



DECISION of the FEI TRIBUNAL
Alleged Horse Abuse of the horse SARAB
dated 26 June 2019

Alleged Horse Abuse Case 2019/04:

Horse: SARAB /105DP50/UAE

PR: Abdul Rahman Saeed Saleh AL GHAILANI /10114704/UAE

Trainer: Majed Khalfan AL JAHOURI /10014774 /UAE

Event: CEI3* 160 Abu Dhabi, Al Wathba (UAE)

Date: 09.02.2019

Allegation: Horse Abuse

In the matter of

Ms. Pauline van Drumpt

"Ms. Van Drumpt" or "the Claimant"

vs.

Mr. Abdul Rahman Saeed Saleh AL GHAILANI

"Mr. Al Ghailani" or "the Respondent"

I. COMPOSITION OF PANEL

Mr. Cesar Torrente, chair

Ms. Harveen Thauli, member

Ms. Constance Popineau, member

II. SUMMARY OF THE FACTS

1. Memorandum of case: By Legal Department.

2. Case File: The FEI Tribunal duly took into consideration the Parties' written submissions, as well as the FEI's opinion received to date.

III. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT

1. Relevant Rules and Regulations:

Statutes 24th edition, effective 20 November 2018 ("**Statutes**").

General Regulations, 23rd edition, 1 January 2009, updates effective 1 January 2019 ("**GRs**").

Internal Regulations of the FEI Tribunal, 3rd edition, effective 2 March 2018 ("**IRs**").

Endurance Rules, Updated 9th Edition, effective January 2018 ("**ERs**").

FEI Code of Conduct for the Welfare of the Horse

2. The relevant Legal Provisions

ERs Article 810.2: "Whips (or the use of any other item as a whip) and Spurs are prohibited."

ERs 807.7 Forbidden Assistance: "the types of activities set out below at Articles 807.7.1 to 807.7.8 (inclusive) are forbidden and the Athlete and/or the Registered Trainer is subject to the sanction applicable to each activity, as listed beside each activity:

(As an example:) "Someone on course encouraging the Horse by any means whatsoever under penalty of a Yellow Warning Card and disqualification."

FEI Code of Conduct for the Welfare of the Horse – 2 f) Misuse of aids: "Abuse of a Horse using natural riding aids or artificial aids (e.g. whips, spurs, etc.) will not be tolerated."

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

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

IV. DECISION

The below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence, as well as the FEI's opinion. Although the Tribunal has considered all the facts, allegations, legal arguments and evidence 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

- 1.1 The rider, Mr. Abdul Rahman Saeed Saleh Al Ghailani participated with the horse SARAB ("**the Horse**") at the CEI3* 160 Abu Dhabi, Al Wathba, United Arab Emirates (UAE), on 9 February 2019 ("**the Event**"). Mr. Al Ghailani is an FEI registered rider (FEI ID 10114704), and his administering National Federation is the UAE National Federation ("**UAE-NF**").

2. Procedural Background

- 2.1 On 15 February 2019, the Protestor lodged a Protest for horse abuse (the "**Protest**"), in accordance with Articles 142.1 and 163.2 of the GRs, with the FEI Secretary General, for referral to the FEI Tribunal. The Protest further contained alleged violations of Article 810.2 of the ERs and the FEI Code of Conduct for the Welfare of the Horse (2 f) Misuse of Aids.
- 2.2 On 25 March 2019, the FEI notified Mr. Al Ghailani through the UAE-NF that the FEI received a Protest of alleged Horse abuse, filed by Ms. Van

Drumpt, Clean Endurance, and requested Mr. Al Ghailani to provide a written reply.

- 2.3 On 13 April 2019, Mr. Al Ghailani provided his response to the allegations.
- 2.4 On 6 May 2019, the FEI submitted the Case File to the Tribunal for adjudication.
- 2.5 On 8 May 2019, the Tribunal Chair nominated a panel for this case, and provided the FEI – as interested party – with the opportunity to provide its opinion in the matter.
- 2.6 On 6 June 2019, the FEI submitted its opinion in the case.
- 2.7 On 12 June 2019, the Tribunal informed the Parties that since no party requested an oral hearing, the Tribunal would decide the case based on the written submissions.

3. Protest

- 3.1 Together with the Protest Ms. Van Drumpt also provided video evidence, captured from the official livestream of the Event. In her Protest, which was also outlined in the letter from the FEI to Mr. Al Ghailani on 25 March 2019, Ms. Van Drumpt alleges as follows:

"In the video entitled "DR TV Abuse Protest bib 104 Pres Cup 2019", based on the Dubai Racing TV time stamp in the top left corner, the following incidents can be seen:

- At the start of the video, local time 15:42:38, Mr Ghailani with bib 104 can be seen going through the out gate, onto loop 6. A person wearing a trainer bib holds the horse's head and pulls it forward. Another person wearing a yellow head scarf and a UAE shirt chases through the out gate after the horse. At least 8 persons haze the horse once it leaves the out gate, clapping their hands, waving their arms and chasing after it.

- At 16:20:53 Dubai Racing TV timestamp, the horse is seen cantering fast, while the rider brandishes the reins at it, slaps it on the neck with the reins by yanking them sideways, threatens to hit the horse with his right arm by waving it behind him towards the horse's hindquarters, and kicks the horse with both legs at least 9 times. He then yanks the reins sideways with his left hand several times.

- At 16:21:22 Dubai Racing TV timestamp, the rider violently takes the reins in his right hand thus using them to slap the horse on its neck and kicks the horse several more times.

- At 16:21:25 Dubai Racing TV timestamp the rider threatens the horse again by brandishing his right arm at it, yanks the reins and kicks it.

- At 16:22:09 Dubai Racing TV timestamp, Mr al Ghailani is seen being overtaken by bib 310. A groom runs up to the horse, but the rider drops the water bottle. He repeatedly yanks the reins and uses the loose end to threaten to hit the horse on the neck. He kicks the horse as hard as he can at least 8 times. A second groom is seen running towards the horse with a water bottle, which Mr al Ghailani cannot catch.

- At 16:22:23 a groom wearing bib number 106 runs towards Mr al Ghailani and throws something at the horse. Mr al Ghailani alternates between slapping the horse on the neck with both reins and kicking it as hard as he can.

- At 16:22:36 Dubai Racing TV timestamp, a groom wearing what appears to be bib number 108 runs towards the horse and hands Mr al Ghailani a water bottle. The groom chases the horse which is visibly exhausted and has fallen out of canter into a trot. Mr al Ghailani empties the water bottle on the horse's neck and holds it in his right hand. He bends forwards and flicks the bottle at the horse's head. He then appears to hit the horse behind the saddle with the empty water bottle, before letting it drop to the ground. He then yanks the reins three times with his right hand to push the horse back into a canter. Despite being partially obscured by a black Mercedes SUV driving on the track, Mr Al Ghailani can be seen gesticulating wildly and kicking the horse a few more times. The camera then cuts away to the winner.

- In the video entitled "YAS TV Abuse Protest bib 104 Pres Cup 9 Feb 2019", the sequel of the incident described above is shown from a front angle: the horse has fallen back into a trot, and after yanking the reins sideways 2 more times, 1 minute 11 seconds into the video Mr Al Ghailani is seen holding the reins in both hands and using the slack to strike the horse hard on the base of its neck.

The combination placed 2nd in the competition.

The repeated hazing of the horse by grooms, the excessive use of the aids such as kicking the horse so hard that daylight can be seen between the rider's entire leg and the saddle, yanking the reins, flipping the reins, twirling the loose end of the reins to threaten the horse, whipping the

horse with the reins, and throwing or threatening to throw objects or water at the horse (which was visibly tiring) are all acts which we believe constitute abuse. (...)"

4. Response

- 4.1 Mr. Al Ghailani did not accept the Horse abuse allegations, and stated that *"I did not at any point in the ride whip or beat Sarab at all, use any whip or spur nor receive any forbidden assistance. I did not compete on an exhausted, lame or injured horse. I also do not believe I misused my aids."*
- 4.2 More generally, he explained that he had been competing in Endurance for many years with no history of any breaches of FEI Rules. The Horse was in excellent condition at the Event, and they pipped into second place in the final few hundred meters of the ride. The Horse's recovery was excellent and successfully passed the final vet check. In this regard, Mr. Al Ghailani provided a copy of the vet card for the Horse from the Event.
- 4.3 More specifically with regard to the allegations, Mr. Ghailani submitted as follows:
- *"Hazing of the horse by grooms:* I do not recall there being any, and do not see in the video footage provided, any hazing of myself and Sarab by our grooms. In the exit onto the last loop, the person wearing the Trainer vest can be seen running out of the village before we leave on the last loop and can then be seen continuing to run towards his crew car after we exit. Contrary to the allegation by Ms Van Drumpt, at no time is he holding or pulling Sarab. The horse is held by a friend whilst we walk before we exit as is common practice with elite sports horses however he is not pulling, or doing anything else, to interfere with my horse. The video clip also shows a number of people running from the village to their crew cars for the last loop. Some of the grooms and spectators are cheering and clapping much as supporters and spectators do at FEI jumping and eventing competitions when a favorite enters the ring or comes into view on the cross country course. This is normal excitement from supporters and I do not believe it in any way affected my horse and it certainly did not scare or harass him. You can clearly see in the video that Sarab is focused on where he is going and does not appear to notice the people around him at all. I do not believe this constitutes hazing of the horse.
 - *Excessive use of aids:* whilst I was using my legs to encourage Sarab to maintain momentum in the last few hundred meters of the ride, I do not believe this caused pain or unnecessary discomfort to the horse. I am not a heavyweight rider – you will see in the video I had to ride with a weight

pad – and, after 160km of riding in the heat at a fast pace, I was tiring and my encouragement was fairly ineffectual. I acknowledge that this was not my most stylish riding and I will take onboard for the future how this could be mis-construed. I would also add that it is fairly standard in endurance events for the rider to encourage the horse in this manner in a racing finish and can be frequently seen in competitive endurance events throughout Europe and elsewhere around the world. In a Setzi style saddle with no saddle flaps and with long stirrups, it can also look more dramatic than in a traditional saddle.

- *Yanking, flipping and twirling the loose end of the reins to threaten the horse, whipping the horse with the reins and throwing or threatening to throw objects or water at the horse:* in the final few hundred meters of the ride I was pushing my hands forward in parallel to the horses neck in a manner which is standard in endurance riding in a racing finish and can be frequently seen around the world in FEI rides and Championships, both as horses exit on loops and in the finishing straight. I do not believe this causes the horse pain or discomfort. At no time did I hit my horse with the reins or any other object or water nor was I twirling the reins or throwing or threatening to throw any object or water at Sarab. When I raised my hand in the air in the finishing straight it was for balance and I think it is pretty clear from the video that I made no attempt to strike Sarab. The grooms running on with slesh bottles are doing just that. Again, providing water to pour over and cool the horse is a normal part of endurance everywhere in the world and I do not believe this causes the horse any pain or discomfort.”

- 4.4 Furthermore, Mr. Ghailani submitted that Article 142 (v) of the GRs underlined that a horse had to be exhausted, lame or injured, and that it was clear from the video that Sarab was neither. He trotted over the finish line and passed the vet check.
- 4.5 Finally, neither the Ground Jury nor any other FEI Officials who were present throughout the ride raised any objection about his riding, and in particular no question of cruelty or abuse was raised.
- 4.6 Together with his submission, Mr. Al Ghailani also provided a statement by the UAE-NF stating that they had carried out an independent investigation of the allegations made in the matter, and that they had not found any evidence of actions constituting abuse of, or cruelty towards the horse in question. Furthermore, the UAE-NF confirmed that Mr. Al Ghailani has no previous record of misbehaviour or rule violations.
- 4.7 The UAE-NF further provided a statement by the President of the Ground Jury at the Event, who explained that he did not witness any horse abuse

of Mr. Al Ghailani during the ride, and neither did he or any other member of the Ground Jury see *"anyone whip or beat Sarab and receive any other forbidden assistance or misuse any aids. The Horse was in good condition and was neither exhausted, lame or injured."* After having watched the video he noticed "the use of the natural Aids that did not see any behaviour which I would categories as cruelty or abuse of the horse."

5. FEI opinion

- 5.1 To start with, the FEI submitted that Mr. Al Ghailani as the rider of the Horse had in accordance with Article 118 of the GRs legal responsibility of the Horse, including responsibility under the FEI Rules and Mr. Al Ghailani was liable under the FEI Rules and Regulations.
- 5.2 Further, the FEI took all allegation of horse abuse very seriously and the FEI had no reason to doubt the authenticity or veracity of the video. The actions of Mr. Al Ghailani, as can be seen in the video were, in the FEI's view, prima facie evidence of "Abuse" within the meaning of Article 142 of the FEI GRs (Abuse of Horse).
- 5.3 More specifically, the FEI submitted that the FEI has carefully watched the videos of this case and found it clear that the rider was pushing his Horse by excessive kicking, pulling the reins and high hands form behind. It was also clear that the Horse was tired at minute 01:11 of the second video, when it breaks into trot and stops responding to the rider's excessive helps, *i.e.*, pulling of the reins with high arms.
- 5.4 According to the FEI Veterinary Department, one single very hard strike of the legs, hands, reins water bottle or whip etc. should also be considered as excessive, regardless of the response from the horse.
- 5.5 The FEI was of the opinion that excessive kicking of a horse and pulling of the reins with high hands in order to push it forward was an action or omission which causes or is likely to cause pain or unnecessary discomfort to the Horse and therefore constitutes abuse of horse within the meaning of Art 142 GR.
- 5.6 In addition, the Support Personnel of the Athlete was chasing the Horse when it leaves the vet gate and also during the ride (including vehicles on course) which is strictly prohibited in accordance with Article 807.7 of the ERs. The behaviour of the Support Personnel in this case was unacceptable and should lead to aggravating circumstances for the Athlete.
- 5.7 Given the totality of the circumstances the FEI was of the opinion that the

appropriate sanction for this case was in the lower to mid-range between 3 - 6 months suspension.

- 5.8 In addition, any act or series of actions defined as cruelty or abuse shall be penalised by disqualification from the Event in accordance with Article 811.1 of the ERs.

6. Jurisdiction

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

7. Admissibility of the Claim

- 7.1 The Protest submitted to the Tribunal by the FEI Secretary General through the FEI Legal Department against Mr. Al Ghailani arises from an alleged horse abuse. Any such Protest may be lodged by anybody under Article 163.2 of the GRs. Since Mr. Al Ghailani was registered with the FEI at the time of the incident, the Protest is admissible and the Tribunal will decide on the matter in accordance with applicable rules and regulations.

8. Decision

- 8.1 To determine the merits of this case, the Tribunal has to first and foremost decide whether Mr. Al Ghailani committed a horse abuse as defined in Article 142 of the GRs. In addition, the Tribunal may decide whether Mr. Al Ghailani committed any other violations of the FEI Rules and Regulations.
- 8.2 To start with, the Tribunal takes note of the Protestors submissions, namely that *"The repeated hazing of the horse by grooms, the excessive use of the aids such as kicking the horse so hard that daylight can be seen between the rider's entire leg and the saddle, yanking the reins, flipping the reins, twirling the loose end of the reins to threaten the horse, whipping the horse with the reins, and throwing or threatening to throw objects or water at the horse (which was visibly tiring) are all acts which we believe constitute abuse. (...)"*
- 8.3 Furthermore, the Tribunal takes note of the FEI's opinion in the case, namely that horse abuse in the meaning of Article 142 of the GRs occurred by pushing the Horse by excessive kicking of the Horse and pulling of the reins with high hands in order to push it forward, as this was an action or omission which causes or is likely to cause pain or unnecessary discomfort to the

Horse. Further, the FEI submitted that the chasing of the Horse when it leaves the vet gate and also during the ride (including vehicles on course) by the Support Personnel which was strictly prohibited in accordance with Article 807.7 of the ERs, was to lead to aggravating circumstances for the rider.

- 8.4 Moreover, the Tribunal considered Mr. Al Ghailani's explanation that *"I did not at any point in the ride whip or beat Sarab at all, use any whip or spur nor receive any forbidden assistance. I did not compete on an exhausted, lame or injured horse. I also do not believe I misused my aids."*
- 8.5 Article 142.1 of the GRs set out the principle that no person may abuse a horse during an event or at any other time and defines the word "abuse" to mean *"an action or omission which causes or is likely to cause pain or unnecessary discomfort to a Horse"*. This Article then gives a non-exhaustive illustrative list of what constitutes horse abuse. Since the list is non-exhaustive, and provides only examples, the Article clearly allows for other actions or omission that might likely cause pain or necessary discomfort to a horse to be considered as horse abuse. The Tribunal finds that such actions or omission have ultimately to be evaluated on a case by case basis.
- 8.6 The Tribunal agrees with the opinion of the FEI, and finds that Mr. Al Ghailani by pushing the Horse by excessive kicking of the Horse and pulling of the reins with high hands in order to push it forward was an action or omission which causes or is likely to cause pain or unnecessary discomfort to the Horse. Hence the requirements of Article 142.1 of the GRs are fulfilled and a horse abuse within the meaning of this Article occurred.
- 8.7 It appears to the Tribunal that it seems to be Mr. Al Ghailani's view that horse abuse requires whipping or beating a horse. However, as previously found, this is not the case. Likewise, it seems that the President of the Ground Jury seems to have doubts with regard to the application of Article 142 of the GRs.
- 8.8 The Tribunal also follows the FEI's opinion and finds that the Support Personnel was chasing the Horse which in accordance with Article 807.7 of the ERs is prohibited, and thus a violation of Article 807.7 of the ERs has been established in the present case, and a Yellow Warning Card and Disqualification is provided for such violations. The Tribunal finds that Mr. Al Ghailani, as rider and Person Responsible had the obligation to instruct his Support Personnel to follow FEI Rules and Regulations, and not to violate any such rules, including Article 807.7 of the ERs. Therefore Mr. Al Ghailani has to take some responsibility for the actions of the Support Personnel.

- 8.9 Furthermore, the Tribunal encourages the FEI to ensure that the FEI Officials in events like the Event act on apparent horse abuses happening during competition. In addition, the Tribunal encourages the FEI to investigate and open disciplinary proceedings, if necessary, against the FEI Officials officiating at the Event for potential breaches of the FEI rules and regulations that they may have committed by not acting on the present horse abuse case during the actual Event.
- 8.10 Further, the Tribunal wishes to clarify that the case at hand only concerns the allegations brought forward by the Protestor regarding the incidents at the Event. The fact that Mr. Al Ghailani has no previous records of misbehaviour and rule violations cannot be accepted as mitigating factor for this present case. In the Tribunal's view, rather the opposite would be true, namely if a horse abuse was to be repeated, the existence of the present case might be considered as an aggravating factor in a future case.
- 8.11 As a result, the Tribunal concludes that under the definition of horse abuse in the GRs, the Protestor discharged her burden of proof to establish horse abuse under the applicable FEI rules and regulations, namely Article 142.1 of the GRs. Moreover, the Tribunal finds that Article 807.7 of the ERs has been violated in the present case.
- 8.12 As a result of these circumstances, the Tribunal finds a suspension of twelve (12) months in accordance with Article 169.6.2 of the GRs, in combination with a fine and disqualification, as provided for in Article 169.8 of the GRs, as proportionate.
- 8.13 As a result of the foregoing, the Tribunal finds that the actions of Mr. Al Ghailani are considered as horse abuse within the meaning of Article 142.1 of the GRs. Furthermore, a violation of Article 807.7 of the ERs has been established in the case at hand. Mr. Al Ghailani as rider and Person Responsible has to take some responsibility for the actions of his Support Personnel. For the above reasons, and in accordance with Articles 142.1, 169.6.2, 169.8 and 169.10 of the GRs, the Tribunal therefore decides as follows:
1. The Protest is admissible.
 2. A violation of Article 807.7 of the ERs has been established.
 3. Mr. Al Ghailani has engaged in horse abuse and thereby violated Article 142 of the GRs.
 4. Mr. Al Ghailani shall be suspended for a period of **twelve (12) months** starting from the date of the present decision.
 5. **All results** achieved by Mr. Al Ghailani with the Horse at the Event, including forfeiture of medals, points and prizes shall be **disqualified**.

6. Mr. Al Ghailani shall be fined **four thousand Swiss Francs (CHF 4,000)**.
 7. Mr. Al Ghailani shall contribute **one thousand Swiss Francs (CHF 1,000)** towards the cost of these proceedings.
- 8.14 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.
- 8.15 According to Articles 165.1.3 and 165.6.1 of the GRs, 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:

The Parties: Yes

Any other: NF

FOR THE PANEL

A handwritten signature in blue ink, appearing to read 'Torrente', is centered on the page. The signature is stylized with a large loop at the top and a horizontal line across the middle.

Mr. Cesar Torrente, FEI Tribunal panel chair