



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2022/A/8676 Hicham Gharib v. Fédération Equestre Internationale (FEI)
CAS 2022/A 8677 Esam Zbibi v. Fédération Equestre Internationale (FEI)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr. Jordi **López Batet**, Attorney-at-law, Barcelona, Spain
Arbitrators: Mr. Gabriel **Feldman**, Professor of Law, New Orleans, USA
Ms. Annett **Rombach**, Attorney-at-law, Frankfurt am Main, Germany

in the arbitration proceedings between

Hicham Gharib, Sharjah, United Arab Emirates

and

Esam Zbibi, Sharjah, United Arab Emirates

Represented by eQuest Law – Legal Consultants Limited, Abu Dhabi, United Arab Emirates

- Appellants -

v.

Fédération Equestre Internationale, Lausanne, Switzerland

Represented by Mr. Jonathan Taylor, Ms. Lauren Pagé and Mr. Jumani Robbins, Bird & Bird LLP, London, United Kingdom and Ms. Louise Reilly, Dublin, Ireland

- Respondent -

I. PARTIES

1. Mr. Hicham Gharib is a registered jumping rider from Syria.
2. Mr. Esam Zbibi is a registered jumping rider from Great Britain.
3. Mr. Gharib and Mr. Zbibi will be jointly referred to as the “Appellants”.
4. The Fédération Equestre Internationale (“FEI” or the “Respondent”) is the international governing body for the equestrian sport disciplines of dressage, jumping, eventing, driving, endurance, vaulting, reining, para-equestrian dressage and para-driving.
5. The Appellants and the Respondent will be jointly referred to as the Parties.

II. BACKGROUND FACTS

6. The elements set out below are a summary of the main relevant facts, as established on the basis of the written submissions of the Parties, the exhibits produced as well as the evidence examined in the course of the proceedings. Additional facts and allegations may be set out, where relevant, in connection with the ensuing legal discussion. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, in its award reference is made only to the submissions and evidence the Panel considers necessary to explain its reasoning.
7. From 23 February 2021 to 26 February 2021, a CSI3* show jumping event was held in Abu Dhabi, United Arab Emirates (the “Event”).
8. Mr. Gharib was registered to compete as a rider at the Event with his horse, Elton.
9. Mr. Zbibi was registered to compete as a rider at the Event with his horse, HH-Sigma (the “Horse”).
10. On 25 February 2021, an incident involving the Horse took place at the Event (the “Incident”). This Incident was reported by the Steward Lynn Al-Redha, the Chief Steward Ali Mohajer and the Foreign Judge Teodor Sheytanov, all of who were present at the Event, as follows:

- Steward (Lynn Al-Redha) Report:

“On 25 February 2021 I was the steward on duty in the warm-up arena for class No 8. I was positioned facing the main arena, with the entrance to the warm-up on my left. (I have attached a diagram of the exact positioning to give you a better idea of the scene). I noticed a horse stood in the small holding area, I recognized him as HH Sigma (105XP18), I also saw that there were 4 people around him. This is quite unusual for that area and the reason the ‘scene’ initially caught my attention. The people I observed with the horse were:

- 1) Hicham Gareb – 10033790*
- 2) Esam Zbibi – 10184793*
- 3) Lilac Kojak – 10148092*
- 4) Hicham Gareb’s Syrian Groom*

I observed the groom take a pair of hind boots out of a bag and proceed to put one on the horses right hind leg. The way he did it was very cautiously with his body angled away from the horse! He placed the boot high on the cannon bone, fairly loosely by what I could see, then quickly pushed it down to the horse’s fetlock. The reaction from the horse was immediate and excessive. It held the leg in the air and shook it several times before placing it on the floor and immediately lifting it again and shook it several times. At this point I radioed through to the chief Steward Mr. Ali Mohajer and asked him to come to the warm-up arena. While I was on the radio, I observed the groom putting the second boot on the left hind leg in exactly the same way, the horses’ reaction was just as immediate and severe. As I got off the radio Esam Zbibi mounted the horse and brought it into the warm-up arena, he immediately proceeded to jump warm-up fences under the guidance of his trainer Hicham Gareb, the hind leg action of the horse was extremely exaggerated. I asked one of my steward colleges (sic) to take over as Mr. Mohajer had come to the warm-up to discuss what I had seen. While we were talking about the situation, both Mr. Mohajer and I watched Hicham Gareb take the boots off the horse and run to the side of the warm-up arena with them. He proceeded to throw the boots into the brush/shrub area and then went back to the warm-up fences. At this point Mr. Mohajer walked over to the brush/shrub area where the boots were thrown and retrieved them. We both saw that there was a nail/sharp object in the boots and that there was blood around the area. It was at this point, that I returned to my position near the warm-up fences and Mr. Mohajer went to the judges’ box. [...]”

- Chief Steward (Ali Mohajer) Report:

“During the warming up prior to the competition, Lynn Al Redha (the steward on duty in at the WU) called me on radio and mentioned the horse of Esam Zbibi shows extreme reaction with his hind leg over the jump. I was on the side of the WU arena and started to walk to her but then I saw the trainer of the rider (Hicham Gharib) stopped the horse, removed the hind boots and threw them outside of the arena. I immediately went to the point and took the hind boots and checked them and figured out there are one nails inside of each of them (check the attached photos). I called the rider, looked at the horses leg and saw a small spot with blood on them. At

this point for me it was very clear and obvious what happened. I informed him about the situation, then called the PGJ. PGJ and the FJ came to the warm up. I explained them the case and after checking the boots and photos and listening to the rider and trainer explanations, they decided to disqualify the rider from the class and rest of the event and I issued a YWC for the rider. You can find All the photos, video of the horses leg and his reaction and a copy of the yellow card as attachment.”

- Foreign Judge (Teodor Sheytanov) Report:

“On 25 February 2021 during class No 8, CSI 3, Special Two Phases - the chief steward Ali MOHAJER reported the following:*

Approx. time of the accident 13:40.

The CS was informed by the steward at the warming up Lynn AL REDHA that horse HH SIGMA, FEI ID 105XP18 of rider ZBIBI, Esam (GBR), FEI ID 10184793 makes not normal jumps and bringing the hind legs too high.

She asked the CS to check the horse. At this moment the CS was at the end of the warming up and when he approached the horse the trainer GHAYB, Hisham (SYR) FEI ID 10033790 of the athlete removed the hind boots and throw them outside the warming up arena.

The CS found both hind boots and took them.

At every boot there was a nail and around the sharp part of the nail inside the boots there was a blood.

The case was brought to the attention of the PGJ and the FJ. The rider and the trainer were invited to provide their explanation. The rider said that he do not know who put these boots on his horse.

The trainer said that he throw (sic) boots but they were not the boots which the CS showed him.

The decisions are:

- CS issue yellow warning card to the athlete ZBIBI, Esam (GBR), FEI ID 10184793 for horse abuse. The yellow warning card was given to the athlete and he signed it.*
- President of GJ disqualify the above mentioned athlete and his horse HH SIGMA, FEI ID 105XP18 (this was the only horse of the rider at the event) until the end of the event.*
- The FJ to report the trainer GHAYB, Hisham (SYR) FEI ID 10033790 to FEI for horse abuse.”*

11. On 3 March 2021, the FEI notified the Appellants of the opening of an investigation because of the Incident.
12. On 10 March 2021, Mr. Gharib submitted his position in the investigation process, rejecting the commission of any violation.
13. On 29 March 2021, Mr. Zbibi submitted his position in the investigation process, denying any wrongdoing.

III. PROCEEDINGS BEFORE THE FEI TRIBUNAL

14. On 28 June 2021, the FEI submitted to the FEI Tribunal two separate claim briefs against Mr. Gharib and Mr. Zbibi, requesting the FEI Tribunal to impose on them a sanction of suspension and fine for the breach of various provisions of the FEI General Regulations (the “GR”).
15. On 13 July 2021, the Chair of the FEI Tribunal acknowledged receipt of the claims submitted by the FEI with respect to Mr. Gharib and Mr. Zbibi, informed the parties that he considered that the cases against them were based on the same factual background and therefore could be adjudicated together and invited Mr. Gharib and Mr. Zbibi to submit their positions on the sanctions requested by the FEI.
16. On 17 July 2021, Mr. Zbibi submitted his position in response to the FEI’s charges.
17. On 1 August 2021, Mr. Gharib submitted his position in response to the FEI’s charges.
18. On 16 August 2021, the FEI Tribunal informed the parties that, because no request for an oral hearing had been made, the matter would be determined on the basis of the written submissions only.
19. On 2 February 2022, the FEI Tribunal, after having gone through the written submissions filed by the Parties, rendered the following decision (the “Appealed Decision”):

“With respect to Mr. Esam Zbibi

For the above reasons and in accordance with Articles 142.1, 159.2, 164.5, 164.7, 164.12 let. B, 164.13 and 164.14 of the FEI General Regulations, the Tribunal therefore decides as follows:

- 1) *Esam Zbibi has engaged in Horse Abuse and thereby violated Article 142 of the FEI General Regulations.*
- 2) *Consequently, Esam Zbibi is suspended for a total period of four (4) years, starting from the date of his decision. Consequently, he is suspended until 1 February 2026.*

- 3) *Esam Zbibi is fined ten thousand Swiss Francs (CHF 10,000).*
- 4) *Esam Zbibi is ordered to pay two thousand Swiss Francs (2,000) towards the cost of these proceedings.*

With respect to Mr. Hicham Gharib

For the above reasons, and in accordance with Articles 159.2, 164.5, 164.7, 164.12 let. A, 164.13 and 164.14 of the FEI General Regulations, the Tribunal therefore decides as follows:

- 1) *Hicham Gharib has engaged in Incorrect Behaviour and thereby violated Article 164.12 let. A of the FEI General Regulations.*
- 2) *Consequently, Hicham Gharib is suspended for a total period of one (1) year, starting from the date of this decision. Consequently, he is suspended until 1 February 2023.*
- 3) *Hicham Gharib is fined five thousand Swiss Francs (CHF 5,000).*
- 4) *Hicham Gharib is ordered to pay two thousand Swiss Francs (CHF 2,000) towards the cost of these proceedings.*

During the period of a Suspension, the person, Horse or body suspended may take no part in Competitions or Events as an Athlete, Horse or Official or in the organisation of, any Event under the jurisdiction of the FEI or any Event under the jurisdiction of an NF in accordance with the Statutes or in any FEI related activity (e.g. FEI courses, meetings, General Assembly, etc.), Article 164.7 of the FEI General Regulations.

According to Article 165 of the FEI General Regulations, this Decision is effective from the date of its oral or written notification to the affected party or parties.

According to Articles 162.1 and 162.7 of the FEI General Regulations, this Decision may be appealed to the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.”

20. On 2 February 2022, the Parties were notified of the grounds of the Appealed Decision. The FEI Tribunal’s reasoning may be briefly summarized as follows:

- Contrary to Mr. Gharib’s contention, no procedural deficiencies tainted the matter.
- Mr. Zbibi is guilty of a violation of Horse Abuse as he abnormally sensitized the horse, which was clearly wounded and hurt by the use of pins in its boots. The photographs taken and the FEI officials reports are clear on this, and there is no reason to put these reports in doubt. The factual explanations on the Incident given by Mr. Zbibi are not credible. The sanction imposed on Mr. Zbibi is consistent with the GR provisions and in imposing it, it was taken into account on one side that Mr. Zbibi had clean records,

but on the other side that the offence was deliberate, Mr. Zbibi showed no remorse, and that the injury had long consequences for the Horse.

- Mr. Gharib is guilty of a violation of Incorrect Behaviour as he assisted and conspired in the damaging conduct and covered up the violation -he took the boots off the Horse and threw them outside the warm-up arena-. He also committed a breach of the FEI Code of Conduct, but this breach is subsumed within the violation of Incorrect Behaviour. The sanction imposed is consistent with the GR provisions, and in imposing it, the FEI Tribunal took into account on one side Mr. Gharib's clean records and the fact that he gained no advantage with the violation, but on the other side that the offence was deliberate, Mr. Gharib showed no remorse, and that the injury had long consequences for the Horse.

21. On 7 February 2022, Mr. Gharib requested the FEI Tribunal to clarify the scope of the suspension imposed on him ("*could you please confirm that I can attend Competitions and Events as a trainer or spectator*"). This request was replied by a FEI Legal Counsel on the same date as follows:

"You can ride and train your own horses at home. You cannot ride and train your own horses at official places, for example clinics or activities organised by your federation (or clubs affiliated to your federation).

You can attend competitions as a spectator. But not as trainer. You cannot have a function at any event and being a trainer at a competition is considered having a function. [...]"

22. On 15 February 2022, the FEI Tribunal Chair replied to Mr. Gharib's clarification on the scope of his suspension in the following terms: "*[I]n this regard, please note that training FEI Athletes and FEI Horses at FEI Events is to be considered as a FEI related activity. The same applies to Events organized by and within the FEI's National Federations. In view of the above, please note that you are therefore not entitled to attend Competitions and Events as a Trainer. You are however entitled to do so as a spectator, and you are also entitled to ride your own Horses at home (but not at official places)*".

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

23. On 20 February 2022, Mr. Gharib filed a Statement of Appeal, serving as Appeal Brief, with the Court of Arbitration for Sport (the "CAS") with respect to the Appealed Decision. In his Statement of Appeal, Mr. Gharib appointed Mr. Gabriel Feldman as arbitrator, requested the procedure to be conducted in an expedited manner and submitted the following prayers for relief:

“8.1. Appellant respectfully requests the Panel (and with respect to 8.1.1., the President of the Division of Appeal, if a Panel is not appointed) to:

8.1.1 Order, on an urgent basis, staying the execution of the respective parts of the Decision which relate to the Appellant and lifting the sanctions imposed on the Appellant with immediate effect pending final determination of the Appeal;

8.1.2 Set aside the respective parts of the Decision which relate to the Appellant and cancel all sanctions imposed on the Appellant;

8.1.3 Declare that the FEI Tribunal failed to apply the doctrines of contra proferentem (an ambiguous provision must be construed most strongly against the person selected the language) and nullify the interpretation of the FEI Tribunal and the Respondent of the Decision that “training athletes and horses at FEI events or events organized by National Federations is not permitted during a period of suspension” as explained in section 5.7 of the Appeal;

8.1.4 Order the Respondent to compensate the Appellant for the actual and reputational damages and losses suffered as a result of Respondent’s false allegations and unfounded claims, currently estimated to be in the amount of CHF 10,000;

8.1.5 Order the Respondent to pay all costs of proceedings, including Respondent’s (sic) legal representatives’ costs and expenses; and

8.1.6 Order any further and/or additional relief as the Panel may deem appropriate.

8.2 Appellant reserves his right to further develop his arguments and the amount of relief he is seeking in view of any further accusations, submissions or prolonged proceedings.

8.3 The Appellant believes (at this stage) that the Panel will be sufficiently well-informed of the facts in issue to make a decision on the submissions without the need for an oral hearing in order to avoid a lengthy process that would result in additional costs and exhaust more resources. However, the Appellant reserves the right to request an oral hearing (if necessary) and/or submit further evidence if allowed as per the applicable CAS Rules.”

24. On 22 February 2022, Mr. Zbib filed a Statement of Appeal with the CAS with respect to the Appealed Decision. In his Statement of Appeal, Mr. Zbib appointed Mr. Gary R. Roberts as arbitrator and submitted the following prayers for relief:

“6.1. Appellant respectfully requests to the Panel to:

6.1.1 Set aside the respective parts of the Decision which relate to the Appellant and cancel all sanctions imposed on the Appellant;

6.1.2 Order the Respondent to compensate the Appellant for the actual and reputational damages and losses suffered as a result of Respondent's false allegations and unfounded claim, currently estimated to be in the amount of CHF 5,000;

6.1.3 Order the Respondent to pay all costs of proceedings, including Appellant's legal representatives' costs and expenses; and

6.1.4 Order any further and/or additional relief as the Panel may deem appropriate.

6.2 Appellant reserves his right to further develop his arguments and the amount of relief he is seeking in view of any further accusations, submissions or prolonged proceedings."

25. On 23 February 2022, Mr. Gharib sent a letter to the CAS Court Office withdrawing the relief sought in 8.1.4 of its Statement of Appeal and correcting a typo in paragraph 8.1.5 of its request for relief, that should read as follows:

"8.1.5 Order the Respondent to pay all costs of proceedings, including Appellant's legal representatives' costs and expenses [...]"

26. On 23 February 2022, the CAS Court Office notified the Respondent of Mr. Gharib's Statement of Appeal and Appeal Brief, and requested that the Respondent, *inter alia* (i) submit its Answer to the appeal, (ii) file its comments on Mr. Gharib's request to conduct the proceedings in an expedited manner and (iii) file its position of Mr. Gharib's request for provisional measures.

27. On 23 February 2022, the Respondent sent a letter to the CAS Court Office requesting an extension of the deadline to submit its comments to the request for provisional measures filed by Mr. Gharib and informing that it did not consent to an expedited procedure in that appeal.

28. On 24 February 2022, the CAS Court Office informed the Parties that a deadline extension until 2 March 2022 to file its comments on the request for provisional measures made by Mr. Gharib was granted to the Respondent.

29. On 24 February 2022, the CAS Court Office sent a letter to the parties of the appeal filed by Mr. Zbibi in which it, *inter alia*, (i) notified Mr. Zbibi's Statement of Appeal to the Respondent, (ii) invited Mr. Zbibi to file his Appeal Brief, (iii) informed the parties that another appeal had been filed by Mr. Gharib with respect to the same Appealed Decision (CAS 2022/A/8676), (iv) invited the parties to inform whether they agreed to consolidate the proceedings with the case CAS 2022/A/8676 and (v) invited the Respondent to comment on Mr. Zbibi's request to conduct the proceedings in an expedited manner.

30. On 24 February 2022, the Respondent sent a letter to the CAS Court Office informing that (i) it did not agree with Mr. Gharib's request for an expedited procedure and (ii) it agreed with the consolidation of the proceedings CAS 2022/A/8676 and CAS 2022/A/8677.
31. On 25 February 2022, the Appellants sent a letter to the CAS Court Office informing that they both agreed to consolidate the proceedings CAS/A/8676 and CAS/A/8677, and that in view of this consolidation, Mr. Zbibi decided to change his selection of arbitrator and to also nominate Mr. Gabriel Feldman as arbitrator in the proceeding CAS 2022/A/8677.
32. On 28 February 2022, Mr. Zbibi filed its Appeal Brief, seeking the following relief:
- “8.1. Appellant respectfully requests the Panel to:*
- 8.1.1 Set aside the respective parts of the Decision which relate to the Appellant and cancel sanctions imposed on the Appellant;*
- 8.1.2 Order the Respondent to pay all costs of proceedings, including Appellant's legal representatives' costs and expenses; and*
- 8.1.3 Order any further and/or additional relief as the Panel may deem appropriate.*
- 8.2 Appellant reserves his right to further develop his arguments and the amount of relief he is seeking in view of any further accusations, submissions or prolonged proceedings.*
- 8.3 The Appellant believes (at this stage) that the Panel will be sufficiently well-informed of the facts in issue to make a decision on the submissions without the need for an oral hearing in order to avoid a lengthy process that would result in additional costs and exhaust more resources. However, the Appellant reserves the right to request an oral hearing (if necessary) and/or submit further evidence if allowed as per the applicable CAS Rules.”*
33. On 28 February 2022, the CAS Court Office invited the Respondent to file its Answer to the Appeal Brief filed by Mr. Zbibi within 20 days.
34. On 2 March 2022, the Respondent objected to Mr. Gharib's request for urgent provisional measures and nominated Ms. Anita DeFranz as arbitrator in these proceedings.
35. On 3 March 2022, the CAS Court Office informed the Parties that (i) the proceedings CAS 2022/A/8676 and CAS 2022/A/8677 were consolidated in light of the Parties' agreement, (ii) Mr. Zbibi had decided to change his arbitrator's initial nomination from Mr. Gary Roberts to Mr. Gabriel Feldman in light of the consolidation of the proceedings, and (iii) the President of the CAS Appeals Arbitration Division, or her Deputy, would render a decision on the request for provisional measures made by Mr. Gharib.

36. On 4 March 2022, the CAS Court Office notified the Parties that Mr. Gharib's request for provisional measures had been dismissed.
37. On 9 March 2022, the Respondent requested an extension of time to file its Answer to the Appeal Briefs, to which the Appellants opposed.
38. On 14 March 2022, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had decided to grant an extension to file the Answer to the Appeal Briefs until 31 March 2022.
39. On 1 April 2022, the Respondent filed its Answer to the appeals filed by Mr. Gharib and Mr. Zbibi, which section 6 (Conclusion) reads as follows:

“6.1 Based on the foregoing, the FEI respectfully requests that the CAS Panel dismiss the Appeals in their entirety.

6.2 The Appellants requests that the CAS Panel “order the Respondent to pay all costs of proceedings, including [the Appellants’] legal representatives’ costs and expenses”, but provide no further basis, explanation, justification, or quantification. First, CAS Code Article R65.2 provides that in appeals against decisions exclusively of a disciplinary nature, “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”.

6.3 Second, the FEI respectfully submits that the Appellants’ request for a contribution towards their costs should be dismissed: the Appellants have chosen to bring the Appeals against a decision made by an independent body following disciplinary proceedings brought by the FEI in good faith, in the interests of the sport as whole, and in its regulatory capacity. An award of costs here against the FEI would be wholly inappropriate, especially in circumstances where the Appellants engaged in clearly reprehensible conduct towards a horse. Instead, the FEI submits that the Appellants should make a substantial contribution to the FEI’s costs of defending the Appeals, which involved instructing external counsel, pursuant to CAS Code Article R65.3.”

40. On 1 April 2022, the CAS Court Office sent a letter to the Parties in which after having received the Respondent's Answer, it was noted that (i) the Parties did not find it necessary to hold a hearing in this case and (ii) the Respondent would be willing to undertake DNA analysis of the dried blood spots in the Horse's boots, provided that the Appellants could arrange for the Respondent to have access to the Horse so that a reference blood sample may be collected. In light of the aforementioned, the CAS Court Office invited the Appellants to inform whether they would agree to grant access to the Horse so that a reference blood sample may be collected.

41. On 5 April 2022, the Appellants sent a letter to CAS Court Office in which they informed that the Horse had been sold in June 2021 to a new owner, so neither of the Appellants could provide access to the Horse, and additionally stated that the DNA analysis request made by the Respondent was irrelevant to the case.
42. On 6 April 2022, the Respondent sent a communication to the CAS Court Office in which it noted that the Horse had been sold to a new owner and agreed with the Appellants that the case should be resolved based on the Parties' written submissions.
43. On 11 April 2022, the CAS Court Office informed the Parties that Ms. Anita de Frantz, nominated by the Respondent as arbitrator, was not in position to accept such nomination.
44. On 13 April 2022, the Respondent sent a letter to the CAS Court Office informing about the nomination of Ms. Annett Rombach as arbitrator.
45. On 11 May 2022, on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present dispute had been constituted as follows:

President: Mr. Jordi López Batet, Attorney-at-law in Barcelona, Spain.

Arbitrators: Mr. Gabriel Feldman, Professor of Law in New Orleans, USA;
Ms. Annett Rombach, Attorney-at-law in Frankfurt am Main, Germany.
46. On 17 May 2022, the CAS Court Office (i) invited the Parties to confirm that they did not find it necessary to hold a hearing in this case (which they did) and (ii) informed the Parties that the Horse DNA analysis proposed by the Respondent would not be conducted given the impossibility of providing access to the Horse.
47. On 20 May 2022, the CAS Court Office informed the Parties that considering their position in that respect, the Panel had decided not to hold a hearing in these proceedings.
48. On 24 May 2022, the Respondent sent a letter to the CAS Court Office informing that the FEI had opened disciplinary proceedings against the Appellants for an alleged breach of the suspensions imposed on them in the Appealed Decision.
49. On 25 May 2022, the Appellants filed their comments on the Respondent's letter of 24 May 2022 and requested the Panel to dismiss the Respondent's allegations on the basis of article R56 of the CAS Code.

50. On 30 May 2022, the Appellants filed a letter to the CAS Court Office referred to the alleged breach of their suspension.
51. On 1st June 2022, the Appellants filed an email to the CAS Court Office also referred to the alleged breach of their suspension.
52. On 1st June 2022, the CAS Court Office informed the Parties that the Respondent's letter dated 24 May 2022 and its attachments were admitted to the file, without prejudice of the probationary value that these may have on the specific issue to be resolved by the Panel, and invited the Respondent to comment on the Appellants' letter of 30 May 2022.
53. On 1 June 2022, the grounds of the Order on Provisional Measures notified to the Parties on 4 March 2022 were issued.
54. On 3rd June 2022, the Respondent (i) informed the CAS Court Office that it had withdrawn the disciplinary proceedings opened against Mr. Zbibi for an alleged breach of his suspension and enclosed the relevant FEI letter of withdrawal dated 2nd June 2022, and (ii) requested the CAS an extension to comment on Mr. Gharib's position on the accusation of breach of his suspension (which the CAS granted until 9 June 2022 by virtue of a letter of its Court Office dated 8 June 2022).
55. On 9 June 2022, the Respondent confirmed that it would be prosecuting the disciplinary case against Mr. Gharib for an alleged non-compliance with the suspension imposed by the Appealed Decision.
56. On 13 June 2022, the CAS Court Office (i) took note of the fact that the FEI confirmed that it would be prosecuting the disciplinary case against Mr Gharib for alleged non-compliance with his suspension and (ii) with respect to the additional correspondence filed by the Parties (including the Appellant's letter of 30 May 2022 and email of 1st June 2022 and their respective attachments, and the Respondent's letters of 2, 3 and 9 June 2022), the Parties were informed that all such correspondence would be admitted to the file (without prejudice of the probationary value that these may have on the specific issue to be resolved by the Panel). In addition, the Parties were requested to sign the Order of Procedure enclosed to the CAS Court Office letter of 13 June 2022, which the Respondent and the Appellants did on 14 and 15 June 2022, respectively.

V. SUBMISSIONS OF THE PARTIES

57. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each contention put forward by them. However, in considering and deciding upon the Parties' claims, the Panel has carefully considered all the submissions made and the evidence adduced by the Parties, even if there is no specific reference to those submissions in this section of the award or in the legal analysis that follows.

A. Mr. Gharib

58. Mr. Gharib's submissions, in essence, may be summarized as follows:

- The procedures that led to Mr. Gharib's sanction are full of deficiencies:
 - During the Event, Mr. Gharib did not receive any yellow warning card, was allowed to compete and was not informed of any violation or action to be taken against him.
 - There was never a protest filed in relation to the Incident against Mr. Gharib. The FEI officials did not submit any protest against Mr. Gharib signed by a FEI official within thirty (30) minutes after the announcement of the results of the relevant competition.
 - The Horse legs' photos and videos produced to the file were not taken on the date of the Event, but the day after.
 - The CSI3* Incident Report and the CS Additional Report are undated and unsigned, and were not prepared on the date of the Event.
 - The Chief Steward produced three reports in relation to the Incident and none of these were prepared and signed by the President Ground Jury or Foreign Judge at the Event in a form of a protest against Mr. Gharib together with evidence within 30 minutes of announcing the results of the competition.
 - The Boot Incident Report issued by the Steward was not signed or dated.
 - The provisions of Article 2.4 of the FEI Manual for Jumping Stewards and Veterinary Regulations and some relevant annexes were infringed: the Chief Steward claimed to have seen blood on the Horse hind legs, but none of the procedures established in such regulations were followed.

These deficiencies breach the principles of fairness and due process, affect the admissibility and authenticity of evidence and limit Mr. Gharib's ability to defend himself and receive a fair trial.

- Mr. Gharib neither assisted, nor conspired with, Mr. Zbibi in the commission of any abuse on the Horse.

No evidence supporting FEI's claim in this respect has been brought to the proceedings. The statements of the officials in their reports confirm that Mr. Gharib did not participate in the tacking of the Horse. In addition, there is no evidence that the boots showed by the Chief Steward were actually the boots that were used by the Horse in the warm-up. Mr. Zbibi's groom (Mr. Dib) was not even asked to participate in the investigation.

The Appealed Decision relies on assumptions and speculations to establish a causation between the alleged charge and the Horse abuse, while the principles of legality and predictability of sanctions require a clear connection between the incriminated behaviour and the sanction and call for a narrow interpretation of the respective provision. In addition, Mr. Gharib never rode the Horse before the Event in any national or international competitions.

- Mr. Gharib did not cover up any horse abuse violation by removing the Horse's hind boots. The FEI Tribunal built its conclusions and opinions in the Appealed Decision purely on the statements of the FEI officials which are inconsistent and contradictory, and it shall be taken into account that the reports of such officials were prepared after the Event, which gave the officials an opportunity to coordinate their explanations with guidance from the Respondent. The FEI did not provide any independent witness statements to support its claim.

In addition, it shall be taken into consideration that Mr. Gharib did not receive a Yellow Warning Card and was not disqualified and participated in the Event, which means that the FEI officials did not consider Mr. Gharib's action as an Incorrect Behaviour or a violation of the FEI regulations.

Furthermore, the speculation that the Incident is unlikely to be a sole incident is unfounded. Mr. Gharib has never been subjected to a violation or disciplinary hearing in the past and has never been engaged in any wrongful act or incorrect behaviour. Horses are subject to vet checks and inspections, and no issues were ever reported on the Horse.

The FEI Vet Report is not reliable evidence either, as its conclusions are based on assumptions and the experts' views have been largely influenced by the FEI's allegations.

- FEI did not comfortably satisfy its burden of proving that Mr. Gharib acted in this case as an Additional Person Responsible. Mr. Gharib was not Mr. Zbibi's trainer or a member of the Rider's support personnel in the Event. This is supported by a witness statement from Mr. Zbibi's groom.
- The Respondent asserted that Mr. Gharib's conduct is considered a criminal act according to Swiss Law. On the basis of this allegations, the standard of proof that the Panel must apply in this case is the "beyond reasonable doubt" standard and the evidence provided by the Respondent does not meet this standard.
- The sanction imposed on Mr. Gharib is not proportionate. The FEI Tribunal did not cite any precedent supporting the proportionality of the sanction it imposed, while Mr. Gharib refers to precedents in which the sanction imposed for similar conducts was more lenient.
- FEI abused its discretion in interpreting the Appealed Decision after it was issued to further penalise Mr. Gharib during the period of suspension. The Appealed Decision barred Mr. Gharib from taking part in competitions or events as an athlete. However, the FEI did not allow him to take part in other equestrian activities.

B. Mr. Zbibi

59. Mr. Zbibi submissions, in essence, may be summarized as follows:

- The procedures that led to Mr. Zbibi's sanction are full of deficiencies:
 - During the Event, Mr. Zbibi received a yellow warning card and was disqualified, but this was not accompanied by any other decision (i.e. he was not reported by the FEI officials for horse abuse).
 - There was never a protest filed in relation to the Incident against Mr. Zbibi. The FEI Officials did not submit any protest against Mr. Zbibi signed by a FEI official within thirty (30) minutes after the announcement of the results of the relevant competition.
 - The Horse legs' photos and videos produced to the file were not taken on the date of the Event, but the day after.

- The CSI3* Incident Report and the CS Report are undated and unsigned, and were not prepared on the date of the Event.
- The Chief Steward produced three reports in relation to the Incident and none of these was prepared and signed by the President Ground Jury or Foreign Judge at the Event in a form of a protest against Mr. Zbibi together with evidence within 30 minutes of announcing the results of the competition.
- The Boot Incident Report issued by the Steward was not signed or dated.
- The provisions of Article 2.4 of the FEI Manual for Jumping Stewards and Veterinary Regulations and some relevant annexes were infringed: the Chief Steward claimed to have seen blood on the Horse hind legs, but none of the procedures established in such regulations were followed.

These deficiencies breach the principles of fairness and due process, affect the admissibility and authenticity of evidence and limit Mr. Zbibi's ability to defend himself and receive a fair trial. The FEI Tribunal acted as an extension of the FEI rather than a neutral disciplinary body. The procedural deficiencies and irregularities make the FEI's claim inadmissible.

- There is no evidence that the boots found by the Chief Steward were the ones placed on the Horse and that their use was intentional, deliberate and predetermined to gain an advantage. The accusation of Abuse of Horse made by the FEI is based on false assumptions and speculation.

In this case, Mr. Zbibi's groom (Mr. Dib) placed the hind boots on the Horse's hind legs in the warm-up arena. Mr. Zbibi mounted the Horse and did the usual warm up, where he felt discomfort of the Horse and noticed that the Horse was not wearing the correct hind boots with sheep skin, which the Horse had started using recently because of its skin sensitivity and history of allergy. Mr. Zbibi decided to call his groom but could not find him, and saw Mr. Gharib in the warm-up arena waiting for his horse. Mr. Zbibi asked Mr. Gharib to remove the hind boots from the Horse, which he did and placed the boots outside. This was the real story, and not the one contained in the officials' reports, which is not supported by any witness or any kind of evidence. The Respondent did not provide a single photo or video with the Horse wearing the alleged boots with pins. The Horse legs' photos and videos produced were taken the day after the Event and are not admissible. The Judges did not investigate the warm-up arena or the stables, did not investigate the groom and did not call the treating vet.

- The FEI's entire claim is based on the Steward and Chief Stewards statements, but they did not provide any description of the boots that were placed on the Horse when the Horse entered the warm-up Arena. The Chief Steward did not state whether he saw nor provided any evidence (witness, photos or videos) of the boots that were placed on the Horse hind legs when the Horse entered the warm-up arena. His statement was based on what he heard from the Steward. There are many mistakes and contradictions in the Steward "Boot Incident Report". The photos and videos taken one day after the Incident cannot be relied upon as evidence of Abuse of Horse. The Respondent argued that the Horse was examined by the FEI Veterinary but this is not correct, only the Chief Steward checked the Horse, and it is highly likely that the blood allegedly found in the boots was the result of the Chief Steward stinging his finger with the nails on the boots. The FEI Vet Report is not reliable evidence either, as its conclusions are based on assumptions and the experts' views have been largely influenced by the FEI's allegations.
- Mr. Zbibi does not bear the burden of proof in this case, but to refute the claims against him he would have to prove an act that he did not commit. It is practically impossible to prove a negative fact and this should not lead to a reallocation of the risk, which shall always remain with the party having the burden of proof. The Respondent has not presented sufficient evidence to prove, in accordance with the required level of proof, that the alleged boots with pins belong to Mr. Zbibi or that they were the boots placed on the Horse's hind legs or that Mr. Zbibi was involved in any shape in the alleged Abuse of Horse violation.
- The Respondent asserted that Mr. Zbibi committed a "criminal act" and as a result of this allegation, the standard of proof that the Panel must apply to this case is the "beyond reasonable doubt" standard. The evidence provided by the Respondent does not meet this standard.
- The speculation that the Incident is unlikely to be a sole incident is unfounded. Mr. Zbibi has never been subjected to a violation or disciplinary hearing in the past and has never been engaged in any wrongful act or incorrect behaviour. In addition, the Horse had competed in an international event days before the Event and kept on competing after the Event.
- A sanction imposed by a sport federation must comply with the principle of proportionality; the severity of a sanction must be proportionate to the offence committed. The Appealed Decision was reached without having evidence or examining precedents or considering various facts and arguments made by Mr. Zbibi and did not cite one single precedent which supported its conclusions and opinions.

C. FEI

60. The Respondent's submissions, in essence, may be summarized as follows:

- The Appellants indeed committed the violations referred to in the Appealed Decision. The FEI's position is founded upon contemporaneous written reports of FEI officials who watched the incident, detailed witness statements from those same FEI officials, possession of the illegal hind boots in question, photographs of the Horse, video evidence of the Horse's hypersensitivity and expert veterinary analysis. These materials show that the Appellants were involved in fitting the hind boots to the Horse, which had an immediate adverse reaction. Mr. Gharib removed and attempted to dispose of the boots by throwing them over the fence of the warm-up arena when he saw FEI officials nearby. The boots contained pins placed strategically to inflict pain upon the Horse and exhibited injuries consistent with the repeated use of such boots. By contrast, the Appellants' alternative version of the events is littered with improbabilities and contradictions.
- The standard of proof applicable to the case is not the one of "beyond reasonable doubt", but the one of "comfortable satisfaction".
- The FEI's evidence demonstrates, to a level of comfortable satisfaction, that Mr. Zbib committed acts that clearly fall within the definition of Abuse of Horse. The evidence is also sufficient to prove to the Panel's comfortable satisfaction that Mr. Gharib committed acts that fall within the definition of Incorrect Behaviour.
- FEI did not improperly influence the FEI Officials.
- There were no material procedural breaches and, even if there were, they would not operate to quash the charges against the Appellants or invalidate the FEI's evidence. The fact of receiving or not a yellow warning card does not preclude the FEI from subsequently bringing an investigation and disciplinary charges; protests regarding Abuse of Horse are not subject to the time limits of Article 161.3 GR; officials' reports and video and photo materials on the Horse are admissible to the file; and the allegations on the purported breach of the Steward's Protocol for Handling Cases of Blood on a Horse's Flank or Marks Indicating Excessive Use of the Spur or Whip are untenable as in this case, this Protocol is irrelevant because the Incident did not involve blood on the Horse's flank or relate to the use of the spur or whip.
- The FEI Tribunal acted impartially and the Appellants did not raise any objection to such impartiality at the outset of the FEI Tribunal proceedings.

- Mr. Gharib is an Additional Person Responsible in accordance with the FEI regulations and the report of the Steward. Even if it were not true, it would not prevent the FEI from bringing charges against him, as he is bound by the GR and the charges that he faces are not limited expressly or otherwise in the GR to those who are Persons Responsible.
- The sanctions imposed on the Appellants are proportionate. The case law the Appellants cite to try to hold their position on the alleged disproportion of the sanctions is unhelpful because every instance of Abuse of Horse is different and fact specific.
- The scope of the suspension imposed on Mr. Gharib is consistent with the FEI regulations and appropriate in the case at hand.

VI. JURISDICTION

61. Article R47 of the CAS Code provides the following:

“An 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. [...]”

62. Article 39.1 of the FEI Statutes reads as follows:

“The Court of Arbitration for Sport (CAS) shall judge all appeals properly submitted to it against Decisions of the FEI Tribunal, as provided in the Statutes and General Regulations.”

63. Article 162.1 of the GR stipulates in the pertinent part the following:

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

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

64. The Parties not only did not contest the CAS jurisdiction in this case but also expressly recognized it by signing the Order of Procedure.

65. Therefore, in accordance with article R47 of the CAS Code and the provisions cited above, CAS has jurisdiction to decide the present matter.

VII. ADMISSIBILITY

66. Article R49 of the CAS 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 in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.”

67. Article 162.7 of the FEI GR reads as follows:

Appeals to the CAS together with supporting documents must be dispatched to the CAS Secretariat pursuant to the Procedural Rules of the CAS Code of Sports-related Arbitration so as to reach the CAS within twenty-one (21) days of the date on which the notification of the FEI Tribunal Decision was sent to the National Federation of the Person Responsible.

68. The grounds of the Appealed Decision were notified to the Appellants on 2 February 2022, Mr. Gharib’s Statement of Appeal was filed on 20 February 2022 and Mr. Zbibi’s Statement of Appeal was filed on 22 February 2022, both within the 21-day term established by the applicable regulations.

69. It follows that the appeals are admissible.

VIII. APPLICABLE LAW

70. Article R58 of the CAS Code reads as follows:

“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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”

71. The Appellants did not specifically address in a separate section of their submissions the issue of the law applicable to the case, but made several references to the FEI regulations (and also some references to Swiss Law) in such submissions. The Respondent expressly mentioned in its Answer that the present dispute shall be decided in accordance with the FEI regulations and that Swiss law shall be applied on a subsidiary basis, on which the Panel concurs taking into consideration the circumstances of the case and the provisions of article R58 of the CAS Code.

72. Therefore, the present dispute will be resolved according to the FEI regulations, and where necessary, the Panel will subsidiarily apply Swiss law.

IX. MERITS

A. Introduction

73. In accordance with the facts in dispute and the requests for relief submitted by the Parties, the Panel notes that the Appellants claim the cancellation of the sanctions imposed on them, as they consider that (i) certain procedural flaws and deficiencies occurred in the proceedings leading to their sanctions and (ii) no violation of the FEI regulations have taken place, and if it was considered that these violations occurred, (iii) the sanctions imposed are disproportionate. The FEI requests the confirmation of the Appealed Decision as it considers (i) that the Appellants are liable for violations of the GR (Incorrect Behaviour and Abuse of Horse, respectively) and that (ii) the sanctions imposed in the Appealed Decision are consistent with the GR and proportionate. The Panel also observes that the Parties disagree on the standard of proof applicable to this case (“beyond reasonable doubt” vs. “comfortable satisfaction”).
74. Bearing the aforementioned as well as the respective contentions of the Parties in their submissions in mind, the Panel shall resolve the following issues:
- i. Were there procedural flaws or deficiencies in the proceedings leading to the imposition of sanctions on the Appellants and, in the affirmative, do these flaws invalidate the imposed sanctions?
 - ii. What is the standard of proof to be applied in the resolution of this case?
 - iii. Did Mr. Gharib commit a violation of Incorrect Behaviour and, in the affirmative, is the sanction imposed on him in the Appealed Decision correct and proportionate?
 - iv. Did Mr. Zbibi commit a violation of Abuse of Horse and, in the affirmative, is the sanction imposed on him in the Appealed Decision correct and proportionate?
75. The Panel will address each of these issues, in turn, below.

B. The alleged procedural deficiencies

76. The Appellants have denounced in their respective submissions some alleged procedural deficiencies which, in their view, made the process tainted and flawed and should have prevented the FEI from sanctioning them.
77. The Panel shall firstly note that the burden of proving that the procedural flaws and deficiencies exist and affect the right to defense and due process falls on the party denouncing them, in this case the Appellants.

78. The Panel has analyzed these purported deficiencies and reached the conclusion that the Appellants failed to establish that the denounced acts or conducts (i) indeed constitute an irregularity or procedural deficiency with some sort of invalidating effect, (ii) affected the fairness of the proceedings and the principle of due process and/or (iii) restricted or jeopardized the Appellants' right of defense. In particular, the Panel shall specifically stress in this respect that:

- The Appellants' statement that the FEI Tribunal did not act neutrally and impartially in this case is completely unproven.
- The fact that during the Event, Mr. Gharib did not receive a yellow warning card and was not disqualified, or that Mr. Zbibi was not reported for Abuse of Horse by the FEI officials at the Event, or that a protest was filed or not against the Appellants in the Event within the deadline foreseen in article 161.3 of the GR, or that the Appellants were not immediately informed at the Event of any violation or action to be taken against them, does not entail that the FEI was prevented from starting investigations and disciplinary proceedings against the Appellants at a later stage, and less that opening these disciplinary proceedings in these circumstances is to be considered a procedural flaw. The Appellants failed to cite any single provision of the FEI regulations that could support their position on the existence of a flaw as regards of it. On the contrary, the Panel notes that article 38.1 (iii) of the FEI Statutes states that "*Notwithstanding anything to the contrary in this Article, **the FEI Tribunal may review and decide upon any matter involving abuse of horses***" (emphasis added).
- The fact that (i) the Horse legs' photos and video were taken on the date of the Event or the day after, (ii) some reports were undated, unsigned, not completely signed or not prepared on the date of the Event, and/or (iii) after the Event, the Horse was examined by the FEI Veterinarian or the Chief Steward as alleged by the Appellants are issues that may have an influence in the probationary assessment to be made by the Panel on the disputed facts, but do not constitute in the Panel's view procedural flaws or deficiencies apt to invalidate the FEI's claim or the proceedings *in casu*. The same applies to the alleged violation of Article 2.4 of the FEI Manual for Jumping Stewards and Veterinary Regulations and relevant annexes to such Manual, as it is in fact recognized by Mr. Gharib in his Statement of Appeal ("*the Appellant considers that, while the Chief Steward claimed to have seen blood on the Horse's hind legs, none of the judges reports and/or vet reports actually mentioned that there was blood on the Horse. **The abovementioned procedures** in Annex XI Article 1047.3, 1047.10 Annex XVI Stewarding Guidelines of the FEI Manual for Jumping Stewards, Paragraph 3 and Annex XVI – Steward's Protocol for Handling Cases of Blood on a Horse's Flank and/or Marks Indicating Excessive Use of the Spur and/or Whip, Article 1047.3- **were***

not followed, which resulted in the Foreign Judge reporting the APR for horse abuse, but without proper evidence) (emphasis added).

79. In addition, it shall be recalled that if procedural deficiencies had ever existed (*quod non*), these may have been cured in the appeals proceedings before the CAS. In accordance with CAS jurisprudence (*inter alia*, CAS 2016/A/4704), “*procedural defects in the lower instances can be cured through the de novo hearing before CAS (see CAS 2015/A/4162 paras. 70 et seq., CAS 2014/A/3848 paras. 53 et seq., CAS 2013/A/3256 paras. 261 et seq. each with further references). In view of the above, the Panel holds that any possible procedural flaws in the proceedings before the FIFA DRC are cured in these de novo arbitration proceedings*). In the same sense, CAS 2016/A/4387 can be cited (“*This full power of review means that procedural flaws, if any, in a first instance decision can often be cured by a CAS proceeding. In CAS 2008/A/1574, the Panel dealt with the meaning of a CAS Panel’s de novo powers and ruled that a de novo hearing is: “a completely fresh hearing of the dispute between the parties, any allegation of denial of natural justice or any defect or procedural error even in violation of the principle of due process which may have occurred at first instance whether within the sporting body or by the Ordinary Division CAS panel, will be cured by the arbitration proceedings before the appeal panel and the appeal panel is therefore not required to consider any such allegations [...] Accordingly, infringements on the parties’ right to be heard can generally be cured when the procedurally flawed decision is followed by a new decision, rendered by an appeal body which had the same power to review the facts and the law as the tribunal in the first instance and in front of which the right to be heard had been properly exercised*”), and also CAS 2017/A/5155 (“*Be that as it may, the whole purpose of Article 57 of the CAS Code giving a CAS panel power to review a case brought before it on a de novo basis means that procedural complaints of the kind ventilated on the Athlete’s behalf have no purchase. In 98/208 a CAS panel said at para 10 “the virtue of an appeal system which allows for a full re-hearing before an appellate body is that issues of the fairness or otherwise before the tribunal of first instance fade to the periphery”. The de novo hearing itself cures such procedural defects*”).
80. Bearing the aforementioned in mind, the Panel shall note that the Appellants had ample opportunity to allege and file evidence in these proceedings, with no restriction of whatsoever nature, and that they did not request to hold an oral hearing in this case, from which the Panel can only infer that they believed that all the allegations and materials brought to the Panel’s attention were sufficient for the adjudication of the case. In such state of affairs, it seems difficult to hold that the Appellants’ right to defense was restricted or affected in any material way.

81. Therefore, the Appellant's requests for dismissal of FEI's claims due to procedural deficiencies and irregularities are dismissed.

C. The standard of proof applicable to the case at hand

82. As mentioned above, there is a discrepancy between the Parties on the standard of proof applicable to the case at stake. While the Appellants refer to the standard of "beyond reasonable doubt", on the basis of the FEI's statement that the Appellants' conduct could constitute a criminal act, the Respondent considers that the standard of proof that shall be met is the one of "comfortable satisfaction".

83. The Panel shall point out in this respect that article 32 of the IR (to which the Appellants also refer in their submissions) reads as follows:

"Burden and standard of proof

32.1 The Claimant shall have the burden of proving that the Respondent committed the infringement(s) alleged in the Claim.

*32.2 Unless otherwise stated in the relevant rules, the standard of proof on all questions to be determined by the Hearing Panel shall be by the **comfortable satisfaction** of the Hearing Panel." (emphasis added)*

84. Taking the aforementioned into account, the Panel sees no reason not to apply the standard of proof foreseen in the applicable regulations and applied by the FEI Tribunal in the Appealed Decision ("comfortable satisfaction").

85. The references made by the FEI to the qualification of the Appellants' conducts as criminal acts cannot be interpreted as, and do not imply, a change of the probationary standard in this case, or be used to sustain that article R32 of the IR should become inapplicable. The comfortable satisfaction standard of proof shall apply "*unless otherwise stated in the relevant rules*", and the Appellants failed to cite a rule that provides for the application of a different standard of proof in the case at stake. Moreover, it is rather common that different standards of proof may be applicable to the identical case arising under different legal frameworks. In the present case, the relevant legal framework is not (Swiss) criminal law, but the FEI regulations, including article 32 of the IR.

86. Therefore, the Panel will apply to the case the comfortable satisfaction standard of proof.

D. Mr. Gharib's violation

87. The Appealed Decision found Mr. Gharib liable for Incorrect Behaviour as defined in the GR and sanctioned him with a 1-year suspension plus a fine of CHF 5,000, being this

decision based on articles 159.2, 164.5, 164.7, 164.12 let. A, 164.13 and 164.14 of the GR, which read as follows:

Article 159.2

“The FEI Tribunal may impose the following sanctions, or, where appropriate, delegate the ability to do so to the FEI Secretary General and/or the FEI Legal Department:

- (a) A Warning;*
- (b) A fine, taking into account the FEI Guidelines for Fines and Contributions towards Legal Costs;*
- (c) Disqualification of Athlete(s) and/or Horse(s) from Competitions or from Events;*
- (d) Suspension of a body for any period;*
- (e) Suspension of individuals and Horses for any period up to Suspension for life;*
- (f) A Provisional Suspension or such other interim relief or conservatory measures as it sees fit pending its final determination of the matter.”*

Article 164.5

“Fine

- (a) A fine is appropriate particularly in cases where the offender has acted negligently.*
- (b) All fines imposed under the Legal System are due to the FEI. They must not be paid to the OC or any other body but must be paid to the FEI on receipt of a demand.*
- (c) Where a fine is imposed on an individual the FEI may issue the corresponding invoice to either:
 - that individual’s National Federation and it shall be the responsibility of the National Federation to ensure the payment of the fine within the relevant deadline; or*
 - to the individual directly.**
- (d) Any person who has not paid a fine within thirty (30) days of receiving a demand for payment will be automatically suspended until the fine is paid in full. If Fines are not paid within ninety (90) days from the date of issue, interest will automatically be charged at the end of each month at the rate of 10% p.a. If fines are inadvertently paid to the OC or any other person such fines shall be remitted to the FEI.”*

Article 164.7

“Suspension

(a) During the period of a Suspension the person, Horse or body suspended may take no part in Competitions or Events as an Athlete, Horse or Official or in the organisation of, any Event under the jurisdiction of the FEI or any Event under the jurisdiction of an NF in accordance with the Statutes or in any FEI related activity (e.g. FEI courses, meetings, General Assembly etc.).

(b) If so specified in the relevant Notification/Decision, the person may be barred temporarily or for a specific period of time from participating in or attending, in any capacity, including as a spectator, any Competition or Event that is authorised or organised by the FEI or any National Federation.

(c) The Suspension may be provisional or final and may be imposed on such terms and subject to conditions as the FEI Tribunal, the FEI Headquarters or the FEI Secretary General, as the case may be, may impose. In certain cases a Provisional or Final Suspension may be automatic under the Statutes, GRs or Sport Rules.

(d) As a general principle, a Suspension will start as of the date of notification of the Suspension. However, the body imposing or applying the Suspension may postpone the start date of the Suspension in order to ensure the effectiveness of the Suspension.

(e) Where a Person who has been Suspended or whose Horse has been Suspended violates the prohibition against participation or attendance during the Suspension, the results of any such participation shall be Disqualified and a new period of Suspension equal in length to the original period of Suspension shall be added to the end of the original period of Suspension. The new period of Suspension may be adjusted based on the Person's degree of Fault or other circumstances of the case. In addition, further sanctions may be imposed if appropriate. The determination of whether any Person has violated the prohibition against participation or attendance, and whether an adjustment shall be made by the FEI Tribunal. This Decision may be appealed as per the FEI General Regulations.

A Person or a Horse who violates the prohibition against participation during a Provisional Suspension shall receive no credit for any period of Provisional Suspension served and the results of such participation shall be Disqualified.”

Article 164.12. let. A (in the pertinent part)

“Offences

164.12 In addition to breaches of specific provisions of the FEI Rules and Regulations, the following is a list of other offences that the FEI may sanction:

(a) *Incorrect Behaviour; [...]*”

Article 164.13

“General Sanctioning Principles and Table of Sanctions

164.13 In deciding on the appropriate sanctions to be imposed and whether to categorise the offence in question as “low-end”, “mid-range”, “top-end” or “max”, the body imposing the Sanction shall consider the following factors, together with any other relevant factors:

- (a) *Whether the action or omission resulted in an unfair advantage to the offender or an Athlete.*
- (b) *Whether the action or omission resulted in a material disadvantage to any other person or body involved.*
- (c) *Whether the action or omission involved the maltreatment of Horses.*
- (d) *Whether the action or omission affected the dignity or integrity of any person involved in the sport.*
- (e) *Whether the action or omission involved fraud, violence or abuse or similar criminal acts.*
- (f) *Whether the action or omission was deemed to be deliberate.”*

Article 164.14 (in the pertinent part)

“The following table sets out the sanctions that will apply for certain offences listed in Article 164.12 above. Where an offence is not listed in the table below, general sanctioning power will apply and sanctions may be imposed in accordance with this Article 164.

<i>Offence</i>	<i>Low-End</i>	<i>Mid-Range</i>	<i>Top-End</i>	<i>Max</i>
<i>Incorrect Behaviour</i>	<i>2 months Up to CHF 1,500</i>	<i>Up to 6 months CHF 1,500 – 3,000</i>	<i>Up to 1 year CHF 3,000-7,000</i>	<i>2 years CHF 10,000</i>
<i>Abuse of Horse</i>	<i>3 months CHF 1,000 – 1,500</i>	<i>3 months – 2 years CHF 2,000 – 3,000</i>	<i>2– 5 years CHF 5,000 – 10,000</i>	<i>Life CHF 15,000 [...]</i> ”

88. Incorrect Behaviour is defined in the GR as any form of unsportsmanlike or improper conduct towards (a) Officials or any other party connected with the Event (other Athletes, journalist, volunteers, OC staff, FEI representatives, members of the public etc.) and/or (b) Doping Control Officers, Testing Veterinarian, Chaperones and/or any other person involved in the collection of a doping control sample. Examples of Incorrect Behaviour

include, but are not limited to, (i) shouting aggressively or using offensive language (swearing); (ii) physical violence, (iii) making inappropriate gestures; (iv) issuing a threat; (v) failure or refusal to comply with the reasonable instructions of an Official, the FEI or the OC; (vi) damaging the property of another person; (vii) inciting or encouraging others to engage in Incorrect Behaviour; (viii) engaging in conduct that endangers others persons or Horses; or (ix) assisting, encouraging, aiding, abetting, conspiring, covering up a rule violation (or attempted rule violation) by another person.

89. The Panel, after having analyzed the evidence brought to the proceedings, is comfortably satisfied that Mr. Gharib engaged in Incorrect Behaviour in the case at stake, for the following reasons:

- a. The various reports issued by the Event Steward, Chief Steward and Foreign Judge on the facts occurred (i) reveal a conduct of that kind (in the modality of “*assisting, encouraging, aiding, abetting, conspiring, covering up a rule violation (or attempted rule violation) by another person*”) and (ii) are consistent, comprehensive and not contradictory in the Incident’s factual narration. In particular, the Panel notes that in accordance with such reports:
 - The Steward saw Mr. Zbibi’s groom putting one hind boot on the Horse, which reacted exaggeratedly as regards of it; called the Event’s Chief Steward and asked him to come and see what was happening; saw Mr. Zbibi’s groom putting the second hind boot on the Horse, and observed the same exaggerated reaction; saw Mr. Zbibi mounting the Horse and jumping fences under the guidance of Mr. Gharib, and how hind leg reaction of the Horse was again exaggerated; saw that the Horse was stopped and that Mr. Gharib then took the boots off the Horse and threw them outside the warm-up arena, in the brush/shrub area; saw how the Chief Steward picked the boots up from the brush/shrub area and saw a nail/sharp object in the boots and blood.
 - The Chief Steward was called by the Steward in light of the exaggerated reaction of the Horse as regards of the hind boots; saw Mr. Gharib stopping the Horse, removing the hind boots from the Horse and throwing them outside the warm up arena; collected the boots and saw nails in them and blood both in the boots and in one of the Horse’s legs.
 - The Foreign Judge described the Incident consistently with the reports of the Steward and the Chief Steward.

The fact that, as alleged by the Appellants, no photos or videos of the Horse’ legs were taken in the warm-up arena, or that some of the reports are system generated reports

with no date or signature, or that the photos and video of the Horse's legs that have been produced to the file were taken the day after the Event do not distort in the Panel's view the reliability and probatory value of these FEI officials' reports, which refer to, and accurately describe, facts experienced live by such FEI officials at the Event. For the same reason, and given the clarity and due establishment of the facts occurred, the fact that (i) the Horse legs' check-up was made the day after by the Chief Steward and not by the FEI Veterinarians and (ii) the relevant procedures under the FEI Manual for Jumping Stewards were conducted or not, are completely irrelevant for the adjudication of this case.

In any event, the Panel stresses that the Horse legs' photos produced to the file, even if not taken in the warm-up arena, show that the Horse was hurt at its legs for the effect of the hind boots, and these images are consistent with the explanations given by the FEI officials in their reports. In addition, the Panel shall point out that the fact that a video could be not admissible for the purposes of a protest for reasons of extemporaneity under the GR (article 161) does not mean that it cannot have probatory value in a subsequent investigation and disciplinary proceedings for Abuse of Horse.

- b. The Panel finds no reason to believe that the Steward, Chief Steward and Foreign Judge issued false or misconceived reports on the facts occurred, and stresses that Mr. Gharib did not bring any sort of evidence from which this could be inferred or from which these reports could be considered inaccurate or incorrect. The fact that the reports were issued on the same date of the Event or afterwards does not make any difference *in casu* and does not affect the Panel being comfortably satisfied that Mr. Gharib indeed committed the alleged offense. In addition, Mr. Gharib's insinuation that the FEI officials could have "coordinated" their explanations is totally unfounded and unproven.
- c. The investigatory and probatory work done by FEI on the Incident is complete, comprehensive and reliable, and the Panel does not find that there is any crucial probatory measure that had not been conducted. On the contrary, the Panel is of the view that Mr. Gharib did not present trustworthy evidence rebutting the conclusions reached in the FEI officials' reports and supporting his version of the facts, which is hardly credible and lacks probatory support.
- d. Mr. Gharib admitted in his submissions having offered to remove, and having removed, the hind boots from the Horse and placing them outside the warm-up arena, all of which is consistent with the facts' narration made in the aforementioned reports and with Mr. Gharib's participation in such facts. The fact that it was not Mr. Gharib the one

tacking or preparing the Horse does not make any difference in terms of the disciplinary liability of Mr. Gharib for engaging in Incorrect Behaviour.

- e. Unlike Mr. Gharib's contention in this respect, the Panel is convinced that the boots showed by the Chief Steward were actually the boots that were used by the Horse during the warm-up. The versions given by the Steward and the Chief Steward in their reports are clear and have not been contradicted with reliable evidence by Mr. Gharib.

90. In light of the aforementioned, the Panel shares the view of the FEI Tribunal that Mr. Gharib assisted Mr. Zbibi "*in committing the rule violation by removing the boots of the Horse, and later throwing them away*" (para. 9.22 of the Appealed Decision) and that Mr. Gharib "*took an active part in throwing away the hind boots, in an attempt to cover up and hide the horse abuse violation*" (para. 9.19 of the Appealed Decision). These conclusions have been reached based on sufficient probatory support and not on mere assumptions or speculation, as affirmed by Mr. Gharib.

91. The fact that Mr. Gharib is considered or not the trainer or part of Mr. Zbibi's staff in the Event or in any other way an Additional Person Responsible as established in the FEI regulations is, in the Panel's view, irrelevant for the purposes of establishing that the violation of Incorrect Behaviour took place in this case. Mr. Gharib was present in the warm-up arena and participated in the Event as a rider -so the FEI regulations do apply to him-, his intervention in the facts surrounding the Incident is uncontested, his assistance, aid and cover up of the Abuse of Horse has been duly established, and in accordance with the relevant provisions of the GR, his disciplinary liability *in casu* does not depend on being considered an Additional Person Responsible. Therefore, the Parties' discussions on Mr. Gharib being or not being an Additional Person Responsible in this case are simply of no avail.

92. In the same line, the fact that (i) Mr. Gharib had ridden the Horse or not before or after the Event, (ii) the Horse was submitted to vet checks before the Event, (iii) the Horse has been ridden by other riders and achieving good results without problems, (iv) Mr. Gharib's records are clean, and/or (v) riders compete in the UAE on a weekly basis, are absolutely irrelevant for the purposes of establishing Mr. Gharib's Incorrect Behaviour at the Event. The facts leading to the sanction (the Incident) occurred at the Event and have been properly established and proven. In addition, the fact that Mr. Gharib was allowed to compete at the Event and did not receive a Yellow Warning Card cannot be considered in any way that the FEI found that no violation had taken place, especially when after the Event, an investigation on the Incident was opened and this investigation finally resulted in the opening of disciplinary proceedings.

93. Having been established that Mr. Gharib engaged in Incorrect Behaviour, the Panel shall analyze the consequences of such a violation and Mr. Gharib's allegations on disproportion of the sanction imposed.
94. The Panel shall firstly note that the sanctions imposed by the FEI Tribunal (1-year suspension + CHF 5,000 fine) are consistent with the provisions of GR on Top-End Incorrect Behaviour violations: suspension and fine are sanctions comprised within the range of sanctions established in article 159.2 GR, and the sanctions for Top-End Incorrect Behaviour in accordance with article 164.14 GR are (i) suspension of up to 1 year and (ii) fine from CHF 3,000 to 7,000.
95. Secondly, the Panel sees no reason to deviate from the qualification of Mr. Gharib's violation as a Top-End one made in the Appealed Decision, and shares the FEI Tribunal's view and reasoning on this and on the concrete sanction imposed on Mr. Gharib.
96. Finally, concerning the alleged disproportion of the sanction imposed on Mr. Gharib, the Panel shall firstly recall that the proportionality judgement can indeed be object of revision in the appeals proceedings at CAS. However, it shall be noted that "*it is consistent jurisprudence of CAS that the CAS panels shall give a certain deference to decisions of Sports governing bodies in respect of the proportionality of sanctions (CAS 2016/A/4595), and that "according to well-established CAS jurisprudence, even though CAS panels retain the full power to review de novo the factual and legal aspects involved in a disciplinary dispute, they must exert a degree of restraint in reviewing the level of sanctions imposed by a Disciplinary body. Accordingly, CAS panels should reassess sanctions only if they are evidently and grossly disproportionate to the offence" (CAS 2015/A/3874 and in the same line, CAS 2015/A/3874, CAS 2014/A/3562, CAS 2009/A/1817 o CAS 2007/A/1217) (emphasis added).*
97. In this respect, the Panel, after having analyzed the facts occurred, sees no gross or evident disproportion in the sanction imposed by the FEI Tribunal deserving any sort of mitigation. On the contrary, the Panel finds the sanction imposed totally proportionate to the offence committed, adequate to the case at hand and consistent and compliant with the applicable regulations, and that the FEI Tribunal took into consideration all the relevant circumstances in the imposition of the sanction. None of the precedents cited by Mr. Gharib in his submissions suggest that the Panel shall reach a different conclusion on this. Needless to say that each case is different from the others and is to be resolved individually and taking into account all the circumstances surrounding it.
98. With regard to Mr. Gharib's allegations on abuse of discretion by FEI, the Panel shall reject them as neither the Appealed Decision nor the subsequent correspondence exchanged

between FEI and Mr. Gharib reveal a conduct of that kind. The fact that Mr. Gharib did not agree with the FEI's response to his queries on the scope of his suspension does not automatically mean that FEI behaved in an abusive manner. In addition, the Panel does not share Mr. Gharib's view that the doctrine *contra proferentem* shall be applied to this specific issue as Mr. Gharib failed to establish which concrete inconsistency or ambiguity in the FEI provisions should lead to it. In addition, the Panel does not find that the response given by the FEI to the queries made by Mr. Gharib on the extent of its suspension is incorrect, given the broad scope of the expression "*in any FEI related activity*" contained in the Appealed Decision. In consequence, Mr. Gharib's request "*to nullify the interpretation of the FEI Tribunal and the Respondent of the Appealed Decision that 'training athletes and horses at FEI events or events organized by National Federations is not permitted during a period of suspension'*" made under point 8.1.3 of his Statement of Appeal serving as Appeal Brief is rejected.

99. Therefore, Mr. Gharib's appeal shall be dismissed.

E. Mr. Zbibi's violation

100. The Appealed Decision found Mr. Zbibi liable for Abuse of Horse as defined in the GR and sanctioned him with a 4-year suspension plus a fine of CHF 10,000, being the decision based on articles 142.1, 159.2, 164.5, 164.7, 164.12 let. B, 164.13 and 164.14 of the GR.

101. The content of articles 159.2, 164.5, 164.7, 164.13 and 164.14 of the GR have been already transcribed above, while articles 142.1 and 164.12 let. B of the GR read as follows:

Article 142.1

"Abuse of Horses

No person may abuse a Horse during an Event or at any other time. "Abuse" means an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse, including, but not limited to:

- (i) To whip or beat a Horse excessively;*
- (ii) To subject a Horse to any kind of electric shock device;*
- (iii) To use spurs excessively or persistently;*
- (iv) To jab the Horse in the mouth with the bit or any other device;*
- (v) To compete using an exhausted, lame or injured Horse;*
- (vi) To "rap" a Horse*

(vii) *To abnormally sensitise or desensitise any part of a Horse;*

(viii) *To leave a Horse without adequate food, drink or exercise;*

(ix) *To use any device or equipment which causes excessive pain to the Horse upon knocking down an obstacle.”*

Article 164.12.let. B

“Offences

164.12 In addition to breaches of specific provisions of the FEI Rules and Regulations, the following is a list of other offences that the FEI may sanction:

(a) [...]

(b) Abuse of Horses;”

102. “Abuse of Horse” is also defined in the GR as *“an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse, including, but not limited to, any of the following: to whip or beat a Horse excessively; to subject a Horse to any kind of electric shock device; to use spurs excessively or persistently; to jab the Horse in the mouth with the bit or any other device; to compete using an exhausted, lame or injured Horse; to "rap" a Horse; To abnormally sensitise or desensitise any part of a Horse; to leave a Horse without adequate food, drink or exercise; to use any device or equipment which causes excessive pain to the Horse upon knocking down an obstacle”.*
103. After having examined the parties’ allegations and the evidence brought to the proceedings, the Panel is comfortably satisfied that Mr. Zbibi engaged in Abuse of Horse as defined in art. 142 GR, for the following reasons:
- a. The various reports issued by the Event Steward, Chief Steward and Foreign Judge on the facts occurred reveal that Mr. Zbibi committed this offence in its modality of *“abnormally sensitise or desensitise any part of a Horse”* and *“use any device or equipment which causes excessive pain to the Horse upon knocking down an obstacle”* (see point 87 lit. a. and b. of this award above for details, which is applicable herein *mutatis mutandi*), being these reports consistent, comprehensive and not contradictory in the Incident’s factual narration.
 - b. The FEI Veterinarian Expert Report produced to the file corroborate the statements made by the FEI officials in their reports and the scenario of Abuse of Horse, and there is no evidence that the persons that issued that report were influenced in any

way by FEI, as affirmed by Mr. Zbibi. In addition, none of the issues raised by Mr. Zbibi on the reliability of this report can, in the Panel's view, discredit it.

- c. The investigatory and probationary work done by FEI on the Incident is complete and comprehensive and the Panel does not find that there is any crucial probationary measure that was not conducted. On the contrary, the Panel is of the view that Mr. Zbibi did not present reliable evidence rebutting the conclusions reached in the reports of FEI officials and supporting his version of the facts, which in the Panel's view, is inconsistent, hardly credible and lacks probationary support. In the Panel's opinion, the witness statements of his groom Mr. Dib cannot be considered convincing evidence for such purpose, especially when opposed to or confronted with the reliable and comprehensive reports issued by the FEI officials on the Incident.
 - d. Unlike Mr. Zbibi's contention in this respect, the Panel is convinced that the boots showed by the Chief Steward were actually the boots that were used by the Horse during the warm-up. The versions given by the Steward and the Chief Steward in their reports are clear and have not been contradicted with reliable evidence by Mr. Zbibi. In addition, the fact that Mr. Zbibi did not place the hind boots with pins on the Horse shall not release him from liability. It is the Panel's view in light of the circumstances surrounding the Incident that Mr. Zbibi was aware of what was happening with his Horse, being it hardly credible for the Panel that it was his groom's sole initiative to use hind boots with pins for the Horse.
 - e. Moreover, the fact that Mr. Zbibi accepted the yellow warning card and the disqualification at the Event with no complaints is quite revealing as to his behaviour and participation in the Incident.
104. The fact that, as alleged by Mr. Zbibi, the Horse had competed before and after the Event, or that Mr. Zbibi had clean disciplinary records before the Incident, are absolutely irrelevant for the purposes of establishing Mr. Zbibi Abuse of Horse at the Event, which has been clearly proven in these proceedings.
105. In light of the aforementioned, the Panel concludes that the Horse was abnormally sensitized with hind boots containing pins, and that Mr. Zbibi, his rider, was involved in such conduct and shall be held liable for that. These conclusions have been reached based on sufficient probationary support to the comfortable satisfaction of the Panel, and not on mere assumptions or speculation, as sustained by Mr. Zbibi.

106. Having been established that Mr. Zbibi engaged in Abuse of Horse, the Panel shall analyze the consequences of such a violation and Mr. Zbibi's allegations on disproportion of the sanction imposed.
107. The Panel shall firstly note that the sanctions imposed by the FEI Tribunal (4-year suspension + CHF 10,000 fine) are consistent with the provisions of GR on Top-End Abuse of Horse violations: suspension and fine are sanctions comprised within the range of sanctions established in art. 159.2 GR, and the sanctions for Top-End Abuse of Horse in article 164.12 of the GR are (i) suspension of from 2 to 5 years and (ii) fine from CHF 5,000 to 10,000.
108. Secondly, the Panel sees no reason to deviate from the qualification of the violation as a Top-End one made in the Appealed Decision, and shares the FEI Tribunal's view and reasoning on this and on the concrete sanction imposed on Mr. Zbibi.
109. Finally, the Panel, after having analyzed the facts occurred, sees no gross or evident disproportion in the sanction imposed by the FEI Tribunal deserving any sort of mitigation. On the contrary, the Panel finds the sanction imposed totally proportionate to the offence committed, adequate to the case at hand and consistent and compliant with the applicable regulations, and that the FEI Tribunal took into consideration all the relevant circumstances in the imposition of the sanction. None of the precedents cited by Mr. Zbibi in his submissions suggest that the Panel shall reach a different conclusion on this. Needless to say that each case is different from the others and is to be resolved individually and taking into account all the circumstances surrounding it.
110. To end up with its reasoning, the Panel has noted that Mr. Zbibi's initial claim for damages in the Statement of Appeal was not later made in his Appeal Brief, where there is no petition of damages. In any event, for the sake of completeness and for the avoidance of doubt, the Panel finds that this claim for damages would lack any legal basis and ought to also be rejected.
111. Therefore, Mr. Zbibi's appeal shall be dismissed.

X. COSTS

112. Article R65.1 of the Code provides as follows:

"This Article 65 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.”

113. 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.”

114. 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 and the outcome of the proceedings, as well as the conduct and financial resources of the parties.”

115. In accordance with Article R65.1 & 2, given the nature of this appeal the award is pronounced without costs, except for the Court Office fee of CHF 1,000 paid by the each of the Appellants, which is retained by the CAS.

116. Pursuant to Article R65.3 of the CAS Code, in consideration of the outcome of the present proceedings, the conduct and financial resources of the Parties, the Panel finds it reasonable that each of the Appellants pays to the Respondent a contribution towards its legal fees and other expenses incurred in connection with the proceedings in the amount of CHF 5,000.

DECISION

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr. Hicham Gharib against the decision rendered by the FEI Tribunal on 2 February 2022 (Case 2021/HA01) is dismissed.
2. The appeal filed by Mr. Esam Zbibi against the decision rendered by the FEI Tribunal on 2 February 2022 (Case 2021/HA01) is dismissed.
3. The decision rendered by the FEI Tribunal on 2 February 2022 (Case 2021/HA01) is confirmed.
4. The present arbitral award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) respectively paid by Mr. Hicham Gharib and Mr. Esam Zbibi, which is retained by the CAS.
5. Mr. Hicham Gharib shall pay to the Fédération Equestre Internationale a contribution towards its legal fees and other expenses incurred in connection with the proceedings in the amount of CHF 5,000 (five thousand Swiss Francs).
6. Mr. Esam Zbibi shall pay to the Fédération Equestre Internationale a contribution towards its legal fees and other expenses incurred in connection with the proceedings in the amount of CHF 5,000 (five thousand Swiss Francs).
7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date of notification of the operative part of the award: 6 July 2022

Date of notification of the award with grounds: 21 June 2023

THE COURT OF ARBITRATION FOR SPORT



Mr. Jordi **López Batet**

President of the Panel



Mr. Gabriel **Feldman**

Arbitrator



Ms. Annett **Rombach**

Arbitrator