

**DECISION of the FEI TRIBUNAL
dated 3 June 2020**

Cases:

Positive Controlled Medication Case No.: 2016/CM08

Horse: CASTLEBAR CONTRABAND **FEI Passport No:** 103U095/NED

Person Responsible/NF/ID: Sh Abdul Aziz Bin Faisal Al Qasimi/UAE/10031263

Event/ID: CEI1* 90 - Fontainebleau (FRA) - 2016_CI_0923_E_S_01_01

Date: 15 October 2016

Prohibited Substance: Xylazine

And

Case 2018/HA02 CASTLEBAR CONTRABAND – Allegation of Horse Abuse by the PR

I. COMPOSITION OF PANEL

Ms. Harveen Thauli, chair
Mr. Cesar Torrente, member
Mr. Martin Gibbs, member

II. SUMMARY OF THE FACTS

- 1. Memorandum of case:** By Legal Department.
- 2. Summary information provided by Person Responsible (PR):**
The Tribunal duly took into consideration all evidence, submissions and documents presented in the case file, as also made available by and to the PR.
- 3. Oral hearing:** none.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Articles of the Statutes/Regulations which are applicable:

Statutes 23rd edition, effective 29 April 2015 (“**Statutes**”), Arts. 1.4, 38 and 39.

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2016, Arts. 118, 143.1, 161, 168 and 169 ("**GRs**").

Internal Regulations of the FEI Tribunal, 2nd edition, 1 January 2012 and 3rd Edition, 2 March 2018, Part III (Procedural Rules of the FEI Tribunal) ("**IRs**").

FEI Equine Anti-Doping and Controlled Medication Regulations ("**EADCMRs**"), 2nd edition, effective 1 January 2016.

FEI Controlled Medication Regulations ("**ECM Rules**"), 2nd edition, effective 1 January 2016.

Veterinary Regulations ("**VRs**"), 13th edition, effective 1 January 2016, Art. 1046 and seq.

FEI Code of Conduct for the Welfare of the Horse.

2. Person Responsible: Sh Abdul Aziz Bin Faisal Al Qasimi.

3. Justification for sanction:

GRs Art. 143.1: Medication Control and Anti-Doping provisions are stated in the Anti-Doping Rules for Human Athletes (ADRHA), in conjunction with the World Anti-Doping Code, and in the Equine Anti-Doping and Controlled Medication Regulations (EADCM Regulations).

ECM Rules Art. 2.1.1: It is each Person Responsible's personal duty to ensure that no Controlled Medication Substance is present in the Horse body during an Event without a valid Veterinary Form. Persons Responsible are responsible for any Controlled Medication Substance found to be present in their Horse's Samples, even though their Support Personnel will be considered additionally responsible under Articles 2.2 – 2.5 ECM Rules where the circumstances so warrant. It is not necessary that intent, Fault, negligence or knowing Use be demonstrated in order to establish a Rule violation under Article 2.1.

ECM Rules Art. 2.1.2: Sufficient proof of a Rule violation under Article 2.1 is established by any of the following where there is no valid Veterinary Form: (i) presence of a Controlled Medication Substance and/or its Metabolites or Markers in the Horse's A Sample where the Person Responsible waives analysis of the B Sample and the B Sample is not

analysed; (ii) or, where the Horse's B Sample is analysed and the analysis of the Horse's B Sample confirms the presence of the Controlled Medication Substance and/or its Metabolites or Markers found in the Horse's A Sample during an Event. An Adverse Analytical Finding may be established by a positive blood or urine Sample.

ECM Rules Art. 2.2.1: It is each Person Responsible's personal duty, along with members of their Support Personnel, to ensure that no Controlled Medication Substance enters into the Horse's body and that no Controlled Medication Method is Used during an Event without a valid Veterinary Form. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the part of the Person Responsible, and/or member of his Support Personnel (where applicable), be demonstrated in order to establish a Rule violation for Use of a Controlled Medication Substance or a Controlled Medication Method. However, in accordance with the definition of Attempt, it is necessary to show intent in order to establish an ECM Rule violation for Attempted Use of a Controlled Medication Substance or a Controlled Medication Method.

ECM Rules Article 3.1: The FEI shall have the burden of establishing that an ECM Rule violation has occurred. The standard of proof shall be whether the FEI has established an ECM Rule violation on the balance of probabilities. Where these ECM Rules place the burden of proof upon the Person Responsible and/or member of his Support Personnel to rebut a presumption or establish specified facts or circumstances, the standard of proof shall also be by a balance of probability, except where a different standard of proof is specifically identified.

VRs Article 1046 – Treatment with Controlled Medication Substances

1. In the absence of an applicable Veterinary Form Controlled Medication Substances, as listed on the FEI Equine Prohibited Substances List (EPSL), which are administered to Horses during or close to an Event may result in an Adverse Analytical Finding in accordance with the EADCMRs.
2. During Events, the administration of treatments and supportive therapies must be authorised by the VC/VD before administration, using the appropriate Veterinary Form.
3. The use of Banned Substances is always strictly prohibited.

4. The treatment or supportive therapy, if authorised, may only be administered by an FEI Veterinarian with the exception of those substances administered orally or by nebulisation.

In emergency situations where the Horse's welfare is at risk, emergency therapeutic treatments may be administered. Following such administration, a Veterinary Form 1 must be presented for retrospective authorisation and for determination, where appropriate, of whether the Horse can continue competing at the Event. The Veterinary 1 Form must under all circumstances be completed before leaving the Event venue and before the Period of the Event has expired.

5. The use of a Controlled Medication Substance may only be authorised for treatment during an Event in exceptional circumstances, in accordance with these VRs, the EADCMRs and the GRs.

6. No intra-articular administration of any medication is allowed during FEI Events

7. The use of per rectum treatments is prohibited during FEI Events.

8. Treatments administered before an FEI Event (e.g. during transport) may be retro-actively authorised, using the appropriate Veterinary Form (in accordance with these VRs), by the VC/VD, when appropriate, on arrival at the Event. Retrospective authorisation will not be automatically granted and will be at the discretion of the VD and the GJ.

9. In accordance with the Code of Conduct for the Welfare of the Horse, the VC/VD must always verify prior to signing the Veterinary Form whether the medication requested, or previously administered, may affect:

- a) the Horse's fitness to compete;
- b) the fairness of the Competition; and/or
- c) the welfare of the Horse and/ or Athlete.

VRs Article 1054 – Prohibited Methods:

- 1. Horses are not permitted to compete:
(...) b) when they have hypersensitive or hyposensitive areas; (...)

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 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.

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 15,000.- and/or a Suspension of a minimum of three (3) months up to life;

IV. DECISION

Below is a summary of the relevant facts, allegations and arguments based on the Parties' written submissions and evidence. Although the Tribunal has fully considered all the facts, allegations, and arguments in the present proceedings, it refers only to the submissions and evidence it considers necessary to explain its reasoning in this decision.

1. Factual Background and Charges by the FEI

- 1.1 The horse, CASTLEBAR CONTRABAND ("**Castlebar**") participated at the CEI1* 90 in Fontainebleau, France, on 15 October 2016 (the "**Event**"), in the discipline of Endurance. Castlebar was ridden by Sh Abdul Aziz Bin Faisal Al Qasimi who is the Person Responsible in accordance with Article 118.3 of the GRs (the "**PR**").
- 1.2 During the Event, Castlebar had to be euthanised because of an open fracture to his front right cannon bone. The accident occurred at the 12th kilometre of the third loop at about 480 metres after the second vet gate.
- 1.3 Blood samples were collected from Castlebar after Castlebar was euthanised. According to the FEI Medication Control Form, the samples

were collected on 15 October 2016 at 15:45.

- 1.4 The FEI approved laboratory, the LGC Laboratory on Newmarket Road, Fordham, Cambridgeshire, UK (the "**Laboratory**") analysed blood sample no. 5551886 (the "**A Sample**"). The analysis revealed the presence of Xylazine in Castlebar's plasma.
- 1.5 Xylazine is a "Prohibited Substance" used as a sedative, analgesic and muscle relaxant and classified as a "Controlled Medication Substance" under the FEI Equine Prohibited Substances list. Furthermore, no valid Veterinary Form exists for this Prohibited Substance. Therefore, the positive finding of Xylazine found in the A Sample gives rise to an Equine Controlled Medication rule violation (the "**ECM Rule violation**") under the EADCMRs.
- 1.6 On 22 December 2016, the FEI Legal Department officially notified the PR and the Owner through the United Arab Emirates National Federation ("**UAE-NF**") and the National Federation of the Netherlands ("**NED-NF**"), respectively of the presence of the Prohibited Substance, the alleged rule violation, and the possible consequences ("**Notification Letter on the alleged ECM Rule violation**").
- 1.7 The Notification Letter on the alleged ECM Rule violation reminded the PR that he had been held responsible for a "Banned Substance Rule" violation in February 2011 (Case 2011/BS08 – Hotspur Ouarra).¹ As a result of this earlier violation, the FEI advised the PR that the period of "Ineligibility" imposed on him would be higher. The Notification Letter on the alleged ECM Rule violation read as follows: *the period of Ineligibility (Suspension) to be imposed on you shall be (Art. 10.8 ECMR) the greater of: a) three months; b) one-half of the period of Ineligibility imposed for the first ECM rule violation without taking into account any reduction under Article 10.6; or c) twice the period of Ineligibility otherwise applicable to the second ECM Rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.*
- 1.8 The Notification Letter on the ECM Rule violation also informed the PR and the Owner that they were entitled to: (i) have the B sample analysed; (ii) attend or be represented at the B sample analysis; and/or (iii) request that the B sample be analysed at a different laboratory than the A Sample.

¹ The PR received a two-year sanction for this Banned Substance Rule violation.

- 1.9 Neither the PR nor the Owner asked for the B sample to be analysed.
- 1.10 On 13 February 2018, the FEI notified the PR that the FEI had opened a case of alleged abuse of horse, in accordance with Article 142 of the GRs and/or the use of "Prohibited Methods" pursuant to Article 1054 of the VRs ("**Notification Letter on the alleged horse abuse**").
- 1.11 The Notification Letter on the alleged horse abuse informed the PR that the post mortem and the histopathological reports indicated that Castlebar's leg had been abnormally desensitised, which were major factors that led to its fracture and Castlebar's subsequent euthanasia. The FEI Veterinary Director confirmed that he could state with a high probability that the PR (and his support personnel) violated Article 142 of the GRs. It was further noted that competing with a horse having hypersensitive or hyposensitive areas was also prohibited pursuant to Article 1054 of the VRs.
- 1.12 In summary, the FEI notified the PR of an ECM Rule violation under Article 2.1 and horse abuse under Article 142 of the GRs and/or use of "Prohibited Methods" under Article 1054 of the VRs. The FEI subsequently added violations of Article 2.2 of the GRs and Article 1046 of the VRs in its second and third submissions (discussed below) as the case progressed and the FEI obtained further evidence.

2. Procedural Background (as at submission of the case file)

- 2.1 There were multiple delays throughout these proceedings.
- 2.2 On 22 December 2016, the FEI sent the Notification Letter on the alleged ECM Rule violation to the PR and the Owner.
- 2.3 On 15 January 2017, the PR submitted his first explanation.
- 2.4 On 5 May 2017, the PR was now represented and his legal counsel responded to the Notification Letter on the alleged ECM Rule violation.
- 2.5 On 6 September 2017, the FEI submitted its first response to the Tribunal. The PR refused to reply to the FEI's first response.
- 2.6 On 13 February 2018, the FEI sent the Notification Letter on the alleged horse abuse to the PR.

- 2.7 On 2 March 2018, the FEI submitted its second response to the Tribunal. The PR did not respond to the FEI's second response or any other FEI related issues until 8 months later on 12 November 2018 (discussed below).
- 2.8 On 28 September 2018, the FEI submitted the case file to the Tribunal and requested the Tribunal to consolidate the two cases: the alleged ECM Rule violation and horse abuse.
- 2.9 On 16 October 2018, the PR's legal counsel confirmed the PR and the PR's witnesses were available for a hearing on 10 December 2018. The FEI also confirmed its availability.
- 2.10 On 17 October 2018, the former FEI Tribunal Chair nominated a three-member panel and set a date for an in-person hearing.
- 2.11 On 12 November 2018, the PR's legal counsel raised concerns about the post mortem and histopathological reports submitted by the FEI. He stated there were no photographs taken during the examination or radiographs of the fractured bone. He requested the digital slides of the post mortem examination and the paraffin blocks of the tissue samples. He also questioned the level of detail in the examinations themselves. The PR's legal counsel requested an extension to provide his submissions, which were due on 14 November 2018, and that the hearing of 10 December 2018 be postponed until 2019.
- 2.12 On 13 November 2018, the PR agreed to consolidate the two cases.
- 2.13 On 14 November 2018, the FEI informed the Tribunal that between April and October 2018, the FEI had granted the PR's legal counsel many requests for extending the deadline to provide his submissions. Despite these extensions, the PR's legal counsel had not provided any submissions on the alleged ECM Rule violation or the horse abuse. The FEI had the "*strong opinion*" that the PR and his legal counsel were only trying to delay these proceedings.

The FEI disagreed with the PR's legal counsel's criticisms of the post mortem and histopathological reports and advised that these examinations were carried out by a "*very experienced team of post mortem veterinarians at one of the most well-known universities*". The FEI also stated it was unsure whether there would be any tissue samples available given it was two years after the post mortem examination had

taken place. Furthermore, the FEI relied only on information that had already been provided to the PR in its submissions. The FEI highlighted that the PR and the Owner had the right to participate or have their experts participate in the post mortem examination but chose not to do so.

The FEI opposed the PR's legal counsel's request for an extension to provide his submissions due that day and expected to proceed with the hearing on 10 December 2018.

- 2.14 On 14 November 2018, the PR's legal counsel disagreed with the FEI and maintained his position that evidence (e.g. the digital slides and paraffin blocks), which formed the basis of the post mortem reports, had not been provided to the PR. Therefore, he claimed the PR's expert could not verify the reliability of the findings in the post mortem and histopathological reports. He requested an adjournment of the upcoming hearing.
- 2.15 On 14 November 2018, the panel chair asked the Parties to continue their dialogue and make an effort to narrow down their issues. The panel chair invited the Parties to report to the Tribunal on any agreements they had reached by 29 November 2018.
- 2.16 On 29 November 2018, the FEI submitted on behalf of the Parties that: *The Parties need more time to consult with experts and we can therefore not conclude on any new dates for a hearing nor for the further submissions.*
- 2.17 On 6 May 2019, the FEI again suggested to the Tribunal that the PR's legal counsel was delaying these proceedings because he had not submitted any reply to the alleged ECM Rule violation and horse abuse. At this time, it had been 2.5 years since the alleged violations took place. The FEI advised the Tribunal that it had difficulty obtaining the digital slides because they were the university's property and not the FEI's, but the FEI was able to send them to the PR's legal counsel on 28 February 2019. The FEI requested the Tribunal to impose strict deadlines for the PR's reply submissions and an in-person hearing date.
- 2.18 On 10 May 2019, at the FEI's request, the Tribunal imposed deadlines on the Parties for their submissions, witness lists, and case file as well as set a hearing date of 14 June 2019.
- 2.19 On 12 May 2019, the PR's legal counsel advised that he was not available

on the hearing date and proposed a procedural hearing to discuss a timetable.

- 2.20 On 14 May 2019, the Tribunal suggested a date of 21 May 2019 for a procedural hearing. The PR's legal counsel responded the same day and advised he and the FEI were working on a timetable, including providing his submissions by 31 May 2019 and agreeing on a hearing date. Therefore, he did not think a procedural hearing was necessary. Although the Tribunal cancelled the procedural hearing, the Parties did not provide a timetable or agree on a hearing date.
- 2.21 On 31 May 2019, the PR provided his reply submissions.
- 2.22 On 17 June 2019, the FEI advised the Tribunal that given it was the end of the academic year at the *École Nationale Vétérinaire d'Alfort* ("**ENVA**") where the post mortem was conducted, the FEI would not receive a reply to the PR's expert reports until the end of July. The FEI was also seeking a second expert opinion.
- 2.23 On 27 November 2019, the FEI submitted the expert report, replying to the PR's expert reports, from Professor ██████████, one of the veterinarians who performed the post-mortem on Castlebar. Professor ██████████ was a member of the veterinary commission at the Event and president of the CEI3* event taking place at the same time as the CEI* event in which Castlebar participated. She was present at the vet gate to perform and supervise the veterinary inspections. Dr. ██████████ and Dr. ██████████, who also performed the post-mortem with Professor ██████████, were not present at the Event or affiliated with it.
- 2.24 On 28 November 2019, the Tribunal granted the PR an opportunity to comment on the FEI's most recent expert report by 9 December 2019 and the FEI to respond (if any) by 19 December 2019. The Tribunal also asked the Parties to advise if they wished a hearing and provide the entire case file by 3 December 2019.
- 2.25 On 3 December 2019, the PR's legal counsel requested an extension of the December 9 deadline to 22 January 2020 because eight (8) days would not be enough time for his experts to respond and his experts would be seeing the photographs for the first time.
- 2.26 On 4 December 2019, the FEI advised it had granted an extension to the

PR's legal counsel to 15 January 2020.

- 2.27 On 5 December 2019, the Tribunal granted the PR's legal counsel an extension to 22 January 2020.
- 2.28 On 16 January 2020, the FEI informed the Tribunal that the PR's legal counsel was no longer representing the PR.
- 2.29 On 17 January 2020, the Tribunal asked, among other things, whether the FEI and PR objected to consolidating the two cases, the alleged ECM Rule violation and horse abuse, and further asked the PR to confirm whether he wanted an in-person hearing, by 22 January 2020.
- 2.30 On 22 January 2020, the FEI was of the "*strong opinion*" that the Tribunal consolidate the two cases because they involved the same rider and horse.
- 2.31 On 23 January 2020, the Tribunal informed the Parties of its decision to consolidate, pursuant to Article 23.1 (c) of the IRs, the alleged ECM Rule violations and horse abuse.
- 2.32 On 9 February 2020, the PR provided a final statement in which he advised his former legal counsel had already made all submissions he wished to make on his behalf; he asked the Tribunal to decide this matter on the written submissions; and he no longer intended to compete in endurance.
- 2.33 On 10 February 2020, the newly elected FEI Tribunal Chair nominated a new panel because the terms of two panel members had come to an end. Neither party objected to the constitution of the new panel.
- 2.34 On 12 February 2020, the Tribunal granted an extension to the FEI to provide its third response by 28 February 2020.
- 2.35 On 28 February 2020, the FEI submitted its third response to the Tribunal.
- 2.36 By the end of these proceedings, neither party requested a hearing.

3. Written Submissions by and on behalf of the PR

- 3.1 The PR provided submissions on 15 January 2017, 5 May 2017, 31 May

2019, and 9 February 2020. As previously stated, the Tribunal will summarise only the most relevant evidence required for this decision.

3.2 The PR made the following submissions about his ECM Rule violation:

- a. The PR accepted he was the Person Responsible and that Xylazine was a Controlled Medication Substance as defined in the ECM Rules.
- b. The PR acknowledged Castlebar suffered an injury requiring urgent veterinary attention and ultimately euthanasia, and that Castlebar was sedated and euthanised by Dr. [REDACTED], the FEI treating veterinarian.
- c. The PR provided extensive explanations on the timing of events at the Event to support his theory that the Xylazine in the A Sample was the result of a therapeutic dose. He provided the following times and series of events:

Time (pm)	
12:25	Castlebar clears 2 nd vet gate and the end of the second loop.
13:15	Castlebar starts the 3 rd and final loop.
13:45	Castlebar falls and his injury occurs.
13:50	Phone call to PR's crew about Castlebar's fall
14:00	Crew reach Castlebar and the PR
14:01-14:36	Phone calls to different race organisers for veterinary assistance.
14:45	Dr. [REDACTED] arrives.
15:30	Dr. [REDACTED] sedated Castlebar and euthanized shortly (around 5 minutes) after.
15:45	Blood samples were collected.

The PR's expert, Dr. [REDACTED], PhD, a consulting equine toxicologist, relied on the above times provided to him by the PR. Dr. [REDACTED] concluded that the source of Xylazine detected in the A Sample was consistent with a therapeutic dose administered between 10 and 30 minutes before the A Sample was collected. Dr. [REDACTED] also concluded that the level of Xylazine in the A Sample, which was 200-300ng/ml, was entirely inconsistent with a therapeutic dose having been administered at any other time.

- d. The PR's expert, Dr. [REDACTED], BVSC MRCVS concluded that given the concentration of Xylazine in the A Sample, it could not have been administered at any time before the accident because it would have equated to a dose far in excess of the therapeutic dose, the effect of which would have rendered Castlebar totally unrideable. Therefore, he suggested that it was highly plausible that it was administered by Dr. [REDACTED] as part of the sedation and euthanasia process.
- e. The PR argued that the four documents (Fatality Report, Vet Form 1, Veterinary Report and Testing Veterinarian Report) submitted by the FEI were inconsistent with each other, contained mistakes, and were therefore unreliable. For example, he pointed out that some forms showed Castlebar's accident occurred at 14:00 when in all likelihood, the accident happened between 13:45 and 13:50.
- f. Given his experts' findings, the PR submitted that the Xylazine was administered by Dr. [REDACTED] to sedate Castlebar before euthanasia. The PR contended that he had established on the balance of probability how the substance entered Castlebar's system and its presence in the A Sample did not constitute an ECM Rule violation. In the alternative, the PR submitted that he bore no fault or negligence for the ECM Rule violation.

3.3 The PR submitted that on the allegation of horse abuse, he did not violate Article 142 of the GRs and the FEI had not met its burden of proof. He made the following submissions about the alleged horse abuse:

- a. The PR's expert, Dr. [REDACTED], DVM, PhD, MRCVS, Lecturer in Veterinary Pathology reviewed, among other things, the post mortem and histopathology reports, questions and answers from the FEI to the pathologist, FEI Veterinary Director's statement, photographs, the video, and digital slides. He stated in his first report dated 24 April 2019: *It is my professional opinion, that the amount of details provided is reasonable. There is good and appropriate identification of the animal, chain of custody and details of the process the carcass [sic] undergone during the post mortem examination, distributed over two consecutive days. Despite a thorough description of the grossly detectable changes, comparatively less attention is posed over the histopathological examination.* He concluded he did not agree with some of the statements and interpretations in the post mortem and histopathology reports.

- b. Dr. [REDACTED] criticised the lack of photographs taken during the post mortem examination, which he believed rendered the interpretations challengeable and open to criticism, but he acknowledged he had “*no specific comments*” on the procedure and examination of Castlebar as set out in post mortem and histopathology reports.
- c. Dr. [REDACTED] did not think the post mortem report provided sufficient support to conclude that the edematous (i.e., fluid swelling) and haemorrhagic zones identified in Castlebar’s limbs were consistent with injection sites “*beyond a reasonable doubt*”. He asserted there could have been other causes of the lesions. As an example, he stated the foci of haemorrhage along Castlebar’s limbs could have resulted from persistent high blood pressure (during and after strenuous exercise) exacerbated by adrenalin and lateral recumbency during the post-traumatic period, all of which led to blood extravasation² at the periphery of the vascular system. He suggested, therefore, that the haemorrhagic lesions were a common post-mortem extravasation and the cause of the multiple lesions on Castlebar’s nerve paths. He also stated there was limited data to enable determining whether a haemorrhagic lesion was old or recent. He agreed, however, that a bruise whose colour was dark red was considered “*fresh*” in response to whether it was possible to conclude an injection site was less than 24 hours old based on the haemorrhage being dark red. He added it could easily be more recent than 24 hours as well as older.
- d. Dr. [REDACTED] did not necessarily think the rounded bone ends and bone fragments in the same area were proof of a pre-existing fracture. In his view, the histopathological examination was incomplete because there was no histopathology of the soft tissues collected from the immediate proximity of the fractured bone, which he believed could have provided evidence in support of a pre-existing fracture. He also stated a radiograph of both metacarpal bones, which he did not have, could have been crucial in identifying the age of the fracture and any previous incomplete fractures. In his addendum dated 31 May 2019 to his initial report, he stated: *In regard to the reason for the rounded appearance of the fractured bone ends, it remains slightly controversial. If friction is the cause for the rounded appearance (I have no high quality close view of the fracture), in my opinion it is most likely caused by both the active and passive movement of the*

² Extravasation means the leakage of blood into surrounding tissue.

fractured leg after the accident, rather than running over a fractured leg before the accident.

- e. Dr. [REDACTED] agreed with the findings that the bleeding around the ulnar nerve was acute in nature. He stated, however, the finding that Castlebar was injected around the ulnar nerve between two to four hours before his accident was a narrow timeframe. He also disagreed that the protein-rich granular material found at the ulnar nerve was injectable material but rather *"a lake of pooled serum from the local haemorrhage"*. Dr. [REDACTED] stated it was not possible to determine the age of the injection but acknowledged the literature referred to a questionable (his word) cut-off of four hours earlier for the injection. In his addendum, Dr. [REDACTED] then suggested that the lesion of the ulnar nerve was about four hours old.
- f. Dr. [REDACTED] concluded in his report of 31 May 2019 that it would not have been technically possible to perform a nerve block on the ulnar nerve while Castlebar was competing. He added that the toxicological examination of the A Sample did not find any local anaesthetic, which would have been detected if Castlebar had been nerve blocked. He then, however, stated at paragraph 3.3.8: *[...] In other cases it will however be necessary to administer a short acting sedative to allow the accurate placement of the block particularly if the horse is fractious or nervous. I note from the veterinary records of Castlebar that he has previously been nerve blocked by [REDACTED] without the need for sedation.*
- g. Dr. [REDACTED] stated if the lesions apparently observed in the region of Castlebar's thorax were tack induced lesions, they would have occurred on both sides of Castlebar's chest. He observed they were only documented on one side of Castlebar and asserted it was more likely caused when Castlebar's chest hit the ground. Dr. [REDACTED] agreed with Dr. [REDACTED] that the lesions were sustained as part of the accident or subsequent events because no lesions were identified at any of the vet gates, by Dr. [REDACTED] or the FEI veterinarian delegate who administered treatment to Castlebar two days before the Event.
- h. Dr. [REDACTED] supported Dr. [REDACTED] findings and concluded that based on the evidence he reviewed, the fracture sustained by Castlebar was entirely accidental.
- i. The PR contended he had demonstrated he did not violate Article

142.1 of the GRs.

4. Responses by the FEI

4.1 On 6 September 2017, 2 March 2018, and 28 February 2020, the FEI provided its first, second, and third responses, respectively. The FEI made the following submissions on the ECM Rule violation:

- a. The FEI provided a report of the Foreign Judge/Technical delegate, who stated the Organising Committee received a call for help at around 14:30 on 15 October 2016. The FEI also provided a Veterinary Form 1 and an FEI Vet Report Form, which listed the drugs administered to euthanise Castlebar. The FEI provided the following times and series of events:

Times (pm)	
14:00	Castlebar's accident occurred around this time.
14:30	Organising Committee received a phone call for veterinary assistance.
15:00	The decision was made to euthanise Castlebar.
15:10	Dr. █████ administered Romifidine (Product: Sedivet); dosage: 5ml; route: i.v.
15:10	Dr. █████ administered Valium and Ketamine (Product: Ketamidor); dosage: 15ml; route: i.v.
15:30	Dr. █████ administered Barbit (Product: T61); Dosage: 100ml; route: i.v.
15:45	Blood samples were collected.

- b. According to the FEI Veterinary Department, there were no issues with the suitability of the drug combination or Dr. █████ treatment. Instead, this combination of drugs in cases of catastrophic injuries gave a horse the best possible peaceful death.
- c. Dr. █████ confirmed in a statement that the drugs listed in the above table were the only ones she administered to Castlebar. She also provided an invoice listing the same drugs. Dr. █████ advised that it was her normal procedure to sedate a horse with Romifidine, followed by Valium and Ketamine, and finally euthanise it with T61.

She confirmed she never used Xylazine in a euthanasia because it was unnecessary to provide another sedative to a horse with similar effects to Romifidine. Furthermore, Romifidine is known to be more efficient and long lasting with a deeper sedative effect than Xylazine.

- d. The A Sample analysed by the laboratory listed the drugs administered by Dr. [REDACTED], but also named an additional substance Xylazine, which could not be accounted for in any documentation or by any Officials.
- e. The FEI consulted Professor [REDACTED], a Veterinary Pharmacology Expert, who found the timeframe for a therapeutic dose of Xylazine from 10 to 30 minutes, as put forward by Dr. [REDACTED], plausible but it could be extended to one hour. This was based on the short half-life of Xylazine and the concentration found in the A Sample. The FEI pointed out that although an expert, Dr. [REDACTED] was not an expert in pharmacokinetics and pharmacology like Professor [REDACTED]. Professor [REDACTED] opinion strengthened the theory that the PR or his support personnel gave Xylazine to Castlebar just after the accident to calm him down and relieve him from pain and suffering before Dr. [REDACTED] arrival.
- f. The FEI highlighted that Dr. [REDACTED] confirmed several times the drugs she administered to Castlebar were those indicated on the Vet Form 1 and nothing more. This Form was completed and signed by the Veterinary Delegate or Commission after Dr. [REDACTED] confirmed the drugs she used. The date of the Vet Form 1 was dated 15 October 2016. The FEI explained the date correction of 16 October 2016 at the bottom of the Vet Form 1 indicated it was signed by the Veterinary Delegate on this date, which did not invalidate this Form. The FEI also advised the time of death on the Fatality Report was often noted as the time the accident occurred, which was 14:00. It was not necessarily the actual time of Castlebar's death. The FEI further indicated drugs used to euthanise a horse were not normally included on the blood sampling form. The FEI put forward these explanations about the Forms to counter the PR's theory that they were inconsistent and unreliable.
- g. The FEI consulted Professor [REDACTED] for clarifications about Xylazine. Her comments about Xylazine in her report of 8 October 2019 were as follows:

The use of Xylazine vs Romifidine differs in UK vs France. In France Romifidine would be used as Xylazine is 3 times more expensive and in addition to sedate a horse the features and effects of Romifidine is preferred over Xylazine.

The allegations that the treating vet used Xylazine in the process of the euthanasia is unfounded, especially considering the visual differences of the two products and a confusion is therefore impossible. [Emphasis is added.]

4.2 The FEI made the following submissions about the alleged horse abuse:

Post mortem Report

- a. The FEI submitted the post mortem report. The general conclusion of the necropsy was as follows:

*Cause of death is euthanasia because of an **open and comminutive fracture** of the right cannon bone.*

*The **rounded bone ends and local fragmentation and contamination suggest repetitive contacts between the fractured ends before immobilization.***

*Of note, were observed: **lesions of osteoarthritis, particularly on the right front fetlock; multiple oedematous and hemorrhagic lesions, both old and recent, following the exact nervous tracts of the limbs, particularly in the forelimbs.** Also subcutaneous and superficial **muscular haemorrhagic lesions** with a very particular topography suggest tack-induced lesions.*

***Of note, a recent haemorrhagic focus was observed around the ulnar nerve (approximate age between 2-4 hours).** Associated to this haemorrhage is an eosinophilic homogenous to granular material that may correspond to an injected material (eosinophilic staining may indicate a protein-rich content).*

[Emphasis is added.]

- b. The findings in the post mortem report on injections to Castlebar's cardiovascular system were as follows:

*The right jugular vein there **are a dozen or old injection points,** without associated bleeding margins.*

*The left jugular vein shows **three recent injection points***

surrounded by 4mm to 1cm hemorrhagic margins, as well as hematomas of a few centimeters in size in the adjacent muscles. [Emphasis is added.]

- c. On the left fractured forelimb, the following was found:

*The **presence of hemorrhagic and edematous areas of 2 to 6 cm in length and about 2-3 cm wide**: In the subcutaneous tissue in 1. the path of the superficial branch of the **ulnar nerve** about 8 cm proximal to the accessory carpal bone, 2. in the path of the common **digital palmar medial nerve**, 3. in the path of the **proper digital palmar lateral nerve** at mid pastern.*

Hematoma (8 cm long) in the connective tissue palmar to the interosseous muscle at mid-distance between carpus and fetlock without involvement of the body of the underlying interosseous muscle.

The appearance of all these lesions and their highly targeted location are consistent with recent injections.

- d. On the right fractured forelimb, the following was found:

***Open comminuted and displaced fracture** of the third metacarpal bone, with the presence of a lateral condylar fracture and a transverse fracture of the remaining portion (medial) of the third, second and fourth metacarpal bones. **Bone ends are rounded, suggesting repetitive contacts between the fractured ends. Multiple bone fragments and sand are present in the bone shaft.** Presence of many small fragments (<2mm) and a dozen of larger fragments (0.5 to 3 cm). This region is surrounded by a hematoma soiled by agglomerated sand and blood. [Emphasis is added.]*

- e. On the harness induced lesions of the face and left thorax, the post mortem report stated:

There is a congestion of the mouth (bit induced injury).

On the face, there is a subcutaneous swelling of 6 X 6 cm.

A slightly hemorrhagic edema over an area of 5 X 2.5 cm, against nasal bones.

In the left dorsal and middle thoracic region, on the location of the saddle, there are multiple hemorrhagic suffusions, they tend to merge, especially in the dorsal part, to form a design recalling a saddle.

- f. The conclusion of the post mortem report was as follows:

*Cause of death is euthanasia due to an open fracture of the right cannon bone. The fracture configuration and aspect of the fractured ends suggests repetitive contacts between the bone fragments before immobilization of the area. Of note, were observed: lesions of osteoarthritis, **particularly on right front fetlock; multiple haemorrhagic lesions, both old and recent, placed on the nervous tracts of the limbs, particularly in the forelimbs; subcutaneous and superficial muscular hemorrhagic lesions with a very particular topography suggestive of tack-induced lesions.***

[Emphasis is added.]

- g. The FEI stated one of the many conclusions to be drawn from the post mortem report was that it was highly likely Castlebar had been nerve blocked with local and regional anaesthetics/sedatives both before and during competition.

Histopathological Examination

- h. The FEI further noted the following histopathological examination:

*Ulnar: In the vicinity of nerve bundles, is a 4 x 1 mm hemorrhagic focus. There is a subtle associated macrophagic infiltration but no siderophages. **This findings indicate acute hemorrhage, with an approximate age of 2-4 hours.** Around this focus, there is a homogenous to granular, eosinophilic material dissecting the connective tissue.*

Microscopic exam: Conclusion and comments

The only significant lesion is a foci of acute hemorrhage (approximate age between 2-4 hours) in the connective tissues surrounding the ulnar nerve. Associated to this hemorrhage is an eosinophilic homogenous to granular material that may correspond to an injected material (eosinophilic staining may indicate a protein-rich content).

[Emphasis is added.]

- i. The FEI stated the conclusion to be drawn from the histopathological examination was that Castlebar was injected in the ulnar nerve two to four hours before his euthanasia.

Further Investigation

- j. The FEI asked Professor [REDACTED] to clarify specific responses about whether there were any signs of horse abuse in an email of 4 December 2017. Professor [REDACTED] together with Dr. [REDACTED] and Dr. [REDACTED] summarised their findings as follows:

1. **Elements indicating a treatment of Castlebar, by intravenous and regional injections, during the competition period.**
2. **The erosions of the fractured bone is in favour of a possible lack of regional sensibility.**
3. **Harness injuries [...].**
[Emphasis is added.]

- k. Professor [REDACTED] and her colleagues also confirmed in response to the same email that:

*The appearance that **all these lesions qualify as recent haemorrhagic, is the colour being dark red. This suggests injections within less than 24 hours (hence performed at the competition site).** The Histological Exam that was performed on the connective tissue around the **ulnar nerve seems to indicate that the injection was from 2 to 4 hours old, this means that this injection was performed during the competition.** [...]*

*[...] It is highly likely that **these traces of injections are the aftermaths of regional treatments** which perturbed the proprioception³ of Castlebar and **favoured the occurrence of the fracture.***

*The **eroded bone ends indicate that Castlebar was carrying weight on its limbs when it was already fractured.** It is difficult to say if Castlebar continued to run with the fracture, which aggravated the fracture, or if this happened after Castlebar had stopped... [Emphasis is added.]*

- l. Professor [REDACTED] commented on Dr. [REDACTED] findings in her report of 8 October 2019. She confirmed that Dr. [REDACTED] findings could have been

³ This is the sense through which the horse perceives the position and movement of his body.

different if he had the photographs of the post mortem examination of Castlebar. Professor ██████ provided the following responses to his findings:

- She agreed with Dr. ██████ conclusion that the haemorrhagic lesions were a common post-mortem extravasation was legitimate given he had not seen the post mortem photographs. He excludes the possibility of locoregional injections. However, she stated that the hemorrhagic lesions were not normally located on the neurovascular⁴ path as in Castlebar's case but in the bony reliefs protruding under the skin. She added Castlebar's lesions were very particular and unusual in structure and the lesions observed in his forelimbs suggested nerve blocking injections.
- She emphasised that if Dr. ██████ had the photographs of the post mortem examination, he would have seen that the appearance of the foci of haemorrhage did not resemble the extravasations commonly seen on the limbs of cadavers, both by their colour or their targeted location. She claimed that he may have noted if he had seen the photographs, the very special position of Castlebar's haemorrhages were at the usual sites of truncular anaesthesia.⁵
- She highlighted that Dr. ██████ agreed the lesion around the ulnar nerve was acute in nature and occurred about four hours before Castlebar's death, which suggested it happened during competition. She also pointed out a contradiction in Dr. ██████ findings whereby he stated the haemorrhagic lesions were the result of post mortem vascular extravasations yet the lesion around the ulnar nerve was an antemortem hematoma.
- She agreed with Dr. ██████ that there was little data available to date a haemorrhagic lesion accurately. This was why she named the lesions as either recent or old.
- She stated the harness-induced injuries followed the position of the saddle and the breast collar perfectly. She only mentioned the left side because the lesions were less characteristic and did not evoke harness injuries as clearly on the right side. She stated this asymmetry could be explained by a horse's asymmetrical gait or rider's posture.

m. In the same report, Professor ██████ provided the following responses

⁴ Neurovascular relates to or involves both nerves and blood vessels.

⁵ Local anaesthesia is injected as close to the nerves as possible to be most effective.

to Dr. [REDACTED] comments:

- She found Dr. [REDACTED] finding that Castlebar's fracture was entirely accidental as "very surprising" because in the post mortem examination, she found marked signs of severe osteoarthritis on the distal end of Castlebar's fractured metacarpal bone and "spontaneous fractures in horses are caused by already existing bone fatigue (stress fractures)".
 - She stated that Dr. [REDACTED] noted from the [REDACTED] veterinary records that Castlebar had previously been nerve blocked without the need for sedation. She indicated: *This shows (i) that Castlebar had already presented with a forelimb lameness of sufficient severity to be anesthetized and (ii) that it was possible to anesthetize him without sedation.* She stated this reinforced the hypothesis that Castlebar was injected during the competition otherwise he would have been eliminated for lameness during the race if he had not received any nerve blocking injections.
- n. Finally, the FEI Veterinary Director Dr. Göran Åkerström provided his opinion and explained the connection between nerve blocking and catastrophic injuries.

It is a well-known fact that removing the very fundamental protective function of sensitivity by practices such as local or regional injections of anaesthetic substances will increase the risk of catastrophic injury. This is especially relevant for fractures that are due to bone fatigue (stress fractures) where Castlebar will not show any signs of pain such as lameness while under influence of the injected substance.

*At an Endurance Ride this means that the FEI Veterinary Delegates will not be able to identify Castlebar as lame and Castlebar will continue the competition instead of being eliminated. **The continuous loading of the fatigued bone tissue will then with high certainty lead to a severe fracture.** This might occur during the competition but also any day afterwards depending on how severe the bone fatigue is and how much loading there is on the bone. Comminuted (multi-fractured) fractures are typical results of bone fatigue.*

The Post Mortem report gives very clear information that Castlebar Contraband has been injected on several occasions during the training period before the competition and also

during the competition before the leg fractured. The specific findings are:

1. Haemorrhages on several places, **indicating both recent and old injections and lesions from wear and tear.**
2. Traces of injections on the nerves being **clear signs of local nerve blocking.**
3. **The type of fracture "comminuted fracture", which most likely is depending on earlier stress fractures, due to medication and lack of rest.**

I can with a high probability state that the PR (and supportive team) has violated FEI General Regulations Article 142, Abuse of Horse by having abnormally desensitised parts of the leg. These actions subsequently were major factors that led to the fracture that ended the life of this horse. The FEI consider desensitisation of any body part during training and competition as a serious violation of the horses' welfare. It is a prohibited method and even more importantly an abuse of Castlebar.

- o. The FEI concluded Castlebar was indeed nerve blocked – desensitised before and during the competition and this desensitisation together with the stress fractures most likely caused Castlebar's catastrophic injury.

5. The Veterinary Records of [REDACTED] Veterinary Surgeons

- 5.1 The veterinary records of [REDACTED] Veterinary Surgeons (" [REDACTED] ") from 14 June 2016 to 28 September 2016 for Castlebar were appended to Anzac Mahmood's witness statement of 4 May 2017. Mr. Mahmood and the PR were listed as the owners and Castlebar was stabled at a farm in Suffolk, England.
- 5.2 The entries from June to September 2016 in the [REDACTED]' records for Castlebar are as follows:

Date	Description	Quantity
14 June 2016	Amikacin 100mg injection	2x100mg
	Skin tact dressing 10cm x 10cm	2
	Trimediazine powders box(10)	2 boxes
	Switch 250ml	1x250ml
	Inject joint, inject front fetlocks	1.5

	Dexamethasone Inj 3.3 mg/ml vial Hy-50 injection	2ml 1X3ml
22 June 2016	Examine re lameness, left fore Nerve block 1, Abaxial Sesamoid Block Nerve block 1, subcarpal block Joint block 1, MCJ Amikacin 100mg injection	1 1 1 1 1X100mg
23 June 2016	Inject drug – reduced rate Dectomax inj Mobile Xray Fee DR & Digital DR X-ray plates DR X-ray plates, 14 views 7 free of charge, Knees	1 15ml 1 7 7
24 June 2016	Ultrasound (rate 2), Left fore and right fore prox susp. Disposables for injection Domosedan inj (Sedation) 0.1ml Torbugesic inj (Sedation) Inject joint, medicate knee Amikacin 100mg injection Hy-50 injection Adcortyl injection	1 1 2X0.1ml 4X0.1ml 1 1X100mg 1X3ml 1ml
1 July 2016	Take skin scraping Ringworm micro Ringworm: POSITIVE for ringworm.	1 1
6 July 2016	Sedation fee Domosedan inj (Sedation) 0.1ml Torbugesic inj (Sedation) Digital radiographic fee X-ray plates – internal Ultrasound (rate 2) Repeat ultrasound DAY CARE-EXNING	1 2X0.1ml 4X0.1ml 1 4 1 1 1 day
16 August 2016	Inject drug – reduced rate Protequ flu-TE	1 1
18 August 2016	Examine re: Trotted up Disposables for injection Domosedan inj (Sedation) 0.1ml Torbugesic inj (Sedation) Inject joint	1 1 3X0.1ml 6X0.1ml 2.5

	medicate front fetlock joints & medicate front coffin joints Adcortyl injection Hy-50 injection Amikacin 100mg injection Skin tact dressing 10cm x 10cm Soffban 10cms Vetrap bandage	2ml 2X3ml 4X100mg 4 3 3 rolls
19 August 2016	Clinical Note. Req to med front fets and DIPJs: sound at trot, DIPJs eff, fet WNL. Med 5mg TA, 1/2 Hy-50 and 100mg Amikacin per joint	
23 August 2016	Rasp teeth	1
22 September 2016	Disposables for injecting Domosedan inj (Sedation) 0.1ml Torbugesic inj (Sedation) Intra-Epicaine 10ml Inject joint Medicate both front coffin joints and both middle carpal joints Adcortyl injection Amikacin 100mg injection Hy-50 injection Skin tact dressing 10cm x 10cm Soffban 10cms Vetrap bandage Clinical Note: Sound. Anzac requested DIPJs and MCJs medicated: total 20mg TA, 2XHy-50, 400mg Ami. Was very reactive to needles so required double sedation and skin blebs for DIPJs	1 7X0.1ml 1.4ml 1x10ml 2.5 2ml 4X100mg 2X3ml 2 1 1 roll
28 September 2016	Examine re: Trotted up Inject joint, medicate both front fetlocks Adcortyl injection Amikacin 100mg injection Hy-50 injection Soffban 10cms	1 1.5 1ml 2X100mg 1X3ml 1

	Vetrap bandage Clinical Note. Sound, very mild bilat fet effusion, no pain on flexion. Med both front fetlocks with total 10mg TA, 200mg Ami, 1XHy-50	1 roll
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[Emphasis is added.]

- 5.3 The Tribunal consulted an independent third party veterinarian to assist with deciphering the ██████████' records.
- 5.4 Castlebar received multiple injections to his front fetlocks and front coffin joints in the four months before the Event. Veterinarians generally use adcortyl and Hy-50 to alleviate joint pain, swelling and stiffness associated with synovitis⁶ and osteoarthritis. There were three occasions (14 June, 19 August, and 28 September, 2016) when Castlebar did not receive any sedation before being injected with adcortyl and/or Hy-50 in the fetlocks or knee joints.
- 5.5 Castlebar was examined for lameness on 22 June 2016. His knees were x-rayed on 23 June 2016. He then had an ultra-sound examination of both his front legs on 24 June 2016 to determine if there were any issues.
- 5.6 According to the FEI database, Castlebar competed on 19 June 2016 and 13 August 2016 at Euston Park with different riders.
- 5.7 On 19 August 2016, the veterinarian made a clinical note that there was a request to inject Castlebar's fetlocks and coffin joints. On 22 September 2016, the veterinarian's clinical note stated "Anzac", that is, Anzac Mahmood requested injections into Castlebar's front coffin joints and both middle carpal joints. Castlebar was very reactive to needles on that day and required double sedation.
- 5.8 The last entry of 28 September 2016 indicated that Castlebar was "sound".
- 5.9 Castlebar travelled from England to France for the Event on 13 October 2016. Castlebar received veterinary treatment in France for dehydration from the travel.⁷

⁶ Synovitis is inflammation of the internal lining of a joint.

⁷ Anzac Mahmood's second witness statement of 29 May 2019, paras. 18 and 19.

5.10 Castlebar was 10 years old⁸ when he was euthanised.

6. Witness Statements

6.1 The PR and the FEI submitted witness statements in anticipation of an in-person hearing, which never took place. The PR and his witnesses contradicted the FEI's witnesses about whether the PR stayed with Castlebar and Castlebar's condition after his accident. The following discussion summarises or highlights statements from the key witnesses.

The PR and the PR's Witnesses

6.2 The PR confirmed he rode Castlebar at the Event. He advised he did not give Xylazine to Castlebar in his statement of 5 May 2017.⁹ He also stated the following:

*This was the first time that I had ridden Contraband at an FEI event but I had ridden him in training many times. [...]*¹⁰

*Eventually, after debating the issue with the vet, we agreed for Contraband to be euthanized. I was desperate to save Contraband's life and I only agreed to him being euthanized as the vet insisted that it was the only option in the interests of his welfare. **The vet then asked me to sign a consent form. I remember signing the form but I no longer have a copy of it.***¹¹

*I was with Contraband as he was both sedated and then euthanized. I can still remember well the moment that he was sedated and **he went very quickly from bravely standing on three legs to suddenly struggling to stand up.** His head dropped as well. It was not long after the sedation that the vet euthanized Contraband. **I was still with Contraband at this time and I watched him die. Understandably, I was very emotional.***¹²

*The same document states the vet did not think Contraband seemed to be in much pain when she arrived. I do not understand how she could think this because **Contraband was sweating huge amounts, even more than he would do in a race, and his eyes were very sunken.***

⁸ Castlebar's date of birth is shown as 17 November 2006 on the FEI database.

⁹ PR's first witness statement of 5 May 2017, para. 27.

¹⁰ Ibid., para. 7.

¹¹ Ibid., para. 21.

¹² Ibid., para. 24.

He was also struggling to stand up as he could not put any weight on the broken leg. *I have been around horses all my life and from the way that Contraband was standing and his head was bowed, it was obvious he was in a great deal of pain. I do not understand how anybody who knows anything about horses could think anything different.*¹³
[Emphasis is added.]

- 6.3 In his second statement of 31 May 2019, the PR confirmed he stayed with Castlebar after his accident and that Castlebar was clearly in pain.¹⁴ The PR also stated Castlebar fell on his left side and appended a photograph of Castlebar lying on his left side to his statement.¹⁵

He acknowledged he did not sign the consent form: *It was, in fact, Abdulla Salah (who signed as Mr Abdulla). He was also at the scene as he had arrived with Sultan Salah, Sheikh Abdulla and Babar Nawaz to help out. I cannot remember why Abdulla Salah signed the form; I assume that the vet just needed somebody from the team to do so. **I was doing my best to remember everything in as much detail and as well as I could when I did my first witness statement but this is obviously a detail that I got wrong.***¹⁶ [Emphasis is added.]

- 6.4 Anzac Mahmood stated he had been working closely with the PR ever since he became involved in endurance racing over 18 years ago, in his statement of 5 May 2017. He confirmed he had been involved in training the horses the PR rode and helped out as a crew member.¹⁷

Mr. Mahmood advised the PR and Castlebar were performing well at the Event. He stated: *[...] I was therefore not surprised that Sh. Alqassimi and Contraband came through the first two vet gates in second place alongside the other leading riders and I believed that he had a good chance of winning [...].*¹⁸

About Castlebar's injury, Mr. Mahmood stated: *[...] I was shocked to see what had happened to Contraband and how much pain he was in when we arrived. **It was obvious to me that his right foreleg was fractured and he was unable to put any weight on it.** He was sweating and was shaking a lot and I could see in his eyes that he was in*

¹³ Ibid., para. 29.

¹⁴ PR's second witness statement of 31 May 2019, paras. 5 and 7.

¹⁵ Ibid., para. 8.

¹⁶ Ibid., para. 10.

¹⁷ Anzac Mahmood's first witness statement of 5 May 2017, para. 3.

¹⁸ Ibid., para. 11.

*lots of pain. I could also see that Sh. Alqassimi was understandably very distressed.*¹⁹

Mr. Mahmood stated the following about the consent form: [...] *Eventually, after long debate with the vet, we therefore agreed to Contraband being euthanized. **The vet gave Sh. Alqassimi a consent form and asked him to sign it, which he did.***²⁰

About the euthanasia, Mr. Mahmood stated: [...] ***I remember holding his head when the sedative was injected and it felt like almost straight away that it affected him. I remember particularly that he could no longer stand up on his own and we lowered him to the ground.***²¹

Mr. Mahmood confirmed he had heard of Xylazine but he had never injected a horse "in all my life" and he stated: [...] *nobody in the crew had either; we leave all of the medical treatments to vets.*²² He then inferred Dr. █████ must have injected Castlebar during the euthanasia process.²³

Mr. Mahmood concluded by stating: *I was also shocked to read on the same report that the FEI Vet did not think that Contraband seemed to be in pain when she arrived at the track. This is an extraordinary statement and I cannot understand how she could say such a thing. I stood next to her while she looked at Contraband and she would have seen clearly that **he could not put any weight on his right foreleg at all, that he was sweating and shaking and that he was in very obvious distress.***²⁴
[Emphasis is added.]

- 6.5 Mr. Mahmood's second statement of 29 May 2019 echoed his first statement. He insisted the PR was present after Castlebar's accident and that Castlebar was in "incredible pain".²⁵

Mr. Mahmood insisted that Castlebar fell on his left side and referred to the same photograph as the PR. He stated: *Thirdly, I understand that the FEI has claimed that Contraband fell on the same side as his broken leg.*

¹⁹ Ibid., para. 16.

²⁰ Ibid., para. 22.

²¹ Ibid., para. 26.

²² Ibid., para. 30.

²³ Ibid., para. 31.

²⁴ Ibid., para. 33.

²⁵ Anzac Mahmood's second witness statement of 29 May 2019, paras. 5 and 11.

*This is a very strange thing to say. I am absolutely certain that he fell on the other side, which was his left side.*²⁶

- 6.6 Marijke Visser advised that she was part of the PR's crew at the Event in her statement of 29 May 2019. She stated she started training Castlebar when the PR brought him to Europe in 2015.²⁷ She trained Castlebar when he was in England or Belgium where he stayed at her stable.²⁸ Ms. Visser is listed as Castlebar's trainer from October 16, 2015 to December 31, 2016 on the FEI's database.

When Ms. Visser arrived at the scene of Castlebar's accident, she described Castlebar's condition as follows:

*[...] It was horrible seeing Contraband when we arrived. I could tell straight away that it was a really serious injury and that he was in a lot of pain. He was calm as he had his people around him and was naturally a calm horse anyway. However, his eyes were dull rather than being bright and shiny and he could not put any weight on the leg that was injured. He was an incredibly brave horse but it was obvious he was in lots of pain. I am told that some of the FEI's witnesses say that Contraband did not look in pain when they saw him. I could not believe it when I heard this; it is a ridiculous thing to say. **Contraband was naturally a calm horse and with his team around him, he stayed calm. In my experience, it is not unusual for a horse that is in pain to remain calm if he or she has their team around them looking after them. The pain Contraband was in was obvious though from the look in his eyes and particularly the fact that he could not stand on the injured leg.***²⁹

Ms. Visser confirmed that the PR was present when Castlebar was euthanised and that she never injected Castlebar with Xylazine.³⁰

FEI's Witnesses

- 6.7 Dr. [REDACTED] is an FEI veterinarian who acted as the treating veterinarian at the Event. She stated the following in her statement of 18 October 2017:
[...]

²⁶ Ibid., para. 10

²⁷ Marijke Visser's witness statement of 29 May 2019, para. 4.

²⁸ Ibid., paras. 4 and 36.

²⁹ Ibid., para. 18.

³⁰ Ibid., paras. 28 and 34.

The first thing I noticed was that when we arrived on site of the accident, the horse did not seem to suffer. The horse was totally calm with the ears in front. The horse even tried to put weight on the broken leg, which is totally abnormal in a situation like this. I noted through my examination that the horse had a lack of sensitivity, and a low heart rate. I did not check the heart rate as such but I would have guessed about 40bpm.

The horse had an absolute fatal fracture. The skin was torn and an open fracture where the leg was only hanging from the skin and ready to fall off. There was no other choice but to euthanise the horse directly.

At our arrival 2-3 people were present around the horse, but **the rider was no longer there**. They had taken the saddle of [sic] and the fracture was hold together with a boot/bandage. One guy was at the horse's head and another guy was holding the horse's leg. Mr. [REDACTED] immediately helped out and overtook the position of the guy at the broken leg.

[...]

I do as I always do when I euthanise a horse, firstly I sedated the horse with Romifidine, secondly I use a general anaesthesia with Ketamine and Diazepam (Valium), and then finally euthanised it with T61, the euthanasia agent. I have never used Xylazine in the context of a [sic] euthanasia. I have hardly ever used Xylazine at all, only on a few occasions with urgent dripping of fluids.

In all my records it is the same protocol and same drugs used. There could be no confusion on this matter since this is the best way and the best drugs to use in order to euthanise a horse without any pain and anxiety. Also there would be no point to give two sedatives with similar effects to a horse in this situation.

One more very odd thing in this case is that during the euthanasia the horse fell on the side with the broken leg. It is normal for a horse that has broken a leg to fall on the "good side" when it is put to sleep. In my experience this is not normal for a horse with such fatal fracture, and I have until today only seen it once before.

The fact that the horse tried to put weight on its broken leg, that it did not seem to suffer at all and that it fell on the side with the broken leg, makes me believe that the entourage had administered a substance to relief [sic] the horse from pain. They

had arrived with big cars not far from the site of the accident, so it is plausible that they had some medication in their car.

In the end it is good that the horse was not in pain and panic and could be put down carefully in the best possible way after such a fatal and horrible fracture.

[Emphasis is added.]

- 6.8 [REDACTED] was the organiser of the Event and was responsible for all operational matters as well as the contact person in case of any incidents at the Event. She had at that time 25 years of experience with horses. Ms. [REDACTED] stated the following in her statement of 23 October 2017:

[...]

My first thought was that the horse did not look like it suffered, and had a very nice head with ears in front. This was despite the fact that the horse suffered from a terrible open fracture. ***I have never seen such a horrible fracture, the leg was hanging only in the skin.*** Even during the examination of the horse made by Ms [REDACTED], it did not look like it suffered. I somehow seemed that the horse was blocked from suffering by something.

*Present by the horse was the groom, coach and a Dutch girl. **The rider was no longer present and had already left the place of the incident.***

[...] Finally they agreed to euthanise the horse and the groom signed the consent form.

[...]

My last remark and the most important fact that the horse seemed to be in no pain and suffering when we arrived and during the examination. It was the worst fracture I have ever seen and normally from my experience, a horse with such a fracture should be very much in pain. I find it very strange that the horse did not seem to be in pain. The more I think about it the more convinced am I, that the horse was given some kind of pain killer or tranquiliser to relief it from suffering. But I can't say if a pain killer has been given before the ride to anesthetize the bottom of the leg below the knee, or after the accident by someone else than Dr [REDACTED] before our arrival. [Emphasis is added.]

- 6.9 Professor [REDACTED] has been an official veterinarian on national and international endurance rides since 1996 (more than 100 endurance

events). She is a 4-star FEI endurance veterinarian. As previously stated, she was a member of the veterinary commission at the Event and president of the CEI3* event taking place at the same time as the CEI* event in which Castlebar participated. She was present at the vet gate to perform and supervise the veterinary inspections. She and her colleagues conducted the post mortem at ENVA.

Professor ██████ did not see Castlebar after he had his accident but Dr. ██████ described the fractured leg and she saw the video. She stated in her statement of 24 October 2017 that the "*fracture was not repairable*".

- 6.10 ██████ was a member of the Event's organising team. In her statement of 6 November 2017, she stated: *I have a long experience with horses over the past 15 years and have seen several euthanasia and the thing that shocked me with this horse was that it did not seem to suffer at all, it was very calm and was even eating.*
- 6.11 ██████ participated in the same competition as the PR and Castlebar. In his statement of 26 October 2017, he stated: *[...] I saw a horse on the side of the road, about 100 m after the crew point. He was on the left of the road, and there was no rider but a groom and the trainer of the horse who was holding the horse by hand.*
- 6.12 Dr. ██████ is a 4-star FEI endurance veterinarian and was a member of the veterinarian team at the Event. He advised the PR's support personnel did not want Castlebar to have a necropsy and stated: *When those people understood Castlebar's body had to go to National Veterinary School of Alfort...they left upset!! Organisation Committee [sic] said to me they all disappeared and never came back for any information.*
- 6.13 The FEI submitted that rumours posted on social media stated the PR and/or Mr. Mahmood injected Castlebar after his fall to relieve him of pain and suffering.

7. FEI Submissions on the Rule Violations

- 7.1 The FEI submitted that where a Controlled Medication Substance is found in a horse's sample, without a valid veterinary form, a clear and unequivocal presumption arises under Article 2.1.1 of the ECM Rules that it was administered to Castlebar deliberately, in an illicit attempt to enhance his performance. It was not necessary for the FEI to demonstrate that intent, fault, negligence or knowing *Use* on the PR's part to establish

an ECM Rule violation.

- 7.2 Article 10.2 of the ECM Rules provides that a PR with no previous offences who violates Article 2.1 of the ECM Rules is subject to a period of Ineligibility of six months, unless he is able to rebut the presumption of fault. To do this, the rules specify that he must establish to the comfortable satisfaction of the FEI Tribunal (it being his burden of proof, on the balance of probabilities):³¹
- a. how the Prohibited Substances (Xylazine) entered into Castlebar's system; and
 - b. that he bears No Fault or Negligence for that occurrence, i.e., that he did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he had administered to Castlebar (or Castlebar's system otherwise contained) a Controlled Medication Substance (in which case, the presumptive six-months period of Ineligibility is eliminated completely pursuant to Article 10.4 of the ECM Rules); or
 - c. that he bears No Significant Fault or Negligence for that occurrence (in which case, the presumptive six-month period of ineligibility may be reduced depending on his degree of fault, pursuant to Article 10.5 of the ECM Rules).

If the PR fails to discharge this burden, the presumptive six-month ban under Article 10.2 applies.

- 7.3 The FEI submitted the PR must provide clear and convincing evidence that proves how the Xylazine entered Castlebar's system. The PR accused Dr. [REDACTED] of giving the Xylazine to Castlebar, which the FEI did not support. For the reasons in section 4.1 above, the FEI was of the opinion the PR did not establish how the substance entered Castlebar's system. Therefore, the PR did not satisfy the threshold requirement nor did he prove he was not at fault or negligent for the rule violation. As a result, the PR did not qualify for any reduction in accordance with Article 10.4 or 10.5 of the ECM Rules.

- 7.4 The FEI further submitted that since the PR had a prior offence within a 10 year period, the period of Ineligibility to impose, according to Articles 10.8.1 and 10.8.2 ECM Rule, was the greater of:
- a. three months;

³¹ Article 3.1 of the ECM Rules.

- b. one-half of the period of Ineligibility imposed for the first ECM Rule violation without taking into account any reduction under Article 10.6; or
 - c. twice the period of Ineligibility otherwise applicable to the second ECM Rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.
- 7.5 The FEI stated that since the PR's first violation was a Banned Substance rule violation, his period of Ineligibility was two (2) years. Therefore, the Ineligibility applicable to the second violation would be the greater of one of the conditions under Article 10.8.1 ECM Rule. The FEI submitted the period of Ineligibility would be one-half of the period of Ineligibility imposed for the Banned Substance rule violation, so in this case, one (1) year.
- 7.6 The FEI also relied on Articles 2.2 of the ECM Rules and stated: *[...] it cannot be ignored as an aggravating circumstance that the PR also has violated Art 2.2 use of a prohibited substance during competition.* Pursuant to Article 2.2.1, it was not necessary to prove the actual injection into Castlebar by the PR, but it was necessary for him to ensure that no Controlled Medication Substance entered into Castlebar's body and no Controlled Medication Method was used during the Event without a valid Veterinary Form. Xylazine was found in Castlebar during the Event. According to the FEI, the PR failed his obligation under this Article.
- 7.7 The FEI submitted the PR violated Articles 2.1 and 2.2 of the ECM Rules. In accordance with Article 10.7 of the ECM Rules, aggravating circumstances may increase the period of Ineligibility up to a maximum of two (2) years. The FEI listed the following aggravating circumstances:
1. there was a use of Xylazine during the competition;
 2. there are clear signs of the injection of an exogenous substance in the ulnar nerve during competition;
 3. Castlebar was indeed nerve blocked – desensitised, during the competition;
 4. the desensitisation of Castlebar lead to stress fractures in the bone and also rounding of the bone pipes of the fracture;
 5. the desensitisation in combination with the stress fractures most likely caused the catastrophic injury of Castlebar; and
 6. there were tack induced injuries on Castlebar.

- 7.8 The FEI submitted the period of Ineligibility that should be imposed on the PR for the ECM Rule violation should be at least eighteen (18) months and up to two (2) years.
- 7.9 The FEI submitted the PR used "Prohibited Methods" pursuant to Article 1054 of the VRs. The PR allowed Castlebar to compete with hyposensitive areas. Article 1034.2 of the VRs described hyposensitivity as follows: "Hyposensitive limbs include any alteration in sensitivity induced by a neurectomy or chemical desensitisation for as long as the alteration in sensitivity persists." The PR also failed to seek any authorisation for the injection of Xylazine nor was it administered by an FEI veterinarian, as would have been required under Article 1046 of the VRs. The FEI stated the use of Prohibited Methods jeopardised Castlebar's welfare and caused his catastrophic injury.
- 7.10 For the reasons set out in section 4.2 above, the FEI submitted the PR committed several abuses of Castlebar pursuant to Article 142 of the GRs. The FEI stated that the seriousness of horse abuse violation is mirrored in the possible sanctions under Article 169.6.2 of the GRs, which states:
- 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.*
- 7.11 The FEI also relied on a study of Dr. [REDACTED] to support Castlebar abuse allegation. The FEI wrote:
- It is also clear from the study of Dr. [REDACTED], that accidents like this does not just happen, it is a combination of over training, lack of sufficient rest of the horse, in combination with medication during training and poor horsemanship, that causes those accidents to occur. This can also be seen from the type of fracture on the limb. In those cases there is a clear "comminuted fracture", and such fractures are the result of the mismanagement of the horse, just like in the case at hand.*
- 7.12 The FEI kindly requested the Tribunal to consider the sanctions for the ECM Rule violation, the violations of the VRs and Castlebar's abuse, separately and concurrently, but to impose them consecutively. The FEI also stated that since the PR was no longer competing, the suspension would have no effect and asked the Tribunal to impose a higher fine. The FEI further asked the Tribunal to impose a higher contribution to legal costs for the delays caused by the PR's former legal counsel.

- 7.13 The FEI respectfully requested the Tribunal issue the following decision:
1. *upholding the charge that the PR violated Article 2.1 and 2.2 of the ECM Rules;*
 2. *upholding the charge that the PR violated Article 142 Abuse of Horse of the GRs;*
 3. *upholding the charge that the PR violated Articles 1046 and 1054 of the VRs;*
 4. *disqualifying the result of the PR and Horse combination obtained in the Competition and the whole Event, and the consequent forfeiture of all medals, points, prize money, etc. won, pursuant to Article 9 and 10.1.2 of the ECM Rules;*
 5. *imposing a period of ineligibility of at least eighteen (18) months and up to two (2) years on the PR, depending on the PR's level of fault for the ECMR violation, and at least two (2) years for the abuse of horse violation, commencing as of the date of the Final Tribunal Decision (in totality for all violations a suspension of 3.5 to 4 years);*
 6. *fining the PR in the amount of 7,500 CHF for the ECMR violation; and 10,000 CHF for the abuse of horse violation (in totality for all violations 17,500 CHF); and*
 7. *ordering the PR to pay the legal costs for all violations of 15,000 CHF that the FEI has incurred in these proceedings.*

8. Jurisdiction

- 8.1 The Tribunal has jurisdiction over this matter pursuant to the Statutes, GRs and ECM Rules. The jurisdiction of the Tribunal remains undisputed.

9. The Person Responsible

- 9.1 The PR is the Person Responsible for Castlebar and had legal responsibility for Castlebar pursuant to Article 118 of the GRs, as he was the rider of Castlebar at the Event. The PR has also accepted being the Person Responsible within the meaning of the GRs.

10. The Decision

- 10.1 The Tribunal extrapolated the following timeline from the FEI veterinary forms and the witness statements:

Time (pm)	
13:15	Castlebar starts the 3 rd and final loop.

13:45	Castlebar falls and his injury occurs.
13:50	Phone call to the PR's crew about Castlebar's fall
14:00	Crew reach Castlebar and the PR
14:01-14:36	Phone calls to different race organisers for veterinary assistance.
14:45	Dr. ██████ arrives.
15:00	The decision was made to euthanise Castlebar.
15:10	Dr. ██████ administered Romifidine (Product: Sedivet); dosage: 5ml; route: i.v.
15:10	Dr. ██████ administered Valium and Ketamine (Product: Ketamidol); dosage: 15ml; route: i.v.
15:30	Dr. ██████ administered Barbit (Product: T61); Dosage: 100ml; route: i.v.
15:45	Blood samples were collected.

The test results of the A Sample evidenced the presence of Xylazine.

- 10.2 The PR's expert, Dr. ██████ stated Castlebar received a therapeutic dose of Xylazine 10 to 30 minutes before the blood samples were collected whereas the FEI's expert, Professor ██████ stated Castlebar could have been injected with Xylazine up to one hour before the blood samples were collected.
- 10.3 The Tribunal assessed the witness statements. The PR and his witnesses claimed they did not administer Xylazine to Castlebar. They stated Castlebar was clearly in pain with his catastrophic fracture whereas the FEI witnesses stated Castlebar did not appear to be in pain or suffering. There were other noteworthy contradictions amongst their statements.
- 10.4 The Tribunal noted that the statements of the PR, Mr. Mahmood, and Ms. Visser were scripted in a similar manner. They were adamant that Castlebar was in pain and could not put weight on his injured leg. They stated the PR was present when Castlebar was euthanised and that Castlebar fell on his left side when he was euthanised contrary to Dr. ██████ statement (discussed below). The Tribunal found the following contradictions in their statements:
- The PR and Mr. Mahmood stated that the PR signed the consent form consenting to Castlebar's euthanasia in their May 2017 statements. When presented with the consent form, the PR had to acknowledge, two years later, in his May 2019 statement that he did not sign the

consent form but it was his stable manager who signed it. His statement that *"I was doing my best to remember everything in as much detail and as well as I could when I did my first witness statement but this is obviously a detail that I got wrong"* makes the Tribunal question whether other details such as which side Castlebar fell were wrong in his first statement.

- Mr. Mahmood stated in May 2017 that he remembered holding Castlebar's head when he was injected with the sedative. He then stated, *I remember particularly that he could no longer stand up on his own and **we lowered him to the ground.*** [Emphasis is added.] In response to Dr. █████ comment that Castlebar fell on his right side, Mr. Mahmood thought this was *"a very strange thing to say"* and was *"absolutely certain"* that Castlebar fell on his left side in May 2019. His memory of the euthanasia appears to have changed between May 2017 and May 2019.
- The PR and Ms. Visser also stated that Castlebar fell on his left side in their statements of May 2019. The PR and Mr. Mahmood referred to a photo where Castlebar was lying on his left side. The Tribunal believes this photo was taken soon after Castlebar's fall because Castlebar's eyes were open and one of the PR's support personnel had a halter around his head suggesting he wanted Castlebar to stand up. Castlebar was standing when Dr. █████ arrived. Furthermore, there would be no need to put a halter on him after he was euthanised. Nonetheless, whether the photo was taken before or after his euthanasia, the PR was clearly not present in the photo.

10.5 The FEI's witnesses were all present at the Event. The following facts were consistent amongst their statements:

- the PR was no longer present when Dr. █████ arrived at the scene of the accident with Ms. █████ and Ms. █████. Mr. █████, who participated in the same competition as the PR and Castlebar, rode past Castlebar after his fall and stated the PR was not present; and
- Castlebar seemed to be in no pain, appeared calm and relaxed despite the catastrophic fracture and was trying to put weight on the injured leg.

Dr. [REDACTED] advised it was her regular practice to use Romifidine, Valium, Ketamine and Barbit (T61) when she euthanised a horse. She confirmed she never used Xylazine in a euthanasia.

Dr. [REDACTED] noted that when Castlebar was euthanised, he fell on his right side, which was the side of his broken leg. She indicated it was highly unusual and rare for a horse with such a fatal fracture to fall on the side of his injury when the horse is euthanised. This led Dr. [REDACTED] to believe the PR or his support personnel administered a substance to Castlebar to relieve him of pain.

- 10.6 Turning to the ECM Rule violation, Article 2.1.2 provides that sufficient proof of an ECM Rule violation is established by the presence of a Controlled Medication Substance in the A Sample where the PR waives analysis of the B Sample and the B Sample is not analysed. The Tribunal is satisfied that the analysis of the A Sample was carried out in an acceptable manner and the test results evidenced the presence of Xylazine, which is classified as a Controlled Medication Substance. Neither the PR nor the Owner contested the accuracy of the test results or the positive finding. Therefore, the Tribunal finds the FEI established an ECM Rule violation on the balance of probability pursuant to Article 3.1 of the ECM Rules.
- 10.7 Once the FEI established an ECM Rule violation, the PR has the burden of proving that he bore "No Fault or Negligence" or "No Significant Fault or Negligence" pursuant to Article 10.4 or 10.5 of the ECM Rules, respectively.
- 10.8 The PR submitted that Dr. [REDACTED] administered the Xylazine as a therapeutic dose to sedate Castlebar before euthanasia. Dr. [REDACTED], the PR's expert suggested Dr. [REDACTED] administered the Xylazine accidentally. On this basis, the PR argued that he had established on the balance of probability how the Xylazine entered Castlebar's system.
- 10.9 The Tribunal disagrees with the PR for the following reasons:
 - a. The Tribunal questions the objectivity and reliability of the PR's statement and those of Mr. Mahmood and Ms. Visser. The Tribunal has already highlighted contradictions in section 10.4 above. Their statements focussed on criticising Dr. [REDACTED] conduct from when she arrived at the accident scene to Castlebar's euthanasia. The Tribunal's view is that the PR was trying to absolve himself of any responsibility. Mr. Mahmood and Ms. Visser worked for the PR and this could have

had an influence on their recollections of the Event. The PR opted not to have a hearing, which would have given the Tribunal an opportunity to assess his credibility. In fact, the Tribunal draws an adverse inference from the PR's decision not to have a hearing and subject himself to questioning. Overall, the Tribunal finds the PR did not provide any convincing evidence to suggest Dr. ██████ administered the Xylazine.

- b. The Tribunal cannot overlook that the PR made the same argument in Case 2011/BS08 – Hotspur Ouarra that the testosterone was administered by a third party but the hearing panel in that case found his allegation to be unsubstantiated speculation. Mr. Mahmood was also the PR's trainer in the Hotspur Ouarra matter.
- c. The Tribunal finds Dr. ██████ wholly persuasive in her explanation of her euthanasia protocol. The Tribunal believes it was her regular practice to use Romifidine, Valium, Ketamine and Barbit (T61) to euthanise a horse and that she never used Xylazine during euthanasia. Furthermore, her invoice supported the fact that she only used the foregoing drugs to euthanise Castlebar.

The Tribunal accepts Professor ██████ statement that Romifidine was widely used in France because Xylazine was three times more expensive and as a euthanasia agent, Romifidine was preferred over Xylazine. She also stated that the two products had different packaging and therefore, they would be difficult to confuse.

- d. The Tribunal has no reason to doubt the observations of the FEI witnesses (Dr. ██████, Ms. ██████, and Ms. ██████) about Castlebar's apparent lack of pain and suffering. They all have many years of experience in dealing with horses. They had nothing to gain personally by providing anything but objective statements to the FEI and the Tribunal finds it very unlikely that they would have jeopardised their professional reputations by doing otherwise. Therefore, the Tribunal finds their statements about Castlebar's lack of pain and suffering despite being the worst fracture, in Ms. ██████ words, credible and believable.
- e. The Tribunal further believes Dr. ██████ comment in his statement that some of the PR's support personnel were upset that Castlebar would undergo an autopsy.
- f. The Tribunal acknowledges Dr. ██████ expert opinion but notes he is not an expert in pharmacokinetics and pharmacology like Professor ██████. Professor ██████ one hour window supported the theory that

the PR or his support personnel administered the Xylazine to Castlebar after the accident to calm him down and relieve him from pain and suffering before Dr. [REDACTED] arrival. The observations of Dr. [REDACTED] and Ms. [REDACTED] are also consistent with this theory.

Therefore, the Tribunal finds the PR did not establish on the balance of probability how the Xylazine entered Castlebar's system. As a result, the PR failed in his personal duty to ensure that no Controlled Medication Substance was present in Castlebar's body during the Event without a valid Veterinary Form pursuant to Article 2.1.1 of the ECM Rules.

10.10 The Tribunal further concludes that the PR is not entitled to any elimination or reduction of the otherwise applicable period of Ineligibility pursuant to Article 10.4 or 10.5 of the ECM Rules.

10.11 Article 2.2.1 of the ECM Rules is similar to Article 2.1.1 but adds that it is the PR's personal duty to ensure that no Controlled Medication Substance is "Used" during an event without a valid Veterinary Form. It is clear that Xylazine was "Used" at the Event. The Tribunal has already found that the PR did not establish on the balance of probability how the Xylazine entered Castlebar's body. Therefore, the Tribunal finds that the PR failed in his personal duty to ensure that no Controlled Medication Substance was Used during the Event. The Tribunal considered this additional violation of the ECM Rules as an aggravating factor, pursuant to Article 10.7 of the ECM Rules, in its determination of the period of Ineligibility. Given the PR was held responsible for a Banned Substance Rule violation in February 2011 and taking into consideration Articles 10.8.1 and 10.8.2 of the ECM Rules, the PR is already subject to a one year period of Ineligibility.

10.12 As a result, the Tribunal imposes a period of Ineligibility of two (2) years on the PR for the ECM Rule violations.

10.13 Turning to the alleged horse abuse, Article 142.1 of the GRs states: "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." One of the examples is: "To abnormally sensitise or desensitise any part of a horse." This is the example the FEI relied on in its submissions to allege the PR abused Castlebar.

10.14 The Tribunal wishes to say that Castlebar was let down by many of his handlers, including the PR, Mr. Mahmood, Ms. Visser, among others.

However, the PR remains the Person Responsible for Castlebar and had legal responsibility for him pursuant to Article 118 of the GRs. The PR chose to bring Castlebar to Europe in 2015. Although the Event was the first time he competed with Castlebar at an FEI event, the PR had ridden Castlebar many times in training. In fact, the PR “loved” to ride Castlebar and thought of Castlebar as “a top performing horse”, “kind”, “enjoyable to ride” and “part of the family”.³² The PR had many years of experience with horses and competed at an elite level in endurance races worldwide.³³ Given the PR’s comments and his experience, the Tribunal does not doubt the PR had knowledge of what was happening to Castlebar before and during the Event.

10.15 The findings of the PR’s experts about the alleged horse abuse are summarised in section 3.3 and the FEI’s experts, in section 4.2. The post mortem report and the histopathological examination are also summarised in section 4.2.

10.16 The Tribunal makes the following observations about some of the key expert evidence:

- a. One of the conclusions in the post mortem report stated: *Of note, were observed: lesions of osteoarthritis, particularly on the right front fetlock; multiple haemorrhagic lesions, both old and recent, placed on the nervous tracts of the limbs, particularly in the forelimbs.*

Section 5 summarises Castlebar’s veterinary treatments from [REDACTED] between June and September 2016. It is clear that Castlebar received multiple injections to his front fetlocks and front coffin joints as well as other tests for lameness during the four months before the Event. The veterinary notes indicate that Mr. Mahmood requested the injections on at least one occasion. The Tribunal cannot overlook that adcortyl and Hy-50 are used to alleviate joint pain, swelling and stiffness associated with synovitis and osteoarthrosis.

The Tribunal believes that even for a high performance horse, the number of injections Castlebar received during this timeframe appears excessive. Although the last entry on 28 September 2016 indicates that Castlebar was sound, he was also injected with adcortyl and Hy-50, which likely resulted in his soundness.

³² PR’s first witness statement dated 5 May 2017, para. 8.

³³ Ibid., para. 6.

Professor [REDACTED] opined that Castlebar received regional injections because of the appearance of the lesions. They were dark red, which suggested Castlebar was injected within less than 24 hours (i.e., during the Event). Dr. [REDACTED] who unfortunately did not have the benefit of the post mortem photographs when he provided his opinion, acknowledged that a lesion whose colour was dark red was considered "fresh".

Dr. [REDACTED] opined that the hemorrhagic lesions were a common post mortem extravasation and the cause of the multiple lesions on Castlebar's nerve paths. Professor [REDACTED] explained that his conclusion was reasonable given he had not seen the photographs, but clarified hemorrhagic lesions were not normally located on the nerve paths as in Castlebar's case but in the bony reliefs protruding under the skin. She added that if Dr. [REDACTED] had the benefit of seeing the photographs, he would have seen that the appearance of the hemorrhagic lesions on Castlebar's limbs did not resemble what is commonly seen on the limbs of cadavers, both by their colour or targeted location. She added Castlebar's lesions were very particular and unusual in structure and the lesions observed in his forelimbs suggested nerve blocking injections. Dr. Åkerström also supported Professor [REDACTED] opinion that the traces of injections on Castlebar's nerve paths showed clear signs of local nerve blocking before and during the Event and that the hemorrhages indicated both recent and old injections and lesions from wear and tear.

It is noteworthy that Dr. [REDACTED] stated he did not think the post mortem report provided sufficient support that the lesions were consistent with injection sites "beyond a reasonable doubt". The Tribunal wishes to emphasise that the standard of proof in this case is greater than a mere balance of probability but less than proof beyond a reasonable doubt.

- b. Professor [REDACTED] found the fractured bony ends of the third metacarpal bone had marked signs of severe osteoarthritis and stated that spontaneous fractures in horses are caused by already existing bone fatigue (stress fractures). Because of this, she thought it was "very surprising" that Dr. [REDACTED] concluded the fracture was accidental.

Professor [REDACTED], Dr. [REDACTED] and Dr. [REDACTED] could not say with certainty that the fracture was caused by the nerve blocking injections but stated: [...] *it is highly likely that these traces*

of injections are the aftermaths of regional treatments which perturbed the proprioception of the horse and favoured the occurrence of the fracture.

Dr. Åkerström agreed that regional injections will increase the risk of catastrophic injury, especially for fractures caused by bone fatigue (stress fractures) because a horse will not show any signs of pain such as lameness while under the influence of the injected substance. This further allows a horse to pass vet checks at competitions. He added that this fracture, a "*comminuted fracture*" is due to medication and lack of rest.

- c. As already stated, the Tribunal has accepted the observations of the FEI witnesses (Dr. [REDACTED], Ms. [REDACTED], and Ms. [REDACTED]) about Castlebar's apparent lack of pain and suffering. This further supports Dr. Åkerström's statement that a horse will not show any signs of pain while under the influence of an injected substance.
- d. Professor [REDACTED] found that the injection around Castlebar's ulnar nerve was about two to four hours old. Dr. [REDACTED] agreed the lesion of the ulnar nerve was acute in nature and occurred about four hours before Castlebar's death. This meant that Castlebar was injected during the Event.
- e. Dr. [REDACTED] stated it would not have been technically possible to perform a nerve block on the ulnar nerve while Castlebar was competing. He then, however, noted from the [REDACTED] veterinary records that Castlebar had been previously nerve blocked without the need for sedation. In response to Castlebar being nerve blocked without sedation, Professor [REDACTED] observed that Castlebar had a forelimb injury of sufficient severity to be anaesthetised and that it was possible to anaesthetise him without sedation.

10.17 The Tribunal acknowledges that the PR's experts did not have the benefit of the photographs from the post mortem report as well as radiographs. Their opinions may have been different and possibly more in line with the FEI's experts had they seen the photographs and radiographs. In any event, the Tribunal finds that the FEI's experts presented persuasive evidence that was far more convincing than the PR's experts. Furthermore, if "a picture is worth a thousand words", the Tribunal found very troubling the graphic video footage showing the bloody fractured

cannon bone protruding from Castlebar's skin and dangling when his leg was held up as well as the photographs of his leg in the case file.

- 10.18 The Tribunal is comfortably satisfied the FEI has met its burden of proof, as required under Article 32.2 of the IRs, that the PR committed a horse abuse within the meaning of Article 142.1 of the GRs. This Article starts with the statement that: "No person may abuse a Horse during an Event or at any other time". The Tribunal knows Castlebar received multiple injections before the Event from the [REDACTED]' veterinary records. On one occasion, the veterinary records indicate Castlebar was very reactive to the needles. The Tribunal is also comfortably satisfied that Castlebar received nerve blocking injections during the Event. In fact, the PR's expert agreed that Castlebar's ulnar nerve was injected about four hours before his death, which meant the injection occurred during the Event. By abnormally desensitising Castlebar's limbs, this caused or likely caused pain and unnecessary discomfort to Castlebar. The Tribunal believes the FEI could have also relied on the example of "To compete using an exhausted, lame or injured Horse" as horse abuse in this case.
- 10.19 The Tribunal will briefly address the Veterinary Regulations. The Foreword to the VRs states: "These VRs must be read in conjunction with the FEI Statutes, the Internal Regulations of the FEI, the FEI General Regulations, the Equine Anti-Doping and Controlled Medication Regulations (EADCMRs) and the relevant Sports Rules, which will refer to these Regulations." Articles 1046 of the VRs addresses the "Treatment with Controlled Medication Substances" and Article 1054 deals with the use of "Prohibited Methods" such as allowing Castlebar to compete with hyposensitive areas. The Tribunal's view is that they are not separate breaches vis-à-vis the ECM Rule violations and horse abuse under Article 142.1 of the GRs, but instead they are superseded by the specific provisions of the EADCMRs and the GRs. Although the Tribunal finds the PR violated Articles 1046 and 1054, the Tribunal has not based or increased the sanctions against the PR on the basis of these violations.
- 10.20 The PR showed remorse for what happened to Castlebar in his letter of 9 February 2020 and as a result, he has decided to quit competing in endurance. Although the Tribunal acknowledges his remorse, the Tribunal cannot help but question his sincerity given the totality of the circumstances. The PR and his legal counsel delayed these proceedings, which contributed to postponing the scheduled hearing. He then decided he did not want a hearing and subject himself to questioning. This decision may have been motivated by his decision to quit endurance riding, which

ultimately rendered a hearing unnecessary. The Tribunal draws an adverse inference from his decision requesting a hearing, delaying the proceedings by postponing it, and then deciding he no longer wanted a hearing. Furthermore, the PR did not seem to be particularly concerned about Castlebar's well-being. The evidence shows that Castlebar received nerve blocking injections before and during the Event. As mentioned before, even his own expert suggested that Castlebar's ulnar nerve was injected during the Event. But, what the Tribunal finds most troubling is that the PR apparently left the accident site after Castlebar's catastrophic injury, demonstrating a remarkable lack of compassion for a horse he claimed to have loved and treated like a member of his own family.

10.21 As stated in applicable case law,³⁴ it is a widely accepted general principle of sports law that the severity of a penalty must be in proportion with the seriousness of the infringement. The CAS has evidenced the existence and the importance of the principle of proportionality on several occasions. In the cases *TAS 91/56 (S. v. FEI)* and *TAS 92/63 (G. v. FEI)*, the CAS stated that: "*the seriousness of the penalty [...] depends on the degree of the fault committed by the person responsible*" (Digest of CAS Awards 1986-1998, Staempfli Editions, Berne 1998, 96 and 121).

In the advisory opinion *TAS 93/109* of September 1994 (Fédération Française de Triathlon / International Triathlon Union), the CAS, quoting the IOC Charter against Doping in Sport, stated that all sports organisations must try to impose penalties graduated in accordance with the seriousness of the offence: "*tous les organismes sportifs doivent prévoir dans leurs règlements l'imposition de sanctions pesées et réalistes. Les sanctions doivent être suffisantes pour l'infraction reconnue, selon sa gravité, [...] les organisations sportives doivent toujours chercher à déterminer de quelle façon l'athlète visé a enfreint les règlements, et des sanctions modulées devraient être imposées à toutes les personnes incriminées.*"

The Tribunal further notes that proportionality in CAS case law has been understood to mean that: "*there must be a reasonable balance between the kind of misconduct and the sanction*" (CAS 2005/C/976 FIFA & WADA, para 138), or stated otherwise "[t]o be proportionate, the sanction must not exceed what is reasonably required in the search of a justifiable aim" (CAS 2005/C/976 FIFA & WADA, para 139).

³⁴ Arbitration CAS 99/A/246 W. / International Equestrian Federation (FEI), award of 11 May 2000.

10.22 The applicable rule for horse abuse carries a suspension of a minimum of three (3) months up to life. The Tribunal has already described in detail the seriousness of the PR's infringements. In fact, this Tribunal has never before adjudicated on a horse abuse case of this magnitude. Professor [REDACTED] together with Dr. [REDACTED] and Dr. [REDACTED], who were not affiliated with the Event, stated it was "*highly likely*" that the regional injections "*favoured the occurrence of the fracture*". Therefore, having considered all of the medical evidence, the Tribunal finds it was foreseeable that the repeated and multiple nerve blocking injections would have increased Castlebar's risk of a serious injury such as the comminuted fracture he sustained.

The Tribunal further finds that the PR compromised Castlebar's welfare. Horse welfare is paramount in equestrian sport, and to preserve and protect a horse's welfare is one of the FEI's statutory objectives (Article 1.4 of the Statutes).³⁵ Any action or intent of doping and illicit use of medication constitute a serious welfare issue and will not be tolerated. Therefore, in addition to the seriousness of the PR's infringements, the Tribunal finds that a lengthy sanction is necessary and justified when it takes the PR's apparent lack of consideration for Castlebar's welfare into account.

10.23 Therefore, based on the principle of proportionality and all of the evidence considered by the Tribunal, the Tribunal is imposing a period of Ineligibility of eighteen (18) years on the PR for violating Article 142.1 of the GRs. He will serve this period of Ineligibility after he has served his period of Ineligibility for the ECM Rule violations.

Given the PR's previous and current EADCMRs' violations, the egregious nature of the horse abuse, and the need for increased deterrence, the Tribunal agrees with the FEI's recommendation for fines. Therefore, the Tribunal is imposing a fine of 7,500 CHF for the ECM Rule violation and 10,000 CHF for the horse abuse violation for total fines of 17,500 CHF.

The Tribunal is also ordering the PR to pay costs of 15,000 CHF because he delayed the proceedings and then decided he no longer wanted a hearing. Furthermore, the FEI incurred additional costs such as the need for various expert reports given the complexity of this case.

³⁵ Article 1.4: To preserve and protect the welfare of the Horse and the natural environment by establishing appropriate codes of conduct.

10.24 Although it is now too late for the deceased, Castlebar Contraband, the Tribunal issues this lengthy suspension as a stern warning to others that the Tribunal will not tolerate cases of horse abuse, especially of this nature.

11. Disqualification

11.1 For the reasons set forth above, the Tribunal disqualifies Castlebar and the combined result of the PR and Castlebar obtained in the competition at the Event (if any), and the consequent forfeiture of all medals, points, prize money, etc. won, pursuant to Article 9 and 10.1.2 of the ECM Rules.

12. Sanctions

12.1 As a result of the foregoing, the Tribunal finds the PR violated the Articles 2.1 and 2.2 of ECM Rules and that the PR's actions are considered horse abuse within the meaning of Article 142.1 of the GRs. The PR also violated Articles 1046 and 1054 of the VRs but these violations were not taken into consideration in determining sanction.

12.2 For the above reasons, and in accordance with Articles 142.1, 169.8, 169.6.1, 169.6.2, and 169.10 of the GRs, as well as Article 10 of the ECM Rules, the Tribunal therefore decides as follows:

- 1) Sh Abdul Aziz Bin Faisal Al Qasimi violated the ECM Rules.
- 2) For the ECM Rule violations, Sh Abdul Aziz Bin Faisal Al Qasimi is suspended for a period of **two (2) years**, starting from the date of the present decision.
- 3) Sh Abdul Aziz Bin Faisal Al Qasimi has engaged in horse abuse and thereby violated Article 142 of the GRs.
- 4) For the horse abuse, Sh Abdul Aziz Bin Faisal Al Qasimi is suspended for a period of **eighteen (18) years**, starting from the date of the completion of the suspension for the ECM Rule violation.
- 5) Therefore, the total period of suspension is **twenty (20) years**, starting from the date of this decision. The PR is ineligible until **2 June 2040**.
- 6) **All results** achieved by Sh Abdul Aziz Bin Faisal Al Qasimi with Castlebar at the Event (if any), including forfeiture of medals, points and prizes are **disqualified**.
- 7) Sh Abdul Aziz Bin Faisal Al Qasimi is fined **seven thousand five hundred Swiss Francs (CHF 7,500)** for the ECM Rule violation, and **ten thousand Swiss Francs (CHF 10,000)** for Castlebar's abuse.

Therefore, the total fine is **seventeen thousand five hundred Swiss Francs (CHF 17,500)**.

8) Sh Abdul Aziz Bin Faisal Al Qasimi is ordered to pay **fifteen thousand Swiss Francs (CHF 15,000)** towards the cost of these proceedings.

12.3 No Person Responsible who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a competition or activity that is authorised or organised by the FEI or any National Federation or be present at an event (other than as a spectator) that is authorized or organized by the FEI or any National Federation, or participate in any capacity in competitions authorized or organized by any international or national-level event organisation (Article 10.11.1 of the ECM Rules).

12.4 Where a Person Responsible who has been declared Ineligible violates the conditions in previous section during Ineligibility, the results of any such participation will be disqualified and a new period of Ineligibility equal in length up to the original period of Ineligibility will be added to the end of the original period of Ineligibility. In addition, further sanctions may be imposed, if appropriate (Article 10.11.2 of the ECM Rules).

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

12.6 According to Articles 165.1.3 and 165.6.1 of the GRs, and Article 12 of the ECM Rules, this Decision may be appealed to the Court of Arbitration for Sport (CAS) within twenty-one (21) days of the present notification.

V. DECISION TO BE FORWARDED TO:

- a. The person sanctioned: Yes**
- b. The President of the NF of the person sanctioned: Yes**
- c. The President of the Organising Committee of the Event through his NF: Yes**
- d. Any other: No**

FOR THE PANEL



Ms. Harveen Thauli, FEI Tribunal panel chair