



DECISION of the FEI TRIBUNAL

Case 2016/09 - Alleged Horse Abuse

VF Corrado – Protest of 5 February 2016

dated 13 July 2016

In the matter of

**Ms. Maria Saracino (ITA)
Ms. Giorgia Ladisa (ITA)**

“the Protesters”

vs.

**Mr. Piet Raijmakers (NED)
Mr. Peter Bulthuis (NED)**

“the Defendants”

I. COMPOSITION OF PANEL

Mr. Chris Hodson QC, chair
Mr. Henrik Arle, member
Ms. Jane Mulcahy QC, member

II. SUMMARY OF THE FACTS

- 1. Case File:** The FEI Tribunal duly took into consideration the Parties’ written submissions received to date. The Tribunal further took into consideration the submissions made by the FEI with regard to the matter.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Articles of the Statutes/Regulations which are applicable or have been infringed:

Statutes 23rd edition, effective 29 April 2014 ("**Statutes**").

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2016 ("**GRs**").

Internal Regulations of the FEI Tribunal, 2nd edition, effective 1 January 2012 ("**IRs**").

FEI Code of Conduct for the Welfare of the Horse.

2. The relevant Legal Provisions

GRs Article 142.1: "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 the 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."

GRs Article 142.2: "Any person witnessing an Abuse must report it in the form of a Protest (Article 163) without any delay. If an Abuse is witnessed during or in direct connection with an Event, it should be reported as a Protest (Article 163) to an Official. If the Abuse is witnessed at any other time it should be reported as a Protest (Article 163) to the Secretary General for referral to the FEI Tribunal."

GRs Article 163.2: "(...) Protests for abuse of Horses may be lodged by any person or body."

GRs Article 169.6.2: "Abuse of Horses in any form (rapping, abnormal sensitisation or desensitisation of limbs, banned schooling methods etc.) may entail a fine of up to CHF 15,000.- and/or a Suspension of a minimum of three (3) months up to life;"

IRs Article 17.1: "In accordance with Article 36 of the FEI Statutes, the FEI Tribunal has the competence to hear and determine any matter properly submitted to it, including, but not limited to, those matters specified in Article 163 (Protests) and Article 165 (Appeals) of the FEI

General Regulations and all disputes and procedures arising under the Equine Anti-Doping and Controlled Medication Regulations.”

IV. DECISION

Below is a summary of the relevant facts, allegations and arguments based on the Parties’ written submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. Although the Tribunal has fully considered all the facts, allegations, legal arguments and evidence in the present proceedings, in its decision it only refers to the submissions and evidence it considers necessary to explain its reasoning.

1. Procedural Background

- 1.1 On 5 February 2016, Ms. Maria Saracino (“**Ms. Saracino**”) and her daughter, Ms. Giorgia Ladisa (“**Ms. Ladisa**”) (together “**the Protesters**”) filed a Protest with the FEI Secretary General, in accordance with Article 142 of the GRs, concerning an allegation of horse abuse against Mr. Piet Raijmakers Sr. (“**Mr. Raijmakers**”) and Mr. Peter Bulthuis (“**Mr. Bulthuis**”) (together “**the Defendants**”) in relation to the horse VF CORRADO (FEI ID 104KP78) (the “**Horse**”) on or around 24 – 26 January 2016 (the “**Protest**”).
- 1.2 On 9 May 2016, the FEI submitted the Protest of 5 February 2016 to the Tribunal.
- 1.3 On 8 June 2016, the Tribunal granted Mr. Bulthuis the possibility to comment on the FEI submission of 9 May 2016, specifically with regards to the FEI Veterinary Department conclusion outlined in the FEI submission. The Tribunal further provided the FEI and the Protestors with the opportunity to respond to Mr. Bulthuis comments.
- 1.4 On 15 June 2016, Mr. Bulthuis provided his comments to the FEI submission of 9 May 2016.
- 1.5 On 21 June 2016, the FEI, and on 22 June 2016, the Protesters responded to Mr. Bulthuis’ comments of 15 June 2016.
- 1.6 No hearing was requested in the case at hand.

2. Protest by the Protesters

- 2.1 In essence the Protesters alleged that a horse abuse had taken place on the part of Mr. Raijmakers by (i) failing to use the appropriate animal custody by moving the Horse to people resulting in inadequate management of the Horse; and (ii) omitting and/or hiding the existence of the wounds on the Horse. And on the part of Mr. Bulthuis

by (i) subjecting the Horse to violent and brutal measures, causing the Horse extensive lesions through the use of a dressage whip, with a worn ending, or another object; and (ii) not treating the wound in the necessary way.

- 2.2 Together with their Protest, the Protesters provided video footage and photos, showing wounds on the Horse's belly; no signs or marks can be seen on either side of the Horse. In addition, the Protesters provided copies of several correspondences by email and phone between several individuals. Extracts of those correspondences are in the following only outlined (if any) to the extent necessary.
- 2.3 Furthermore, the Protesters submitted a statement by Dr. Sonia Parlagreco, FEI Veterinarian who examined the Horse upon arrival at the Il Pioppi stables, *i.e.*, the Horse's home stables. Dr. Parlagreco stated that *"The Horse presented with multiple cutaneous lesions on the ventral abdomen in the median position, along the alba line, involving an area around 10 cm wide and 30 cm in length, with several breaks in the skin continuity. In addition, the area presented inflammatory edema of surrounding tissue. After checking by echography that no additional complications were present, I started therapy with antibiotics and non-steroidal anti-inflammatory drugs by injection and by topical administration. (...)"*
- 2.4 In addition, the Protesters submitted an email by Ms. Chantal Gelissen from Gelissen Paardentransport ("**Gelissen**"), a horse transportation company, dated 2 February 2016. Ms. Gelissen confirmed that the Horse's status, *i.e.*, the wounds in question, had been the same, as in the photos shown, when Gelissen has picked up the Horse at the stables of Mr. Bulhuis.
- 2.5 The Protesters argued that the wounds seem to be the consequence of violent, repeated, and brutal use of a long dressage whip with a worn end.
- 2.6 In summary, the Protesters explained that the Horse's wounds resulted from the following:
 - a) In December 2015 Ms. Ladisa moved, with the Horse, to work and train at Mr. Raijmakers' stables in Asten, The Netherlands. On 18 January 2016, Ms. Saracino and Mr. Luigi Iuliano – Ms. Ladisa's stepfather – ("**Mr. Iuliano**") gave Mr. Raijmakers' wife, Ms. Dorry Raijmakers ("**Ms. Raijmakers**") the task to sell the Horse. Ms. Raijmakers informed Ms. Saracino and Mr. Iuliano that Mr. Raijmakers was not interested in buying the Horse, but proposed to engage a friend who was a horse dealer to come and see the Horse to evaluate the possibility of buying the Horse, which they accepted. They requested Ms. Raijmakers to keep them informed of the developments of a potential sale and agreed that the Horse would be moved to Italy in case Ms. Raijmakers did not succeed in selling it.
 - b) On 24 January 2016, Ms. Raijmakers informed Ms. Ladisa that the

Horse was to be evaluated elsewhere for sale. Without being notified, in the afternoon of the same day, the Horse, which was in good physical condition at that time, was brought to Mr. Bulthuis' stables, at that time an unknown destination. During the period of 24 to 26 January the Horse was in Mr. Bulthuis' possession and under his care.

- c) On 26 January 2016, Ms. Raijmakers informed Ms. Ladisa that Mr. Bulthuis was not interested in buying the Horse and that – as previously agreed – arrangements were made to transport the Horse back to its home stables in Italy.
- d) In the early evening of 26 January 2016, Mr. Raijmakers informed Ms. Ladisa that the Horse had a "small sign" on its side from the lash of a whip but that it was not necessary to check the Horse because it was just a little wound. Following requests of the Horse's whereabouts by Ms. Ladisa and Mr. Iuliano, Ms. Raijmakers informed Ms. Larisa that the Horse was at the premises of Gelissen, the horse transportation company that would transport the Horse to Italy, and that there was no time to see the Horse because it was already loaded in the van, which was one hour away.
- e) Ms. Ladisa immediately travelled to the Gelissen premises and examined the Horse. Ms. Ladisa observed an extensive wound of approximately 30 cm along the Horse's belly; the Horse presented no "sign" on either the left or right side.
- f) Following administration of "Gentamax 100" to the Horse, the van carrying the Horse departed for Italy at the Gelissen premises at approximately 9 pm on 26 January 2016. The Horse arrived at the Il Pioppi stables near Rome, Italy at 7.30 pm on 28 January 2016.
- g) At around 10 pm on 26 January 2016, Mr. Iuliano had sent an email to Mr. Raijmakers regarding the condition of the Horse, providing him with photos of the wounds, taken by Ms. Ladisa at the Gelissen premises. Mr. Raijmakers had not responded to this email.

3. Submissions by the Defendants

- 3.1 On 21 March 2016 – following a request by the FEI to provide written explanations with regard to the alleged Horse abuse of 1 March 2016 – Mr. Raijmakers submitted that the FEI had no jurisdiction to handle the Protest against him, as for at least seven (7) years he had not been registered with the FEI or the Dutch National Federation ("**NED-NF**"), nor did he compete for that period of time.
- 3.2 Mr. Raijmakers further denied the abuse of the Horse as alleged by the Protesters. He argued that he had an outstanding reputation and denied to be involved or responsible for any abuse of any horse. He could neither be held accountable for what happened with the Horse. It had been the owner of the Horse, Ms. Ladisa, who had decided to move the Horse to the premises of Bulthuis. Furthermore, that the wounds of the

Horse had been caused by an unfortunate accident inflicted by the Horses' own behaviour, and that therefore there was no sign of horse abuse.

3.3 More specifically Mr. Raijmakers submitted that:

- a) The Horse and Ms. Ladisa had arrived at the Raijmakers' stables on 12 December 2015 for stabling and training. That since the Horse did not perform well at competitions, and hardly showed any improvement in training, it had been decided to take the horse to a veterinarian.
- b) Around the same time Ms. Ladisa decided that she wanted to quit riding because of the high level of riding in the Netherlands. That therefore she had requested Ms. Raijmakers to sell the Horse. That since the Raijmakers' were not horse dealers, they suggested to transport the Horse to the stables of Mr. Bulthuis – a horse dealer – to see whether he could sell the Horse. Between Ms. Raijmakers and Ms. Saracino it was agreed to move the Horse to Mr. Bulthuis' stables, that Mr. Bulthuis test-ride the Horse for two days, and that if Mr. Bulthuis could not sell the Horse it was to be transported to Italy with Gelissen on 26 January 2016.
- c) On 24 January 2016, the Horse was transported by Mr. Raijmakers' son to Mr. Bulthuis' stables; Ms. Ladisa did not want to accompany Mr. Raijmakers' son with the transport. The Horse was in good health when it left the Raijmakers' stables.
- d) On 25 January 2016, Mr. Bulthuis has informed him that there had been an accident (as outlined further below), that Ms. Raijmakers had informed Ms. Ladisa about the accident, and that the Horse could not be sold because of the Horse's dangerous behaviour.
- e) On 26 January 2016, Gelissen had informed Ms. Raijmakers that the Horse had been collected at Mr. Bulthuis' stables and that it showed a swollen wound, which could be a normal reaction to the injury. Further, that Ms. Ladisa visited the Horse at Gelissen and decided that the Horse – despite of its injuries – was to be transported to Italy.

3.4 Mr. Raijmakers further submitted that the Horse also misbehaved at the Raijmakers' stables when Ms. Ladisa had gone home and he and his employees had taken care of the Horse. That once when the Horse reared during a normal training session, one of his riders almost got under the Horse; and that a second time the Horse also reared and fell on the ground. That one of his employees had gotten under the Horse and suffered from severe bruises on his lower leg and could not walk for two weeks. Ms. Ladisa was aware of those incidents.

3.5 Together with his submission, Mr. Raijmakers provided a statement (as outline further below) by Mr. Bulthuis describing an incident with the Horse at his stables.

- 3.6 On 22 March 2016 – following a request by the FEI to provide written explanations with regard to the alleged Horse abuse of 1 March 2016 – Mr. Bulthuis submitted that he denied the abuse of the Horse as alleged by the Protesters. The injuries of the Horse had been caused by an “unfortunate accident inflicted by the horse its own behaviour”. That he had acted in a way he felt was absolutely necessary given the circumstances to ensure the safety of his son, the pony and his rider. That therefore there was no proof of horse abuse. Finally that he had an outstanding reputation and would never abuse a horse or be involved in the abuse of any animal.
- 3.7 More specifically, with regards to the incident of the Horse Mr. Bulthuis stated that:
- a) On the day of arrival of the Horse (24 January 2016), his employee rode the Horse in the indoor arena, alone, and the Horse had been doing fine.
- b) On the next day (25 January 2016) they had tested the Horse again and wanted to do a few jumps in the outdoor arena in the presence of some other horses, including a pony being hacked by his son and another horse being lunged by one of his grooms. Further that,
- “The stallion Corrado started to attack the pony and my rider could not control the stallion anymore. He jumped on the pony with my rider on top. He started to be dangerous for the rider and pony. I’ve told my rider to jump off the horse and he, together with me and my business partner started to whip the stallion, to try to get him off the pony. After 5 minutes he jumped off and he started to run through the paddock. He was completely out of control and it was dangerous to catch him. He broke out of the paddock and jumped over the wire fences etc.*
- It took us more than a half hour to catch him. By that time he run out of gas. We gave the horse a shower and washed him with betadine shampoo, and put him in the box. I have called Piet Raijmakers and told him the story and what to do with the horse. Piet called me back and said that the horse could go back on Tuesday. Gelissen collected the horse from my stable on Tuesday 26th of January 2016.”*
- c) The statement by Dr. Parlagreco surprised him. That in his opinion the decisions to collect the Horse from his stables, to bring it to a depot of Gelissen and to transport it to Italy were not his responsibility. Mr. Bulthuis stated that he is not a veterinarian and that, according to EU rules, it was for the owner and transporter to decide whether a horse is fit to be transported or not. As he and his staff concluded that the Horse was very dangerous for other animals and people, they were happy that the Horse left.
- d) Moreover, Mr. Bulthuis suggested that the inflammation of the wounds “perhaps make a worse impression than necessary”, as the inflammation would of course cause swelling of the wounds.

e) Finally, that he deeply regretted the whole situation, since horse welfare was one of their highest standards in their stables.

- 3.8 Mr. Bulthuis stated that the incident with the Horse had been witnessed by his staff, and that they confirmed the correctness of his statement by their undersigning. His statement provided is undersigned by two riders, including the rider riding the Horse during the incident, two grooms, including the groom lunging, and his business partner.

4. Submission by the FEI

- 4.1 On 9 May 2016, the FEI submitted the Protest to the Tribunal, and outlined its position in the case at hand.
- 4.2 Regarding the admissibility of the Protest, the FEI submitted that the Protest against Mr. Raijmakers was not admissible since the FEI did not have jurisdiction over Mr. Raijmakers. Mr. Raijmakers' registration with the FEI was no longer valid and he was not registered with the FEI's National Federation in The Netherlands. The Protest against Mr. Bulthuis on the other hand was admissible. Article 163.2 of the GRs confirmed that protests for abuse of horse could be made by any person or body; therefore the Protesters are entitled to file the Protest. Furthermore, Mr. Bulthuis came under the FEI's jurisdiction. He was registered with the FEI and has participated in FEI events as recently as April 2016. In this respect the FEI provided an extract of the FEI Database, showing that Mr. Bulthuis has been registered with the FEI since 2006, including for the year 2016, as an Athlete in the discipline of Jumping.
- 4.3 On the merits of the case, the FEI explained that it had referred Mr. Bulthuis' explanations and statement to the FEI Veterinary Department for their review from a veterinary perspective. The FEI Veterinary's Department conclusion was that the explanation submitted by Mr. Bulthuis was "questionable". In this respect, the FEI submitted an email by Ms. Caterina Termine from the FEI Veterinary Department. In her email Ms. Termine stated that she and Mr. Göran Akerström from the FEI Veterinary Department, having reviewed the documents and the photos – Mr. Bulthuis' statement and photos of the injury – questioned why there are no marks on the side and hind areas of the Horse. That in their view it would be logical to find ventral wounds if a dressage whip had been used (such whips are several feet long) but it seemed illogical to them that there are no other marks. That if three people had been whipping the Horse from the ground – as described in the statement of Mr. Bulthuis - they would expect whip marks to be seen on the sides of the Horse and not ventrally. They believed that some ventral marks would have resulted from the rider whipping the Horse; they found it remarkable that there are no whip marks on the sides or the top of the Horse. In conclusion, they stated that

"We believe that some ventral marks would have resulted from the rider whipping the horse but it's remarkable that there are no whip marks on the sides or the top of the horse.

The story would be questionable. In addition, there is no mention of the state of the pony e.g. was it able to get away from the stallion? Was the pony injured or wounded? The stated five minutes seems like a long time for them to remove the horse from the pony."

- 4.4 As a result, the FEI requested the Tribunal to a) declare the Protest against Mr. Raijmakers as inadmissible; b) declare the Protest against Mr. Bulthuis as admissible and consider (i) the contents of the Protest (in so far as it relates to Mr. Bulthuis); (ii) the explanations and statement submitted by Mr. Bulthuis; and (iii) the comments of the FEI Veterinary Department, in order to evaluate if the allegation of abuse of horse is proven and if the Protest should be upheld or dismissed; and c) if the Tribunal considers that the Protest should be upheld, to impose such sanctions as it deems appropriate in accordance with Article 169.6.2 of the GRs.

5. Further submission by Mr. Bulthuis

- 5.1 On 15 June 2016, Mr. Bulthuis submitted that he maintained his previous explanations regarding the incident of the Horse, and that following the Horse's behaviour he had had no other option than to whip the Horse in order to prevent serious injuries to the pony, its rider and the other people present. Mr. Bulthuis argued that no horse cruelty in the meaning of Article 142 of the GRs had taken place.
- 5.2 Together with his submission, Mr. Bulthuis provided a (unsigned) statement by Dr. Bart De Neve, Mr. Bulthuis' veterinarian. Dr. De Neve stated that he had been Mr. Bulthuis' veterinarian for fifteen (15) years, and that he could confirm that whenever the health of a horse was in danger no effort was spared to help the horse. That this had also been the case in the case at hand, where the Horse had afterwards been treated with antibiotics and NSAID and taken care of. He further confirmed that the case at hand was no case of "cruelty". Moreover, Dr. De Neve stated that Mr. Bulthuis was a professional rider and horse trader, and that it was obvious that mistreating a horse was of no benefit to him. Finally, that he could assure that Mr. Bulthuis has acted in the best interest of everybody involved. That due to the fact that the safety and well being of a child was in jeopardy, Mr. Bulthuis had been forced to act immediately.
- 5.3 Finally, Mr. Bulthuis further alleged that, under FEI rules, the FEI has had no right to consult Ms. Termine, an expert and third party, without prior consulting all of the parties. That this external communication infringed the FEI Code of Ethics (Appendix F), more in particular by showing a subjective approach and lack of transparency, and also infringed the confidentiality rule, by mentioning his name to the expert. Furthermore, that Ms. Termine and Mr. Akerström had not been present during the incident with the Horse, and that their suggestions on how a whip could have been used were nothing more than assumptions without scientific and objective investigations and conclusions. That it was needless to say that different whips hit differently, and the skin of the Horse's side parts were much stronger and thicker than its belly skin. He therefore concluded that Ms. Termine's email should not be considered in the case at hand.

6. Further submission by the FEI

- 6.1 On 21 June 2016, the FEI further argued that the allegation of horse abuse was not initiated by the FEI, and the FEI was therefore merely acting as an intermediary in the case at hand. Further that the email by Ms. Termine should not be regarded as an expert report, and that the request to the FEI Veterinary Department was merely to obtain an opinion on the matter, from a veterinary perspective. That in cases, like the case at hand, where neither the representatives from the FEI Headquarter nor any FEI Officials nor any other FEI witnesses were present when the matter complained of occurred, the FEI was of the opinion that requesting the FEI Veterinary Department was not an unreasonable (and certainly not unethical) step to take. Neither did the FEI argue that the statement of Ms. Termine was conclusive one way or the other; the FEI submission merely repeated verbatim the statements made/queries raised by Ms. Termine in her email.
- 6.2 With regards to the statement of Dr. De Neve, the FEI argued that there was no evidence to suggest that Dr. De Neve was present when the incident with the Horse occurred; he was not listed as witnesses who stated they had seen the incident, as per Mr. Bulthuis' statement. Furthermore, it was unclear upon what information Dr. De Neve's statement was based.

7. Further submission by the Protesters

- 7.1 On 22 June 2016, the Protesters further argued that the Horse, despite being a stallion, had a docile and submissive habit. That Ms. Ladisa was sometimes riding him bareback (the Protesters submitted photos in this respect). In fact, such dangerous behaviour by the Horse – as described by Mr. Bulthuis and Mr. Raijmakers – had never occurred. That all incidences claimed by Mr. Bulthuis and Mr. Raijmakers had allegedly taken place when Ms. Ladisa was not present.
- 7.2 Regarding Mr. Bulthuis' description of the incident, the Protestors argued that it presented several shadowy, obscure sides. Namely that (i) if the statement of Mr. Bulthuis that three people together had whipped the Horse in order to shake the Horse of the pony was true, the whips should have hit the back and the sides of the Horse but not the belly, *i.e.*, the only part where the wounds occurred; (ii) five (5) minutes for shaking the Horse off the pony was a very long time for people with expertise in managing horses; (iii) Mr. Bulthuis did not mention any injuries that occurred to the pony; (iv) that if the Horse really attacked the pony for five minutes large wounds should have occurred to the pony.
- 7.3 Regarding Dr. De Neve's statement the Protestors argued that (i) it was evident from Mr. Bulthuis' statement indicating the witnesses of the incident, that Dr. De Neve was not present at the time of the incident, and that therefore his statement was a merely personal opinion; (ii) Mr. Bulthuis' behaviour in the past had no relevance to the case at hand; (iii) Mr. Bulthuis had without informing the owners of the Horse, consigned the injured Horse to Gelissen; (iv) there existed a clear discrepancy between

the statements of Mr. Bulthuis and Dr. De Neve. That Mr. Bulthuis – in his statement – had not mentioned having called a veterinarian, and Mr. Bulthuis stated that he had only washed the Horse with Betadine shampoo. In addition, that when the Horse had been loaded onto the van, it would have been expected that Mr. Bulthuis had informed the driver that the Horse had indeed been treated with antibiotics.

- 7.4 Finally, that Ms. Termine’s statement was to be considered, as (i) the IRs foresaw that the Tribunal could appoint experts to assist or advice it; (ii) no infringement of confidentiality rules had occurred, as the documents were sent by the FEI only internally, *i.e.*, from the Legal Department to the Veterinary Department, and not to any third party, as alleged by Mr. Bulthuis; (iii) the determinations of Ms. Termine were based on filed documents, which included the statement of Mr. Bulthuis.

8. Jurisdiction

The Tribunal has jurisdiction over the matter pursuant to the Statutes, GRs and IRs.

9. Admissibility of the Protest

- 9.1 The Tribunal finds that – generally - the Protest submitted to it by the FEI Secretary General – through the FEI Legal Department - is admissible, as the Protest arises from an alleged horse abuse and may be lodged by anybody under Article 163.2 of the GRs.
- 9.2 The Tribunal however finds that it does not have jurisdiction to decide on the Protest against Mr. Raijmakers, as Mr. Raijmakers was not registered with the FEI or one of FEI’s members, *i.e.*, National Federations, at the time of the incident. Therefore the Protest against Mr. Raijmakers is not admissible, and has to be dismissed.
- 9.3 The Tribunal finds that the Protest against Mr. Bulthuis – who was registered with the FEI at the time of the incident – is admissible. In the following, the Tribunal will therefore decide on the alleged horse abuse by Mr. Bulthuis, and thus whether the Protest against Mr. Bulthuis is upheld, and, if in the affirmative, on the appropriate sanctions to be imposed in accordance with Article 169.6.2 of the GRs.

10. Decision

- 10.1 The Tribunal has to decide whether a horse abuse on the part of Mr. Bulthuis, as alleged by the Protestors, occurred. In accordance with Article 142.1 of the GRs the term “Abuse” means an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse. Article 142.1 of the GRs further provides for a non-exhaustive list of actions or omissions that are to be considered as Abuse; including – among others – to whip or beat a Horse excessively.

- 10.2 To start with, the Tribunal has taken note of the injury/wounds of the Horse, and especially the photo and video evidence provided in this respect. Furthermore, the Tribunal takes note that Mr. Bulthuis, whereas he claims that the inflammation of the wounds “perhaps make a worse impression than necessary”, does not contest the injury/wounds of the Horse in general. The injury/wounds have also been confirmed by Dr. Parlagreco, who has examined the Horse upon arrival at its home stables in Italy. The Tribunal finds in this regard that the photo and video evidence speaks for itself.
- 10.3 Further, the Tribunal takes note that the injury/wounds occurred while the Horse was under the care of Mr. Bulthuis. In this respect Gelissen confirmed the Horse’s status, *i.e.*, including the injury/wounds, when it has been picked up from Mr. Bulthuis’ stables. Mr. Bulthuis does not contest that the injury/wounds occurred while the Horse was under his care.
- 10.4 Moreover, the Tribunal takes note that according to Mr. Bulthuis, the injury/wounds occurred, as the Horse has allegedly been whipped by three persons for about five (5) minutes, in order to get the Horse off a pony, which it had allegedly attacked. In this regard the Tribunal also takes note that, except for Mr. Bulthuis, and his staff and business partner, no third (independent) person (and neither the Protesters) have witnessed the alleged incident with the Horse.
- 10.5 Finally, the Tribunal takes note that the Protesters and the FEI argue that the injury/wounds were not consistent with the explanation given by Mr. Bulthuis, *i.e.*, the whipping of the Horse, mainly as the injury/wounds only occurred on the Horse’s belly, and no marks (which would be expected) are to be seen on either side of the Horse. The Tribunal takes also note of Mr. Bulthuis’ request to disregard Ms. Termine’s email, as in his view the FEI had no right to consult her, *i.e.*, the FEI Veterinary Department.
- 10.6 Whereas the Tribunal generally agrees with the FEI, that requesting the FEI Veterinary Department, *i.e.*, Ms. Termine, for a veterinary opinion in the case at hand was not an unreasonable nor unethical step to take, the Tribunal however finds that in order to decide the case at hand, it does not need to take Ms. Termine’s email into consideration. Neither does the Tribunal need to decide – for reasons outlined further below - whether or not the explanations provided by Mr. Bulthuis are consistent with the injury/wounds.
- 10.7 The Tribunal finds that in the case at hand an Abuse of the Horse in the meaning of Article 142.1 of the GRs on the part of Mr. Bulthuis occurred. The Tribunal comes to this conclusion for reasons as follows.
- 10.8 Firstly, the Tribunal finds that the injury/wounds - illustrated via photo and video evidence - are severe by themselves. Mr. Bulthuis admits that he and his staff and business partner whipped the Horse. Mr. Bulthuis however alleges that the whipping, *i.e.*, his actions had been necessary given the circumstances, and that the injury/wounds of the Horse had

been caused by an "unfortunate accident inflicted by the horse its own behaviour".

- 10.9 The Tribunal however finds that the whipping of the Horse – which has been strong and intentional, and resulted in the injury/wounds, as stated by Mr. Bulthuis himself - has to be considered as "excessive" in the meaning of Article 142.1 (i) of the GRs. In this regard, the Tribunal considers that professional riders and horse dealers, such as Mr. Bulthuis in the case at hand, are expected to know how to handle all kinds of horses, including those with a difficult temper. The Tribunal finds that a horse can therefore not take the blame for its injury/wounds, even if it behaved aggressively, as it might have been the case with the Horse in the case at hand. As a result the actions taken by Mr. Bulthuis, his staff and business partner, *i.e.*, the whipping of the Horse resulting in the injury/wound of that severity, are to be considered as an "Abuse" under the GRs.
- 10.10 Secondly, the Tribunal finds that Mr. Bulthuis has further omitted to treat/or have the injury/wounds of the Horse treated in a way that would have been necessary in the case at hand; and as a result might have endangered the Horse's welfare. The Tribunal takes note of Mr. Bulthuis' explanation in this respect, stating "we gave the horse a shower and washed him with betadine shampoo, and put him in the box".
- 10.11 In the opinion of the Tribunal it is however clear that the Horse's injury/wounds needed further treatment. This has also been confirmed by Dr. Parlagreco, who has administered antibiotics and non-steroidal anti-inflammatory drugs, upon arrival of the Horse in Italy. The Tribunal holds, that it does not matter whether or not EU rules foresee that the owner and transporter have to decide whether a horse is fit to be transported or not, as alleged by Mr. Bulthuis. Mr. Bulthuis was expected to look after the Horse's welfare, and to assure that the injury/wounds were treated accordingly, prior to the Horse being picked up for transport by Gelissen, and while under his care. Following Mr. Bulthuis' statement, the Tribunal understands that the Horse has only been picked up by Gelissen on the day following the incident, and thus on the day after the injury/wounds have occurred to the Horse. Furthermore, the Tribunal is of the opinion that Mr. Bulthuis – even though not a veterinarian -, according to his own statement, seem to have been well aware of the effects of inflammations, *i.e.*, for example causing swelling of wounds.
- 10.12 Moreover, the Tribunal takes note of Dr. De Neve's email that the Horse had apparently been treated with antibiotics and NSAID after the incident. Dr. De Neve does however not specify who has treated the Horse, or whether he – as Mr. Bulthuis' long time veterinarian – had been the one treating the Horse. Given that Dr. De Neve's email (a not signed statement) has been provided at a later point in time in the proceedings, and as it is contrary to Mr. Bulthuis' previously signed and counter-signed statement, the Tribunal decides to give Dr. De Neve's email little weight.

10.13 In conclusion, the Tribunal holds that Mr. Bulthuis's actions and omissions constitute Horse Abuse within the meaning of Article 142.1 of the GRs.

10.14 For the above reasons, and in accordance with Articles 142.1 and 169.6.2 of the GRs, the Tribunal therefore decides as follows with regard to Mr. Bulthuis:

- 1) The Protest is admissible.
- 2) Mr. Bulthuis shall be fined **two thousand Swiss Francs (CHF 2'000,-)**.
- 3) The Parties are to bear their own costs and expenses.

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

10.16 According to Articles 165.1.3 and 165.6.1 of the GRs, this Decision can be appealed before the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

V. DECISION TO BE FORWARDED TO:

a. The Parties: Yes

b. Any other: NF

FOR THE PANEL



The Chair, Mr. Chris Hodson QC