

Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2019/A/6420 Joris Vanspringel v. South African National Federation and Fédération Equestre Internationale

CONSENT ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition

Sole Arbitrator: Mr. Jeffrey G. Benz, Attorney-at-Law and Barrister in Los Angeles, California and London, United Kingdom

in the arbitration between

Mr. Joris Vanspringel, Belgium

Represented by Mr. Luc Schelstraete and Mr. P.M. Wawrzyniak, Attorneys-at-Law with Schelstraete Advocaten in JC Oisterwijk, Netherlands

Appellant

and

South African Equestrian Federation, South Africa

Represented by Mr. Wessel Strauss, Secretary General of the South African Equestrian Federation

First Respondent

Fédération Equestre Internationale, Switzerland

Represented by Ms. Anna Thorstenson and Ms. Ana Kricej, FEI Legal Counsel, Lausanne, Switzerland

Second Respondent

I. PARTIES

1. Mr. Joris Vanspringel (the “Appellant”) is a national of Belgium, registered with the Fédération Equestre Internationale (the “FEI” or the “Respondent”) as a jumping rider. He is an accomplished eventing rider having competed in four Olympic Games
2. The FEI is the international governing body for all Olympic equestrian disciplines, including show-jumping, recognized as such by the International Olympic Committee. It is a Swiss private association headquartered in Lausanne. As part of its governance responsibilities, the FEI issues regulations to protect the integrity of the sport and to protect riders and horses.
3. The South African Equestrian Federation (“SAEF”) is the FEI member organized to govern equestrian disciplines in South Africa and is recognized as such by the FEI.

II. FACTUAL BACKGROUND OF THE DISPUTE

4. On 17 November 2018, Mr. Vanspringel held a clinic at the Stadium Eventing/Cross Country Clinic at Fourways Riding Centre in South Africa,
5. On 20 January 2019, the FEI received a letter from the SAEF, who explained that the SAEF in its turn, had received a letter of complaint from one of its members concerning the rider Mr. Joris Vanspringel in November 2018. Mr. Vanspringel was alleged to have committed horse abuse during the clinic.
6. The SAEF handed this complaint over to the FEI since Mr. Vanspringel was not a member of the SAEF, but is registered under the Belgian National Federation and is under FEI jurisdiction.
7. On 15 August 2019, the FEI tribunal rendered its Decision finding that:

“1. The Protest is admissible.

2. Mr. Vanspringel has engaged in horse abuse and thereby violated Article 142 of the GRs.

3. Mr. Vanspringel shall be suspended for a period of nine (9) months starting from the date of the present decision.

4. Mr. Vanspringel shall be fined three thousand Swiss Francs (CHF 3,000).

5. Mr. Vanspringel shall contribute three thousand Swiss Francs (CHF 3,000) towards the cost of these proceedings.”

III. SUMMARY OF THE PROCEEDINGS BEFORE THE CAS

8. On 20 August 2019, Mr. Vanspringel filed his statement of appeal with the CAS, proposing Mr. Jeffrey G. Benz, Attorney-at-Law and Barrister in Los Angeles and London as Sole Arbitrator.

9. Within the statement of appeal, Mr. Vanspringel applied for provisional measures.
10. On 23 August 2019, the President of the Appeals Arbitration Division rejected the request for provisional measures.
11. On the same day, 23 August 2019, the Second Respondent filed a request to intervene in this procedure.
12. On 5 September 2019, the First Respondent confirmed its agreement that Mr. Benz be appointed Sole Arbitrator in this procedure.
13. On 11 September 2019, the CAS Court Office, on behalf of the President of the Appeals Arbitration Division, confirmed the appointment of Mr. Benz as Sole Arbitrator.
14. On 29 October 2019, the Sole Arbitrator confirmed the intervention of the Second Respondent as a party to this procedure.
15. On 18 November 2019, the Second Respondent filed its Answer with the CAS.
16. The Second Respondent never filed an answer or made any other submissions in the CAS proceeding.
17. On 3 December 2019, the Respondents signed and returned the Order of Procedure.
18. On 5 December 2019, the Appellant signed and returned the Order of Procedure.
19. On 10 December 2019, the Sole Arbitrator conducted a hearing in this matter in Lausanne. During the course of the hearing, the Parties engaged in settlement discussions and ultimately, the case was resolved. The Parties requested that the Sole Arbitrator confirm the Parties' agreement into a Consent Award and determined that the reasons for the Division President's request for provisional measures (denying the Appellant's request) were no longer needed.

IV. JURISDICTION

20. The jurisdiction of the CAS, which is not disputed, derives from the FEI General Regulations, specifically Articles 165.1 and 162.
21. It follows that the CAS has jurisdiction to decide the Appeal.

V. ADMISSIBILITY

22. Article R49 of the Code provides as follows:

In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit

for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late.

23. As appears from the above chronology, the Appeal was timely filed, having been filed within 5 days after issuance of the FEI decision being appealed.
24. Following the above chronology of submissions filed with the CAS Court Office, and noting that no party objected to the admissibility of this procedure, it follows that the Appeal is admissible.

VI. THE SETTLEMENT AGREEMENT

25. The Settlement Agreement executed on 10 December 2019 between Mr. Vanspringel and the FEI, which has been voluntarily submitted by the Parties to the Sole Arbitrator, and which has been confirmed to represent their agreement containing a complete, comprehensive, and final resolution of their dispute, states in pertinent part as follows:

“NOW, THEREFORE, the Parties agree as follows:

1. Considerations

1.1 On 15 August 2019 the FEI Tribunal in its Decision, following a protest filed by the SAEF to the FEI, suspended Mr Vanspringel for a period of nine (9) months for horse abuse.

1.2 Mr Vanspringel denied the horse abuse charges and appealed the FEI Tribunal Decision to the Court of Arbitration for Sport ("the CAS"). The case has been registered with the CAS under number CAS 2019/A/6420.

1.3 The hearing before the sole arbitrator, Mr. Jeffrey Benz, has taken place on 10 December 2019. The Parties have maintained their views with regards to the matter at hand as set out inter alia in the Appeal Brief and the FEI's Answer to the Appeal Brief. During the preliminary stage of this hearing the Parties reached a settlement agreement.

1.4 On 10 December 2019 the Parties settled the pending appeal of Mr Vanspringel (CAS 2019/A/6420) against the SAEF and the FEI on the following terms and conditions (the "Settlement Agreement").

2. Terms of the Agreement

2.1 The Parties have agreed that the final suspension period imposed on Mr Vanspringel shall be six (6) months. Mr Vanspringel's suspension shall therefore run from 15 August 2019 until 15 February 2020.

2.2 Each of the Parties shall bear his/her/its legal costs related to this matter.

2.3 The fine of CHF 3.000, which the FEI Tribunal imposed on Mr. Vanspringel, remains valid and has already been paid to the FEI.

2.4 The CAS shall confirm this Settlement Agreement by virtue of a Consent Award.

2.5 The Parties respectfully ask the CAS Panel to accept the terms of this Settlement Agreement.”

VII. RATIFICATION AND INCORPORATION OF THE SETTLEMENT AGREEMENT BY THE CAS

26. In accordance with Article R65, para. 2, second sentence, of the Code “[a]ny settlement may be embodied in an arbitral award rendered by consent of the parties.”
27. Therefore, the Sole Arbitrator is expressly allowed to issue an award embodying the terms of the settlement, if all parties to the dispute agree. The Sole Arbitrator’s endorsement of the Settlement Agreement and incorporation in an award is designed to facilitate the Parties’ enforcement of the Settlement Agreement.
28. Under Swiss law, an arbitration tribunal sitting in Switzerland may issue an award embodying the terms of the parties’ settlement, if the contesting parties agree to such a termination of their dispute. The Sole Arbitrator’s ratification of the Parties’ Settlement Agreement and its incorporation into this Consent Award is designed to vest the Settlement Agreement with a *res judicata* effect and to enable the enforcement of their agreement.
29. All the Parties to the present dispute have agreed to embody part of the Settlement Agreement in a consent award. However, the Sole Arbitrator must verify the *bona fide* nature of the Settlement Agreement to ensure that the Parties are not manipulating the consent award mechanism as an instrument of fraud, and that settlement terms are not contrary to public policy principles or mandatory rules of the law applicable to the dispute.
30. The Sole Arbitrator has carefully considered the Settlement Agreement and its terms as well as the evidence on file, and finds no grounds to object to the terms of the Settlement Agreement and is satisfied that the Settlement Agreement constitutes a *bona fide* settlement of the dispute brought to its attention.
31. In addition, the Sole Arbitrator adds that it deems the partial final decision of the FEI Tribunal dated 24 May 2019 null, as a natural consequence of the terms of the Settlement Agreement, *i.e.*, FEI dismissing the charges against the Appellant in its entirety.
32. Accordingly, by consent, an award is made directing the Parties to comply with all the terms of the Settlement Agreement. The Settlement Agreement and Consent Award thus terminate the CAS arbitration number CAS 2019/A/6240 *Joris Vanspringel v South African Equestrian Federation and Fédération Equestre Internationale (FEI)*.

33. The Parties agreed on the record at the hearing after concluding the material terms of their settlement agreement that they would not require the CAS to issue reasons for the operative order on Mr. Vanspringel's request for provisional measures. Further to a consultation with the President of the CAS Appeals Division, the parties' request is exceptionally accepted in view of the particular circumstances of the case.

VIII. COSTS

34. Article 65.1 of the Code reads as follows:

"This Article applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the panel on the issue".

35. In addition, Article R65.2 of the Code provides as follows:

"Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS.

Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000. – without which CAS shall not proceed and the appeal shall be deemed withdrawn.

If an arbitration procedure is terminated before a Panel has been constituted, the Division President shall rule on costs in the termination order. She/he may only order the payment of legal costs upon request of a party and after all parties have been given the opportunity to file written submissions on costs."

36. Further, Article R65.3 of the Code provides:

"Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award 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 of the outcome of the proceedings, as well as the conduct and financial resources of the parties."

37. This procedure is free of charge, save for the CHF 1,000 filing fee which is retained by the CAS Court Office. The Sole Arbitrator further notes that the Parties have considered the apportionment of legal costs and expenses in the Settlement Agreement. The Panel finds no reason to deviate from the agreement reached by the Parties.

ON THESE GROUNDS


The Court of Arbitration for Sport rules that:

1. The Sole Arbitrator, with the consent of Joris Vanspringel and the FEI, hereby ratifies the Settlement Agreement executed by Joris Vanspringel and the FEI on 10 December 2019 and incorporates its terms into the consent award.
2. Each party is hereby ordered to perform the obligations and duties as per the Settlement Agreement referred to above.
3. The award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by Joris Vanspringel, which is retained by the CAS.
4. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 5 February 2020

THE COURT OF ARBITRATION FOR SPORT

A handwritten signature in black ink, appearing to read 'Jeffrey G. Benz', with a stylized, flowing script.

Jeffrey G. Benz
Sole Arbitrator