 2020 regarding the President’s Cup, underlined its power to verify, in cooperation with the NFs of origin, the eligibility of foreign athletes. Likewise, in the letter of 5 February 2020, the FEI provided an answer to the UAEERF’s letter of 21 January 2020, indicating the limits in which foreign athletes could be considered as “Athletes Living Outside their Country of Nationality”;
- iv. the attitude shown by the UAEERF after receiving the first messages from the FEI in January 2020 does not seem to indicate the existence from them of any interpretative problems regarding the FEI rules; in fact, the UAEERF simply tried to avoid answering the FEI’s requests with respect to the 2020 Sheikh Mohammed Cup (see above), and later the UAEERF even tried to characterize the 2020 Sheikh Mohammed Cup as an event “*totally outside of the federative jurisdiction*”;
- v. the issue relating to the 2020 President’s Cup arose after the application of the “Foreign Quota Rule” had been the subject of an exchange with the FEI with regard to the 2020 Sheikh Mohammed Cup. Therefore, specific care had to be exercised by the FEI to consider the wording and meaning of the GR. However, in the correspondence with the FEI the UAEERF did not seek clarification as to the meaning of Article 119.6 GR, but only sought advice with respect to Article 101.3.2. It is true that Article 119.6 GR is mentioned in Article 101.3.2; however, the focus of the matter, as made clear by the present dispute, related directly to the conditions set by Article 119.6 GR, regarding which no clarification was expressly sought.

108. In summary, the Panel holds that the Decision correctly found the Appellants responsible for the violations therein described. In this respect, the Panel underlines that the possibility for the Appellants to organise CNs is not in doubt – This possibility plainly exists. What the Appellants can not do is to allow the participation in a CN of a number of “foreign athletes” exceeding the quota prescribed by the GR and so erode the distinction between a CN and a CI. The Appellants, having exceeded that quota on the occasion of the 2020 Events (characterized as CNs), violated the FEI rules.

ii. The Sanctions

109. In light of the above conclusion, the Panel has to determine the consequences to be drawn from the finding of violations. As already noted, the FEI Board applied a number of sanctions on each of the Appellants: Financial measures on the

Organising Committees, a suspension, together with joint liability for the payment of said financial measures, and the costs of the FEI proceedings on the UAEERF.

110. Such sanctions are disputed from two discrete angles: The first relates to their legal basis and the second concerns their magnitude.

111. With respect to the first point (the legal basis), the Panel notes the following:

- i. as to the “suspension of the FEI membership” as a sanction for the UAEERF. In the Panel’s opinion, the legal basis for such measure can be found in Article 8.3 of the Statutes, which provides that, “*The Board may suspend a National Federation that has acted in breach of the principles in Article 2, provided it is afforded a right to be heard. The Suspension may be immediate and provisional in the event of material breach.*” As already held, the UAEERF was properly found to be in breach of Article 2.8 of the FEI Statutes and of Article 100.7 GR. Therefore, the FEI Board was vested with the power of suspension by Article 8.3 of the Statutes. The fact that such sanction is not contemplated by Article 101.3.2 GR does not cast doubt on such conclusion. Article 101.3.2 GR, in fact, specifically refers to “OCs”, *i.e.* to the Organising Committees, and is not exhaustive of any other sanction that could be imposed on a NF for the violation of the Statutes and/or other FEI rules;
- ii. as to the “legal costs” imposed on the UAEERF, relating to the proceedings for the investigation of the rule violations by the Appellants. The Respondent, in order to find a legal basis for such measure, invokes Article 159.4 GR, which provides that the “*Decisions of the FEI Tribunal may also impose costs on unsuccessful parties taking into account the FEI Guidelines for Fines and Contributions towards Legal Costs.*” The Panel notes that such provision considers only the proceedings before the FEI Tribunal, and not “investigation costs” and/or proceedings before the FEI Board: Therefore, it does not offer sufficient legal basis for the imposition of costs by the FEI Board. The fact that an internal appeal to the FEI Tribunal could be filed from a decision of the FEI Board under Article 162.1 GR, and that in such situation the FEI Tribunal could apply Article 159.4 GR, does not cast doubt on such conclusion: The fact remains that no specific provision allows the FEI Tribunal to impose on the unsuccessful party the payment of the costs generated by the investigation brought against it, and no exception to the rule is provided for in the event the hearing before the FEI Tribunal is bypassed by a direct referral of the appeal to the CAS. Therefore, there is no legal basis in the FEI rules for the imposition on the UAEERF of the legal costs for the investigation conducted against it and for the hearing of its case by the FEI Board. Such measure must consequently be set aside. The imposition of such costs would have required a special agreement; none was suggested and none was made.
- iii. as to the “fines” on the Organising Committees. This measure is unambiguously contemplated by Article 101.3.2 GR, which expressly provides for a sanction consisting in a “*fine ... in a amount ... possibly up to the total prize-money paid out*”. Therefore, the fine imposed is a measure

calculated as a percentage of the prize money awarded at the 2020 Events that squarely falls within the legal basis offered by Article 101.3.2 GR;

- iv. as to the payment of the “organising dues”, imposed by the FEI Board on the Organising Committees. In the Panel’s opinion, a basis for such measure can be found in Article 101.3.2 GR, which allows sanctions “*further*” to the fine. In addition, the Panel agrees that the DEC and the EIEV should not be able to benefit from the windfall of avoiding the “organising dues”, as they should have been paid had the 2020 Events been properly organised as CIs;
 - v. as to the joint liability imposed on the UAEERF for the payment of the financial sanctions (fines and “organising dues”) applied to the Organising Committees. In that respect the Panel remarks that:
 - a NF has the obligation under the FEI rules to ensure that Organising Committees pay the fines imposed by the FEI Board, as a part of the NF’s general duty to have the Organising Committees comply with the FEI rules (see for instance Article 100.7.3 GR). Therefore, UAEERF is obliged, as a member of FEI, to ensure that the financial sanctions are paid by the DEV and the EIEV;
 - however, with respect to the joint liability for the payment of the fines, no legal basis can be found in the FEI rules for its direct imposition on the NF. Indeed, the position of the FEI appeared based on the assumption that the 2020 Events had been jointly organized by the UAEERF and the Organising Committees, a position that was challenged by the Appellants and appeared to be no longer pursued by the FEI in the course of the arbitration. To this extent, therefore, the joint liability for the fines (beyond the mentioned obligation to ensure that they are paid by the Organising Committees) must consequently be set aside;
 - but a different conclusion can be reached with regard to the “organising dues”. In their respect, the Panel notes that the “Financial Charges”, which include the organising dues, are approved yearly by the FEI General Assembly (pursuant to Art. 10(x) of the Statutes), and are in principle due by the NF (Article 7 of the Statutes). The Respondent refers in this respect (§ 7.31.3 of the Answer) to a practice according to which they are eventually paid by the OCs, even though the NF is invoiced. As a result, since the payment of such “organising dues” appears to be imposed also on the NF, such dues joint liability can be confirmed .
112. In summary, the Panel finds that the imposition on the UAEERF of the legal costs and the finding of its joint liability for the payment of the fines should be set aside as they lack a legal basis.
113. With respect to the second point (measure of the sanction), the Panel notes that in the Decision (at para. 6.1) the FEI Board indicated the following criteria to be applicable for the purposes of the determination of an adequate sanction:

- i. the characteristics of the wrongdoing, *i.e.* whether they Appellants acted deliberately or otherwise, the impact of their wrongdoing, and any other aggravating and mitigating factors;
 - ii. the need to protect stakeholders and the sport from further wrongdoing;
 - iii. the need to deter the repetition of the wrongdoing; and
 - iv. the need to maintain the confidence of the sport's stakeholders that the FEI is ready to do what is necessary to maintain the integrity of the sport.
114. Such criteria have not been challenged *per se* by the Appellants, who only dispute their application. At the same time, however, the Appellants underlined the relevance of the principles of proportionality, legal certainty, equal treatment, and legitimate expectations, as being also required to make sanctions consistent with the requirements of competition law.
115. The Panel understands that in the final analysis quantification of the sanctions depends essentially on the application of a proportionality test, which has necessarily to take into account also the severity of the violation. The principle of proportionality requires thereto be a reasonable balance between the kind of the misconduct found and the sanction. More particularly that (i) the measure taken by the governing body is capable of achieving the envisaged goal, (ii) the measure taken by the governing body is necessary to reach the envisaged goal, and (iii) the constraints which the affected person will suffer as a consequence of the measure are justified by the overall interest to achieve the envisaged goal. In other words, to be proportionate a measure must not exceed what is reasonably required in the search of the justifiable aim (CAS 2005/C/976&986, , citing CAS precedents, legal doctrine and Swiss jurisprudence).
116. In addition, as conceded by the Appellants, a “proportionate” sanction, imposed in the pursuit of a legitimate objective and necessary to that objective, would also be consistent with the competition law requirements. A finding of proportionality, in addition, would also satisfy the principles of equal treatment and the protection of legitimate expectations: In fact, no expectation beyond the application of a proportionate sanction would be legitimate, and unequal treatment without justification would also not be proportionate.
117. In the case at stake, the Panel agrees with the Decision that violations for which the Appellants have been found responsible were, at least with respect to the 2020 Sheikh Mohammed Cup, “*knowing, deliberate and significant*”. Indeed, as remarked by the Respondent, the Appellants took the deliberate decision to organise the 2020 Events as CNs for the very purpose of subjecting them to the UAE national endurance rules. This action in itself is not questionable; a NF has the perfect right to organise CNs under its own rules. Therefore, the 2020 Events could be organised as CNs. However, the Appellants went beyond the exercise of such right, and organised the 2020 Events, very important and “rich” events, attracting athletes from a large number of foreign countries, in the same way as they were held in the preceding years. The 2020 Events were, indeed, in light of the number of “foreign riders”, CIs staged under the “label” of CNs.

118. The reason for such otherwise inexplicable behaviour can only be found in the opposition voiced by the UAEERF to the adoption of the 2020 FEI Endurance Rules, as somehow anticipated at the meetings where the reform of the endurance rules had been discussed: “*stop FEI rides and move to national ride*” (§ 10(ii) above). In other words, the Panel is satisfied that the illegal staging of events labelled as CNs, but having the nature of CIs, was a “*knowing and deliberate*” response to the adoption of the 2020 FEI Endurance Rules, which the UAEERF had opposed, especially where they might impact upon the Sheikh Mohammad Cup, a prestige event named after the UAE’s Ruler.
119. The violation is, therefore, severe, as it undermines the function of the FEI to govern its own rules, a function which is not *per se* against rules of competition law; as stated, the NFs are in fact not prevented from organising CNs and/or CIs. But if they so do, they must respect the rules that apply to those events. The adoption of sanctions is, therefore, wedded to the object sought.
120. The Panel, however, is not in a position to determine whether the decision to stage the 2020 Events as CNs and, therefore, to apply to them the domestic endurance rules was guided (as hinted by the Decision and by the Respondent in this arbitration) by the intent to secure the application of rules putting a minor emphasis on horse welfare. On top of sparse indications, no actual evidence was offered to show that such was the result sought (and achieved) by the Appellants. On balance, the Panel refers the conclusion on the evidence before it that the “*knowing and deliberate*” action to stage the 2020 Events as CNs was more a “political” response to the adoption of the 2020 FEI Endurance Rules than as a way to secure the ongoing conduct of competitions putting horse welfare in danger.
121. In light of the foregoing, the Panel finds that the suspension of the UAEERF and the fines to be paid by the Organising Committees have been imposed in an excessive measure:
- i. with respect to the suspension from the FEI membership, the Panel finds that a suspension of all activities until 31 December 2020 appears sufficient to achieve the purpose sought. The violation found is in respect of rules that apply not only to endurance events: as a result, the extension of the suspension to all activities is justified, as well as because of the fact that the UAEERF has already been sanctioned in the past for failure to comply with the FEI rules. However, a “prolongation” to 31 March 2021 of the suspension for the endurance activities seems unwarranted, as such extension would *de facto* involve the cancellation of the entire season (ending in March) for endurance events in the UAE and indirectly cover a much longer period. In that context, so as to avoid an “ultra activity” of the suspension beyond 31 December 2020, the Panel emphasise that the suspension of the UAEERF is not intended to preclude any administrative preparatory activity (including entry into the FEI calendar) of events to take place after the suspension ceases to have effect; and
 - ii. with respect to the fines, the Panel finds their measure to be excessive: Fines corresponding to 25% of the prize money awarded are in the Panel’s opinion

capable of achieving the envisaged goal, without exceeding what is reasonably required in the pursuit of the proper aim of sanctioning the violations proportionately, and deterring their repetition.

122. On the other hand, the Panel finds that the “organising dues” have to be paid in their entirety, *i.e.* in the undisputed measure that should have been paid if the 2020 Events had been properly staged as CIs.
123. In summary, the suspension of the FEI membership and the joint liability for the payment of the “organising dues”, as imposed on the UAEERF, as well as the fines to be paid by the Organising Committees, as set by the Decision, must be reduced. The payment by the Organising Committees of the “organising dues” in the measure indicated in the Decision has to be confirmed.

X. COSTS

124. The present proceedings concern an appeal brought against a Decision issued by an international federation (FEI), which found the Appellants responsible for violations of its rules and sanctioned them. The Panel notes, however, that the Decision challenged in this arbitration is not of purely disciplinary nature, as it involves predominantly financial issues, including the payment of “organising dues”, which should have been paid had the 2020 Events been properly organised as CIs. As a result, the Panel finds that Article 65 CAS Code does not apply and the matter of costs is covered by Article R64.4 CAS Code.

125. Article R64.4 CAS Code provides as follows:

“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:

- the CAS Court Office fee,*
- the administrative costs of the CAS calculated in accordance with the CAS scale,*
- the costs and fees of the arbitrators,*
- the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale,*
- a contribution towards the expenses of the CAS, and*
- the costs of witnesses, experts and interpreters.*

The final account of the arbitration costs may either be included in the award or communicated separately to the parties. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.”

126. Article R64.5 CAS Code provides as follows:

“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to

grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”

127. Having taken into account the outcome of the arbitration, the Panel finds it reasonable and fair that the costs of the arbitration, in an amount that will be determined and notified to the Parties by the CAS Court Office, shall be borne 50% by the Appellants and 50% by the Respondent, *i.e.* 1/6th by the UAEERF, 1/6th by the DEC, 1/6th by the EIEV, and 1/2 by the FEI.
128. Furthermore, pursuant to Article R64.5 CAS Code also in consideration of the outcome of the arbitration, but additionally of the conduct and the relative financial resources of the Parties, the Panel rules that all Parties shall bear their own legal fees and other expenses incurred in connection with the present arbitration proceedings.

ON THESE GROUNDS

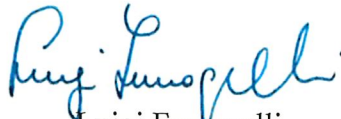
The Court of Arbitration for Sport rules:

1. The appeal filed by the UAE Equestrian and Racing Federation, Dubai Equestrian Club and Emirates International Endurance Village against the Fédération Equestre Internationale (FEI) with respect to the decision rendered by the FEI Board on 24 September 2020 is partially upheld.
2. The decision rendered by the FEI Board on 24 September 2020 is set aside and is replaced by the following:
 - 2.1. The FEI membership of the UAE Equestrian and Racing Federation is suspended with respect to all FEI disciplines from 24 September 2020 until 31 December 2020. For the avoidance of doubts, the suspension of the UAE Equestrian and Racing Federation shall not be intended to preclude any administrative preparatory activity (including entry into the FEI calendar) of events to take place after the suspension ceases to have effect.
 - 2.2. The Dubai Equestrian Club is ordered to pay to the Fédération Equestre Internationale (FEI) with respect to the 2020 Sheikh Mohammed Cup:
 - 2.2.1. a fine in the amount of CHF 529,884, equal to 25% of the prize money awarded;
 - 2.2.2. organising dues in the amount of CHF 41,445.21.
 - 2.3. The Emirates International Endurance Village is ordered to pay to the Fédération Equestre Internationale (FEI) with respect to the 2020 President's Cup:
 - 2.3.1. a fine in the amount of CHF 246,558.50, equal to 5% of the prize money awarded;
 - 2.3.2. organising dues in the amount of CHF 69,561.58.
 - 2.4. The UAE Equestrian and Racing Federation is jointly liable with the Dubai Equestrian Club and the Emirates International Endurance Village for the payment of the organising dues (points 2.2.2 and 2.3.2 above).
3. The costs of this procedure, to be determined and served upon the parties by the CAS Court Office in accordance with Article R64 of the CAS Code, shall be shared as follows: 1/6th by the UAE Equestrian and Racing Federation, 1/6th by Dubai Equestrian Club and 1/6th by Emirates International Endurance Village, and 1/2 by the Fédération Equestre Internationale.
4. Each Party shall bear its own expenses incurred in connection with these arbitration proceedings.
5. All other and further claims or prayers for relief are dismissed.


Lausanne, 24 March 2021

Operative part issued on 17 November 2020


THE COURT OF ARBITRATION FOR SPORT



Luigi Funagalli
President of the Panel



Jeffrey G. Benz
Arbitrator



Michael J. Beloff QC
Arbitrator