



**DECISION of the FEI TRIBUNAL**

**Appeal by ESP-NF concerning Endurance competition at WEG 2018**

**dated 6 December 2018**

**In the matter of**

**REAL FEDERACIÓN HÍPICA ESPAÑOLA (“ESP-NF” or “the Appellant”)**

**vs.**

**FÉDÉRATION EQUESTRE INTERNATIONALE (“FEI”)**

**together “the Parties”**

**I. COMPOSITION OF PANEL**

Mr. Chris Hodson QC, one panel member

**II. SUMMARY OF THE FACTS**

- 1. Case File:** The Tribunal duly took into consideration the Parties’ written submissions and communications received to date and the oral argument presented on 3 December 2018.
- 2. Oral Hearing:** 3 December 2018, via telephone conference call.

Present:

- The FEI Tribunal Panel
- Ms. Erika Riedl, FEI Tribunal Clerk

For the Appellants:

- Mr. Venancio García Ovies, Secretary General
- Mr. Daniel Fenaux, Assistant to Chef d'Equipe

For the FEI:

- Mr. Mikael Rentsch, Legal Director
- Ms. Aine Power, Deputy Legal Director
- Ms. Anna Thorstenson, Legal Counsel
- Ms. Ana Kricej, Junior Legal Counsel

### **III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT**

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

Statutes 23<sup>rd</sup> edition, effective 29 April 2015 ("**Statutes**"), Arts. 1.4, 38 and 39.

General Regulations, 23<sup>rd</sup> edition, 1 January 2009, updates effective 1 January 2018, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

Endurance Rules, Updated 9<sup>th</sup> Edition, Effective 1 January 2018 ("**ERs**").

Internal Regulations of the FEI Tribunal, 3<sup>rd</sup> Edition, 2 March 2018 ("**IRs**").

#### **2. The relevant Legal Provisions**

##### **GRs Article 165.1:**

"1. An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorised under the Statutes, GRs or Sport Rules, provided it is admissible (see paragraph 2 below):

1.1 With the Appeal Committee (or with the FEI Tribunal if there is no Appeal Committee) against Decisions by the Ground Jury.

1.2 With the FEI Tribunal against Decisions of the Appeal Committee or any other person or body.

1.3 With the CAS against Decisions by the FEI Tribunal. The person or body lodging such Appeal shall inform the Secretary General and provide

him with copies of the statement of Appeal.

2 An Appeal is not admissible:

2.1 Against Decisions by the Ground Jury in cases covered by Article 159.7.1–4 (or in cases in relation to the arena, an obstacle or the course if there is no Appeal Committee);

2.2 Against Decisions of the Appeal Committee on Appeals arising from Decisions made by the Ground Jury.

2.3 If there is no Appeal Committee, against Decisions made by the FEI Tribunal on Appeals arising from Decisions made by the Ground Jury.

3 Appeals to the Appeal Committee must be in writing, signed and accompanied by supporting evidence in writing or by the presence of one or more witnesses and must be lodged no later than one (1) hour after the Decision of the Ground Jury.

4 If there is no Appeal Committee, Appeals to the FEI Tribunal must be in writing, signed and accompanied by supporting evidence in writing or by the presence of one or more witnesses and must reach the FEI Tribunal no later than fourteen (14) days after the end of the Event. So far as Competitions are concerned, the right of Appeal is limited to questions of the eligibility of an Athlete or Horse and questions involving the interpretation of the Sport Rules.

5 Appeals to the FEI Tribunal must be dispatched to the Secretary General and signed by the appellant or his authorised agent and accompanied by supporting evidence in writing or by the presence of one or more witnesses at a designated hearing and must reach the FEI Tribunal within thirty (30) days of the date on which the Secretary General's notification of the earlier Decision was sent."

**IRs Article 18.1:**

"In accordance with Article 38 of the FEI Statutes, the FEI Tribunal has the competence to hear and determine any matter properly submitted to it, including, but not limited to, Claims (as provided for in Article 30 of these Internal Regulations of the FEI Tribunal), those matters specified in Article 163 (Protests and Disciplinary cases) and Article 165 (Appeals) of the FEI General Regulations and all disputes and procedures arising under the FEI Anti-Doping Rules for Human Athletes and the FEI Equine Anti-Doping and Controlled Medication Regulations. (...)"

**ERs Article 800:**

"(...)

800.3 Whatever the order and rules for starting, each Competitor must carry out the whole Competition as if he/she were alone and competing against the clock.

800.4 The combination that finishes the course in the shortest time will be classified as the winner of the Competition after successfully completing all final Veterinary Inspections and medication control as well as other protocols in place for the safety of the Horse and Athlete under these Rules, the FEI General Regulations or the FEI Veterinary Regulations or any other FEI Rules and Regulations. (...)"

**ERs Article 802.2:**

"802.2 Order of Course: the Competitor must complete the entire course in the correct order and direction as marked on the map referred to in Article 802.6."

**ERs Article 813 – Classification:**

"813.1 Individuals: in an endurance Competition, the winner is the combination with the shortest elapsed riding time who successfully passes or complies with all protocols and requirements, including but not limited to the final Veterinary examination. The schedule of the Competition must clearly define the method of classification."

**ERs Article 821.4 – Final Inspection:**

"At the Final Inspection, the first trot-up of all Horses must be in front of a panel of three members of the Veterinary Commission. A member of the panel may ask to see the Horse trot only one more time before voting takes place.

At the Final Inspection which takes place after the Horse crosses the finish line of the Competition, there is only one presentation allowed and must be within the time allowed as defined.

(...)"

**ERs Article 826 – Awards:**

"826.1 An award must be given to all Athletes who successfully complete the course. (...)"

## IV. DECISION

Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions, pleadings and submissions made during the oral hearing. 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. Factual Background

- 1.1 The Endurance competition was held on 12 September 2018 at the FEI World Equestrian Games 2018, in Tryon, North Carolina, in the United States ("**WEG 2018**").
- 1.2 The Endurance competition was cancelled. This decision was initially announced orally, and followed by a decision in writing.
- 1.3 The Appeal Committee in its decision provides the following background with regard to the appeal lodged by the ESP-NF to the Appeal Committee:

*"1. Certain teams were apparently misdirected at the beginning of the Endurance Competition held on 12 September as part of the FEI World Equestrian Games 2018 and constituting the team and individual world championship in Endurance (the "**Competition**"). Thus, certain riders rode a different course during the first loop. The misdirected riders followed on their first loop a different track and covered a somewhat shorter distance.*

*2. When this error was discovered, a decision was taken by President of Ground Jury (in consultation with the Ground Jury), representative of the Organizing Committee, the Foreign Vet Delegate, the President of Vet Commission and a Technical Delegate (the "**First Decision**") confirming that the following will apply to the Competition:*

*"When combinations arrive at the Vet Gate following loop 1, a vet check will take place. The race will be re-started as a 120km race 45 minutes after the last Horse has been inspected at the vet gate. Only horses that have passed the vet check will be eligible to start. Only horses that had started at the original start are eligible to participate."*

*3. The revised competition thus started somewhat later and was to be*

held over 120 km going through four Vet gates in which the horses as according to the rules had to pass successfully the veterinary examination and be cleared for continuation (the "**Revised Competition**"). The fourth and final gate was designated as the end of the Revised Competition, with the winner being the horse/rider combination crossing first the finish line at the fourth gate and presenting the horse successfully within the stipulated presenting time and complying with all protocols and veterinary requirements; namely that the horse "is still fit to continue, to be ridden after a normal rest period for another full phase".

4. At around 17:30 Mr Rui Amante, the Technical Delegate, announced at the Vet Gate, on behalf of the President of the Ground Jury, that the Revised Competition had been cancelled due to the dangerously high combination of heat and humidity and the on-course conditions following heavy rain during the Revised Competition and as it was apparently unsafe to continue with the ride. The competitors and their entourage including the riders on the course were made aware of the announcement.

5. This announcement portrayed a unanimous decision taken by the President of the Ground Jury (Jean Pierre Allegret), the Technical Delegate (Mr Rui Amante) and the President of the Veterinary Commission (Thomas Timmons), in consultation with the Organising Committee, in accordance with FEI General Regulations, Article 109.12 (the "**Second Decision**").

6. The FEI issued a "Confirmation of Official Decision to Cancel Endurance Competition at the FEI World Equestrian Games 2018" in which it was stated, *inter alia*, that "[t]he consequence of the decision is that no medals will be awarded for the FEI Endurance Competition at the FEI World Equestrian Games 2018."

- 1.4 The FEI provided the "Confirmation of Official Decision to Cancel Endurance Competition at FEI World Equestrian Games 2018" (the "**Cancellation Decision**"), which reads as follows:

"As announced by the Technical Delegate, Rui Amante, at the Vet Gate, on behalf of the President of the Ground Jury, the Endurance Competition at the FEI World Equestrian Games 2018 has been cancelled due to dangerously high combination of heat and humidity and the on-course conditions following heavy rain during the Competition. It was, therefore, unsafe to continue with the ride.

*This unanimous decision was taken by the President of the Ground Jury*

*(Jean Pierre Allegret), the Technical Delegate and the President of the Veterinary Commission (Thomas Timmons), in consultation with the Organising Committee (...)*

*The cancellation decision was also approved by the Foreign Veterinary Delegate (Kieran O' Brien) and the Ground Jury members were consulted.*

*The decision was not taken lightly and all involved acknowledged the serious consequences. However, the decision was taken in order to avoid serious horse welfare issues occurring.*

*The consequence of the decision is that no medals will be awarded for the FEI Endurance Competition at the FEI World Equestrian Games 2018."*

- 1.5 On 13 September 2018, the ESP-NF submitted an appeal to the Appeal Committee, which hold a hearing on the same day, and issued a decision on 14 September 2018.
- 1.6 According to the decision of the Appeal Committee (Article 19), *"The Spanish NF conceded at the start of the hearing that the Second Decision in as far as it relates to the stopping of The Revised Competition can be understood and accepted. It was clarified that the Spanish NF does not necessarily agree with the Second Decision but can understand it, while objecting to the decision not to award medals."*
- 1.7 The Appeal Committee denied the Appeal, upheld the Second Decision, including the decision not to award medals and classifications for the Revised Competition. The main decision part of the Appeal Committee reads as follows:

*"26. In the present case and based on the testimony of Mr Timmons it is clear that the Second Decision was not taken lightly but that everyone involved agreed that there were real supported concerns regarding safety and welfare and that the Second Decision was the only possible one in order to avoid serious horse welfare issues.*

*27. It appears that the Organiser was also consulted in regard to both the First Decision and the Second Decision. It was not clear that all Ground Jury members were formally consulted by the President of the Ground Jury. However, the decision itself, subject to consultation with the members, is that of the President of the Ground Jury himself along with the other officials stated in Article 804 Endurance Rules. On the other hand the Second Decision was also approved by the Foreign Veterinary Delegate (Kieran O' Brien).*

28. *Whether the Second Decision meets the conditions of Article 804 of the Endurance Rules or not, it is clear that the Second Decision is in full conformity with Article 109.12 of the General Regulations which in any case governs as the higher rule of law governing these specific circumstances.*

29. *It is clear that the Second Decision was not decided in bad faith and was not arbitrary or capricious or intended to harm any of the riders including the leaders of the Revised Competition. This was not even as much as argued.*

30. *Article 109.12 of the General Regulation uses the word "cancel" which is exactly the operative part of the Second Decision regarding the Revised Competition. The plain meaning of "cancellation" of a competition is that the competition did not take place and thus had no winners. It would be odd to declare winners for an event which was cancelled.*

31. *The Longines FEI World Endurance Championships 2012 held at Euston Park (GBR) cannot serve as a precedent. Besides, at that event all medal winners (individuals and teams) completed the original course.*

32. *Certain Articles in the Endurance Rules clearly indicate that to win a medal the competition must be completed (see below, emphasis added):*

*"800.4 (...)*

*813.1 (...)*

33. *Of course, the competition may be modified and then it is only the modified distance which must be completed.*

34. *There is no clear rule requiring the award of medals.*

35. *When the cancellation was announced, no horse/rider combination finished the course, only some three-quarters of the course were completed by few riders, there is only clear supported and solid record of the classification at the second vet gate and in the circumstances of this event it is questionable what is the sporting value of results and clearly the decision not to award medals cannot be stated to be legally wrong or contrary to reason.*

36. *This said the AC recognises the superb horsemanship and skills and the sporting achievements of competitors who did well on the course in most difficult of conditions. These are horse /rider combinations that excelled despite very difficult weather and terrain conditions. Still, this in itself, does not necessitate the award of medals.*

37. *The Spanish NF was well represented and presented its case in a fair and reasonable manner. In view of the unusual circumstances surrounding*

*the Competition and appreciating such representation, the AC requests that the deposit paid with the Appeal be returned to the Spanish NF.*

*38. For all those reasons the Appeal is denied and the Second Decision is upheld, including the decision not to award medals and classifications for the Revised Competition which was cancelled by the Second Decision."*

## **2. Procedural Background**

- 2.1 On 10 October 2018, the Appellant lodged an Appeal ("**the Appeal**") in accordance with Article 38 of the Statutes, Article 165 of the GRs and Article 18.1 of the IRs to the Tribunal. Further, the FEI confirmed that it received the mandatory deposit pursuant to Article 166.2 of the GRs on 17 October 2017. Thus, the Appeal is considered to be lodged on 17 October 2018.
- 2.2 On 6 November 2018, the FEI submitted its Answer to the Appeal together with the respective case file.
- 2.3 On 6 November 2018, the FEI Tribunal Chair nominated a one member panel, to which none of the Parties objected.
- 2.4 On 7 November 2018, the panel requested the Parties to clarify whether they wished for a hearing to be held (which none of the Parties had requested in their written submissions), and on 8 November 2018, the Appellant requested for a hearing to be held.
- 2.5 On 3 December 2018, a hearing was held via telephone conference call.

## **3. Appeal by Appellant**

- 3.1 The Appellant - in essence - appealed the decision by the Appeal Committee of not awarding medals to the WEG 2018 Endurance competitions for reasons as follows:
  - a) Due to the absence of a legal provision for these cases;
  - b) Since more than 80% of the race was completed by the race leaders;
  - c) And the existence of a general principle of sportsmanship in virtue of which the effort made by riders and horses, in a sport event held under very adverse circumstances, had to be recognised.
- 3.2 The Appellant argued that the Appeal Committee itself recognised that "*There is no clear rule requiring the award of medals*" "*And recognizes the*

*superb horsemanship and skills and the sporting achievements of competitors who did well on the course in most difficult of conditions. These are horse/rider combinations that excelled despite very difficult weather and terrain conditions. Still this in itself, does not necessitate the award of medals."*

- 3.3 Therefore, and because of the General Principles of Sportsmanship, Article 800.4 had to be interpreted differently than the Appeal Committee did. In the view of the Appellant "*Finishes the course*" could also be when it has been decided to cancel the race, "*because in finally supposed the conclusion of the race.*"
- 3.4 Furthermore, Article 813.1 of the ERs had to be taken into consideration, which stated that the schedule of the competition must clearly define the classification method, which was not the case in the case at hand; athletes could not be harmed "*by not having defined the classification method previously.*"

#### **4. FEI Answer**

- 4.1 The FEI submitted the following prayers for relief:
- (a) *Dismiss the Appeal on its merits;*
  - (b) *Confirm the Appeal Committee Decision; and*
  - (c) *Determine that each party is responsible for their own costs arising out of this Appeal.*

The FEI further argued that, given the circumstances that gave rise to this Appeal and the acknowledgement of the money that the Appellant spent in sending a team to compete in the Endurance competition at the WEG 2018, the FEI was not seeking any contribution by the Appellant towards the costs of defending this Appeal.

- 4.2 In summary, the FEI argued that:
- a) According to the ERs medals can only be awarded if the race is completed, *i.e.*, the combinations have completed the entire course. As the WEG 2018 Endurance competition was cancelled before any combination had completed the full course, medals cannot be awarded.
  - b) There were no procedural flaws concerning the decision of the WEG 2018 Appeal Committee (nor had any been alleged). The WEG 2018 Appeal Committee duly considered all relevant facts, gave the

Appellants a full right to be heard and issued a well-reasoned and complete decision.

- c) There was no precedent for awarding medals in an Endurance competition where the combinations in question had not completed the full course.

4.3 More specifically, the FEI argued that:

- a) The Appeal Committee Decision was valid and correct, and the Appellants had not put forward any new arguments as to why the Appeal Committee Decision should be overturned.
- b) No combination completed the course. From an FEI perspective, while the circumstances that gave rise to the "false start" in the Endurance competition and the subsequent extreme climatic conditions which lead to its ultimate cancellation were very unfortunate and rather unique, the decision as to whether or not to award medals based on an unfinished competition was clear cut. The ERs made it very clear that it was a pre-condition to announcing the winner(s) of a race (which gave rise to awarding of medals) that the relevant Athlete/Horse combination(s) "*must finish the course and pass the final Veterinary Inspection*". It was impossible to interpret Articles 800.3, 800.4, 802.2, 813.1, 813.2, 821.4 and 826.1 of the ERs in any other way. These Articles use phrases such as "*finishes the course*", "*completing all final Veterinary inspections*", "*complete the entire course*", "*after the Horse crosses the finish line of the Competition*". There was simply no legal basis in the rules for awarding medals in circumstances where the combinations have not completed the entire course. No combination finished the course or presented for a final Veterinary Inspection; the Appellant acknowledged this when referring to "the fact that more than 80% of the race was completed by the race leaders". However, the assertion that 80% of the race was completed could not be verified due to the circumstances of the cancellation. It was true that at Vet Gate 2 (i.e., after 71 and 123 kilometres), which was "*the only official clear record of standings*" as outlined in the Appeal Committee Decision (and confirmed by the FEI's IT Director, Mr. Gaspard Dufour, in the Appeal Committee proceedings), the Spanish combinations were in provisional first, second, fourth and fifth positions, and that the Spanish team were in provisional first position at this point in time; however, these were not final placings. The reality was, that if the race had continued (i.e., if the Cancellation Decision had not been taken) one had no idea what the final placing would have been. The FEI could not verify the standings at the point the Cancellation was taken. This meant that the

FEI cannot determine the placings with any degree of certainty. Mr. Dufour – as outlined in the Appeal Committee Decision – stated that *"There was a confusion following the announcement of the Second Decision and the record at the third Vet Gate is not clean and will need to be recreated which is not a solid base to support any decision."*

- c) The Euston Park example – put forward by the Appellant to the WEG 2018 Appeal Committee - could be quite easily distinguished from the WEG 2018 scenario. It was true that the Euston Park race had to be abandoned before all combinations had finished the full course due to a heavy rain storm, and it was also true that medals were awarded. However, the key difference was that all combinations to whom medals were awarded had completed the full course. Referring to an FEI Press Release (which the FEI also provided), the FEI argued that in fact fifty-two (52) combinations and four (4) teams had completed the entire route by the time the thunderstorm occurred. In the case at hand not a single combination had reached the finish line and even the top combinations were, in reality, hours away from doing so. Therefore, the Euston Park decision could not be regarded as a relevant precedent.
- d) Regarding the effect of the cancellation of a Competition, the FEI referred to the Appeal Committee Decision, which summed up the situation perfectly and was fully endorsed by the FEI.
- e) The FEI did not deny that it was a great pity that the WEG 2018 Endurance competition had to be cancelled and that the efforts, skill and horsemanship of the Appellant's representatives up to that point cannot be rewarded. However, the reality was that the decision to cancel was based on science and was taken with the sole purpose of protecting the horse welfare, which was at the centre of all of the FEI's activities and absolutely paramount. However, the rules did not allow, nor should they, for medals to be awarded when the course has not been completed. The non-awarding of medals was, therefore, the unfortunate but unavoidable consequence of the Cancellation Decision, a decision that was validly taken in order to protect horse welfare.

## **5. Further proceedings**

- 5.1 On 8 November 2018, the Appellant, together with the hearing request, informed that the following individuals are to intervene at the hearing: (1) Mr. Ignasi Casas, Chef d'Equipe, and (2) Mr. Daniel Fenaux, Assistant

to the Chef d'Equipe.

- 5.2 On 9 November 2018, the FEI requested the Appellant to confirm in what capacity it is proposed that Mr. Casas and Mr. Fenaux would appear before the Tribunal. Referring to Articles 40.3 and 25.2 of the IRs, the FEI argued that neither of the two individuals was mentioned/referenced in the Appellant's Appeal, and no witness statements have been submitted by or on behalf of either of them. Further, on 18 November 2018, the FEI clarified that the FEI did not object to the attendance of Mr. Casas and Mr. Fenaux at the hearing, provided that it was for the purpose of representing the ESP-NF, and that they were not considered as witnesses.
- 5.3 On 26 November 2018, the panel accepted the attendance of Mr. Casas and Mr. Fenaux at the hearing, and clarified that if either of those individuals wished to provide any evidence at the hearing, the Tribunal requested that such evidence is send to the FEI for agreement to be placed before the Tribunal. However, no such further evidence was placed before the Tribunal.

## **6. Hearing**

- 6.1 At the outset of the hearing, the ESP-NF informed that Mr. Casas could no longer join the hearing.
- 6.2 The Parties had ample opportunity to present their cases, submit their arguments and answer to the questions posed by the Tribunal. After the Parties' final submissions, the Tribunal closed the hearing and reserved its final decision. The Panel heard carefully and took into consideration in its discussion and subsequent deliberation all the evidence and the arguments presented by the Parties even if they have not been summarized herein.
- 6.3 During the hearing, and where not mentioned otherwise in the following, both Parties maintained their submissions in writing.
- 6.4 The Appellant further stressed that the present case did not only concern the WEG 2018, but the efforts of the riders and everyone involved over the past four (4) years, *i.e.*, since the previous WEG. The Appellant did not dispute that the Competition was cancelled for welfare of horse reasons. However, the Appellant argued that the Competition took place partially, some individuals completed 120 km of the course and thus should be properly awarded, and such award was justified financially and emotionally.

- 6.5 Upon request, the Appellant stated that the Appellant is not aware of any other precedent than the one at Euston Park, which the FEI confirmed. The Appellant recognised that the combinations and teams awarded the medals at Euston Park had finished the competition, but argued that riders which had not finished that competition had also been included in the rankings.
- 6.6 Finally, the Appellant suggested that since the data until Vet Gate 2 was considered as reliable, the standings up until that point in the Competition had to be taken into account. This was justified in the Appellant's view, since the rules did not specify exactly how many loops, how much time or how many kilometres had to be taken into consideration. In taking into consideration the efforts of the riders, not only the Spanish ones, but all of them, they had to be awarded.
- 6.7 During the hearing the FEI reiterated that there was no ambiguity as to what happens when a competition was cancelled. Contrary to the PR's argument, the rules clearly stated that finishing the course, *i.e.*, completing the loops – which was not the case in the case at hand - was a pre-condition to awarding medals no matter the efforts of the riders. The FEI could not overlook the rules, the race was not completed, and thus no medals can be awarded. Ultimately, the ESP-NF could not demonstrate that they won the gold medal, as none of the riders of the team finished the ride.
- 6.8 The FEI argued that since the Competition was cancelled, no medals could be awarded, as (i) the ride has not been completed; (ii) the data at Vet Gate 3 was not reliable and could not be confirmed; only an assumption could be made as to who would have won the race if it had not been cancelled, and assumptions were inconsistent with the rules and sporting incidents; and (iii) there was no comparable precedent.
- 6.9 With regard to the Appellant's suggestion that medals should be awarded in accordance with the standings after Vet Gate 2, as the data was reliable at this point in time, the FEI argued that this was only a snapshot of the standings at this point in time. In addition, the FEI would have no idea how to award the silver and bronze medal, as no reliable data existed.
- 6.10 Finally, the FEI argued that the Tribunal could not overlook the Appeal Committee's Decision, which was legally sound, and since the Appeal Committee already heard all parties involved.

## **7. Jurisdiction**

- 7.1 The Tribunal takes note that the Appellant has lodged an Appeal in accordance with Article 165 of the GRs. It follows from Article 165.2 of the GRs that an Appeal is not admissible Against Decisions of the Appeal Committee on Appeals arising from Decisions made by the Ground Jury.
- 7.2 However, neither party questions the jurisdiction of the Tribunal, and neither party commented in relation to jurisdiction either in writing or during the hearing. In addition, the Tribunal notes that the Appeal Committee in its decision questioned whether a decision of the Ground Jury had actually been taken, and gave the Appellant the benefit of the doubt to hear the Appeal.
- 7.3 Given the foregoing, the Tribunal accepts that it has jurisdiction to hear the Appeal. This view is specific to these circumstances, and to the result which the Tribunal has reached. Had this result been different the issue of jurisdiction may well have required further argument.

## **8. Admissibility of the Appeal**

- 8.1 Having accepted that the Tribunal has jurisdiction to hear the Appeal, the Tribunal also finds the Appeal admissible, as the Appeal arises from a Decision taken by the Appeal Committee, and since the Appellant has lodged the Appeal within the deadline foreseen under Article 165.5 of the GRs.

## **9. Decision**

- 9.1 The Tribunal, having taken into consideration all arguments, submissions and evidence by the Parties, decides to dismiss the Appeal for reasons outlined in the following. Even though the Tribunal has examined and considered all other points raised by the Parties, it does not regard them as relevant for the outcome of this Decision.
- 9.2 To start with, the Tribunal notes that the meaning of "course" is described in Article 801 of the ERs; that is, the whole distance to be travelled. Further, pursuant to Article 800.4 of the ERs *"The combination that finishes the course in the shortest time will be classified as the winner of the Competition after successfully completing all final Veterinary Inspections and medication control as well as other protocols in place for the safety of the Horse and Athlete under these Rules, the FEI General Regulations or the FEI Veterinary Regulations or any other FEI Rules and*

*Regulations.”*

- 9.3 The Tribunal however notes that no combination finished the course, which is not disputed by the Parties. Moreover, the Tribunal finds in this respect that, even if the course could have been said to have been completed at the moment of cancellation of the Competition, no one is clearly recorded as complying with Article 800.4 of the ERs, and therefore no one can be classified as the winner.
- 9.4 The Tribunal further finds that the (reliable) records of the Vet Gate 2 do not assist, as the Competition did not stop there, and thus the course was not then complete.
- 9.5 While the Tribunal has total sympathy for the Spanish riders, who as a team were doing better than anyone until the Competitions was cancelled, no one knows what would have happened had the Competition continued to a close. The Tribunal recognises, as also argued by the FEI, that the final loop(s) are critical in Endurance competitions.
- 9.6 In addition, the Tribunal has taken note of the Appellant’s argument that the riders had to be awarded for their efforts. However, it follows from Article 826.1 of the ERs that an *“award must be given to all Athletes who successfully complete the course”*, which – as previously decided - is not the case in the present case. Completion is not just covering the course, as Article 800.4 makes clear.
- 9.7 Finally, the Tribunal finds the recognition of sportsmanship very important. However, this recognition has to comply with the rules, and as a matter of their interpretation in the light of the clear requirement as provided for in Article 800.4 of the ERs, in the present case there is no possibility for the Tribunal to decide otherwise.
- 9.8 Ultimately, the Tribunal finds that the wording of Article 800.4 of the ERs is clear, and no other interpretation is possible. Therefore, the Tribunal finds that the decision of the Appeal Committee was correct, and has to be upheld.
- 9.9 For the above reasons, the FEI Tribunal therefore decides as follows:

**1. The Appeal is admissible.**

**2. The Appeal is dismissed on the merits.**

**3. The Decision of the Appeal Committee is upheld.**

**4. All other requests are dismissed.**

**5. No deposit shall be returned to the Appellant.**

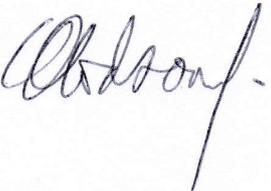
**6. The Parties shall bear their own costs and expenses.**

- 9.10 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.
- 9.11 According to Articles 165.1.3 and 165.6 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: No**

**FOR THE PANEL**

A handwritten signature in black ink, appearing to read "Chris Hodson", is centered on the page. The signature is written in a cursive, flowing style.

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**Mr. Chris Hodson QC, one member panel**