CAS 2025/A/11145 Evi Strasser & Tanya Strasser v. Fédération Equestre Internationale (FEI)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition

President: Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milan, Italy

Arbitrators: Mr Patrick Grandjean, Attorney-at-Law in Belmont, Switzerland
Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark

in the arbitration between

Evi Strasser & Tanya Strasser, Saint-Adèle, Quebec, Canada

Represented by Mr Tom Seamer, Mr Ben Cisneros and Ms Ellen Kerr, Attorneys-at-Law with Morgan Sports Law in London, United Kingdom

Appellants

and

Fédération Equestre Internationale (FEI), Lausanne, Switzerland

Represented by Ms Anna Thorstenson and Ms Ana Kricej, FEI Legal Counsel, Lausanne, Switzerland, by Ms Lauren Pagé and Mr Alasdair Muller, Attorneys-at-Law with Bird & Bird in London, United Kingdom, and by Mr Riccardo Coppa, Attorney-at-Law with Kellerhals Carrard in Lausanne, Switzerland

Respondent

I. THE PARTIES

1. Ms Evi Strasser (the "First Appellant") is a Canadian coach and horse trainer, born on 13 February 1964, and a former professional dressage rider. She coaches her daughter, Ms Tanya Strasser.

2. Ms Tanya Strasser (the "Second Appellant") is a Canadian professional dressage rider and coach, born on 12 July 1995.

3. The Fédération Equestre Internationale ("FEI" or the "Respondent") is the internationally recognized governing body for the equestrian sport disciplines of dressage and para-equestrian dressage, jumping, eventing, driving and para-driving, endurance and vaulting. FEI has its registered office in Lausanne, Switzerland.

4. The First Appellant and the Second Appellant (jointly the "Strassers" or the "Appellants") are registered FEI dressage athletes. Dressage is an equestrian sport in which the horse and rider perform a set of specific movements in an arena, judged on their precision and accuracy. The discipline emphasizes a seamless connection between rider and horse, focusing on improving suppleness, flexibility, obedience, and athleticism. To score well, both horse and rider must execute the required movements without mistakes, as even small issues like the horse raising its head or losing concentration, can result in lower scores. The Strassers are based in Saint-Adèle, Quebec, Canada, where the First Appellant owns and operates Good Tyme Stables (the "Stables").

5. The Appellants and the Respondent together are referred to as the "Parties".

II. BACKGROUND FACTS

6. Below is a summary of the main relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.

7. On 15 February 2024, a complaint was submitted to Equestrian Canada ("EC"), the national equestrian association of Canada and a member of FEI, alleging abuse of horses at the Stables.

8. On 17 February 2024, as a result, EC provisionally suspended the Strassers and informed FEI of such suspension.

9. On 18 February 2024, FEI extended at international level the provisional suspension imposed by EC.

10. Around the same time, FEI separately received allegation of abusive training techniques employed by the Strassers.

11. On 22 April 2024, the FEI sent a notice (the "Notice") to the Strassers, informing them of the opening of its own investigation into the allegations reported to EC and to FEI, and imposing on them a provisional suspension with immediate effect pending the investigation (the "Provisional Suspension"), in accordance with Article 164.6 of the FEI General Regulations (the "GR"), "*given the gravity of the horse abuse which appears to have occurred on several instances involving a number of horses*".

12. On 23 April 2024, a request for disclosure was submitted on behalf of the Strassers to FEI, seeking clarification on whether the "*separately received allegations*" received by the FEI, mentioned in the Notice, were distinct or the same as the allegations set out in the complaint to EC on 17 February 2024, and disclosure of these separately received allegations, in order to be able to prepare an application to the FEI Tribunal requesting the immediate lifting of the Provisional Suspension.

13. On 25 April 2024 FEI indicated to the Strassers that that its investigation was separate and independent from the one conducted by EC and that the allegations, which had been brought forward to the FEI by several individuals and had prompted the FEI's imposition of the Provisional Suspension, were the following:

    […]

14. On 26 April 2024, the Strassers denied the allegations made against them and requested to be provided with additional details together with the documents and evidence supporting them.

15. On 1 May 2024, FEI replied that it was unable to provide additional information pending the investigation.

16. On 2 May 2024, the Independent Third-Party Complaints Manager of EC (the "ITPCM") issued a decision staying the process started by the complaints it had received, in light of the Provisional Suspension imposed by FEI on the basis of the same allegations, and in order to avoid duplications.

17. On 3 May 2024, the Strassers insisted in their request for disclosure.

18. On 7 May 2024, FEI confirmed its position.

19. On 8 May 2024, the Strassers filed an application with the FEI Tribunal, requesting that the Provisional Suspension be lifted.

20. On 13 May 2024, the FEI Tribunal issued the operative part of a decision (the "First FEI Decision"), dismissing the Appellants' application, as follows:

    "*1) The 8 May 2024 Applications to lift the Provisional Suspensions imposed on Ms. Evi Strasser and Ms. Tanya Strasser are denied.*

    2) The FEI Tribunal (the "Panel") finds that the FEI has broad discretionary authority to impose provisional measures under the GRs in order to safeguard the interest and integrity of the sport and its athletes (both equine and human): provided the FEI has acted reasonably in imposing such provisional measures. The Panel finds that, under the current

set of facts and circumstances, the FEI has acted within its discretionary powers in imposing the Provisional Suspensions against the Athletes.

3) *Each party shall bear their own costs incurred relating to these proceedings. No fines are hereby levied.*

4) *This Decision shall be notified to the Athletes, to their, Legal Representatives, their NF and to the FEI.*"

21. On 15 May 2024, the Appellants lodged with the Court of Arbitration for Sport ("CAS") an application (the "First CAS Proceedings"), seeking the adoption of urgent provisional measures lifting the Provisional Suspension confirmed by the First FEl Decision, pending the final determination of the appeal against it. The First CAS Proceedings were registered as CAS 2024/A/10576.

22. On the same day, the Deputy President of the CAS Appeals Arbitration, after receiving a response by FEI, issued an order lifting the Provisional Suspension on an *interim* basis pending the outcome of the Appellants' appeal (the "First CAS Order"), and ordering further briefing.

23. As a result, in the framework of the First CAS Proceedings:

i. on 17 May 2024, the FEI submitted a supplemental response, requesting that the Appellants' application for provisional measures be rejected and that the Provisional Suspension be reinstated;

ii. on the same 17 May 2024, the Appellants commented on the FEI's submissions;

iii. on 30 May 2024, FEI lodged two witness statements from A., dated 15 May 2024, and from B., unsigned and undated;

iv. on 10 June 2024, the Appellants' counsel sent a letter to the CAS Court Office with respect to the witness statements filed by FEI;

v. on 18 June 2024, the FEI submitted its response to the request for provisional measures, insisting in "*its request that the CAS dismiss the Applicants' application for provisional measures in its entirety*";

vi. on 1 July 2024, the Deputy President of the CAS Appeals Arbitration ruled that the First CAS Order would remain in force, pending the conclusion of the appeal against the First FEI Decision.

24. On 19 May 2024, in the meantime, the ITPCM clarified the meaning and effects of its decision of 2 May 2024, confirming that the entire complaint hearing process, including the suspension, had been stayed.

25. On 22 July 2024, the FEI Tribunal issued the full written reasons of the First FEI Decision.

26. On 12 August 2024, the Appellants filed their statement of appeal against the First FEI Decision. A series of deadline extensions for submission of the appeal brief were subsequently requested and granted, with the final deadline expiring on 26 September 2024.

27. On 27 September 2024, the Appellants requested a further extension of the deadline to lodge their appeal brief.

28. On the same day, the CAS Court Office, writing with respect to the First CAS Proceedings, noted that the Appellants' request had been submitted past the expiry of the deadline to submit the appeal brief and invited the FEI to inform the CAS Court Office whether it agreed to the granting of a new time limit.

29. On 30 September FEI expressed its disagreement with a further extension.

30. On 4 October 2024, the Parties were informed that the Panel appointed in the First CAS Proceedings would decide whether the appeal against the First FEI Decision was deemed withdrawn pursuant to Article R51 of the Code of Sports-related Arbitration (the "CAS Code").

31. On 12 November 2024, the Panel in the First CAS Proceedings issued an Award on Costs, finding that the Appellants' request for the reinstatement of the time limit for the appeal brief could not be granted and therefore that the appeal had to be deemed withdrawn pursuant to Article R51 of the CAS Code. As a result, the First CAS Proceedings were terminated, the First CAS Order automatically annulled and the Provisional Suspension imposed on the Appellants reinstated.

32. On 22 November 2024, the Chair of the FEI Tribunal issued directions with respect to the continuation of the disciplinary proceedings against the Strassers.

33. On 22 November 2024, the Appellants filed a second application before the FEI Tribunal, requesting it to lift the Provisional Suspension imposed on them on 22 April 2024 and confirmed by the First FEI Decision.

34. On 29 November 2024, the FEI submitted its "*Response to the appellants' second application to lift their provisional suspensions*", asking the FEI Tribunal to "*uphold the Applicants' Provisional Suspensions*".

35. On 12 December 2024 the FEI Tribunal issued the operative part of a decision (the "Second FEI Decision" or the "Appealed Decision") on the Strassers' second application to lift the Provisional Suspension, as follows:

> "*1) The 22 November 2024 Applications to lift the Provisional Suspensions reinstated on Ms. Evi Strasser and Ms. Tanya Strasser are denied.*
>
> *2) The FEI Tribunal (the "Panel") finds that the FEI has broad discretionary authority to impose provisional measures under the GRs in order to safeguard the interest and integrity of the sport and its athletes (both equine and human): provided the FEI has acted reasonably in imposing such provisional measures. The Panel finds that, under the current set of facts and circumstances, the Provisional Suspensions reinstated against the Athletes on 12 November 2024 must be maintained.*
>
> *3) Each party shall bear their own costs incurred relating to these proceedings. No fines are hereby levied.*
>
> *4) This Decision shall be notified to the Athletes, to their, Legal Representatives, their NF and*

to the FEI.

IV Legal Action […]

3) According to Articles 162.1(b) and 162.7 of the FEI General Regulations, this Decision, in its reasoned form, may be appealed before the Court of Arbitration fir Sport (CAS) by the persons and within the terms set forth in the applicable rules."

36. On 21 January 2025, the Strassers started the present arbitration (§ 41 below).

37. On 6 February 2025, FEI formally charged the Appellants, pursuant to Article 28 of the Internal Regulations of the FEI Tribunal (the "Internal Regulations"), with the following offences: (i) abuse of horse (Article 142 of the GR), (ii) breach of the FEl Code of Conduct on the Welfare of the Horse (the "Code of Conduct") and (iii) conduct that brings the FEI and/or equestrian sport into disrepute (Article 164.11 of the GR). FEI indicated that the charges, if not accepted, would be determined in proceedings before the FEI Tribunal. Attached to the notifications to the Strassers, FEI transmitted the witness statements of A. and C.

38. On 7 February 2025, the Appellants' counsel requested an extension of the deadline to provide FEI with a reply to the charges until 20 days after CAS issued a decision in the present appeal proceedings.

39. On 8 February 2025, the FEI agreed to such request.

40. On 27 March 2025, the FEI Tribunal issued the full written reasons of the Appealed Decisions, stating *inter alia* the following:

i. as to the question "*Is the FE's (sic) investigation/and or prosecution of this matter time barred?*", it noted that:

- under Swiss law, which governs the FEI rules, the amended (unlimited) statute of limitations applies retroactively, since the alleged events had not yet become time-barred in 2022. Had the acts occurred earlier, the outcome might have been different;
- the Appellants' claim that they had a legitimate expectation that the misconduct could no longer be prosecuted after five years is to be rejected: in addition, such argument implicitly acknowledges the commission of the acts. Moreover, it is important to uphold strict animal welfare standards within the FEI, and the elimination of time limits to prosecute horse abuse allegations reflects a justified zero-tolerance policy;
- lastly, the Appellants' legal arguments concerning legal certainty and Article 6(1) of the ECHR is to be dismissed, since the application of an open-ended limitation period within a private association like the FEI is reasonable and supported by CAS jurisprudence. The approach is also consistent with the practice of other sports federations with respect to serious misconduct;

ii. as to the question "*Is the FEI's failure to progress its investigation/prosecution since the Athletes were first provisionally suspended renders the Provisional Suspensions procedurally unfair?*", the Appellants' claim is to be denied, since:

- the Provisional Suspension had only lasted 33 days in total and the investigation was still active, especially as new witnesses continued to come forward with serious allegations: while timely proceedings are important for fairness, the gravity and complexity of the case justified a longer investigation;
- this case of the Appellants is more serious than the other CAS cases cited by them, making a comparison impossible;
- lastly, the procedural fairness arguments cannot be accepted, since the FEI's approach was reasonable under the circumstances, and the Provisional Suspension is necessary to protect horse welfare during the ongoing investigation.

III. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

41. On 21 January 2025, the Appellants filed with CAS a "*Statement of Appeal, Appeal Brief and Request for Provisional Measures*", pursuant to Articles R37 and R47 of the CAS Code, to challenge the Appealed Decision (the "Appeal") and to request that the President of the CAS Appeals Arbitration Division issue an order, by 29 January 2025, staying the Provisional Suspension pending the outcome of the Appeal. In addition, the Appellants, *inter alia*, appointed Mr Pierre Muller, Former Judge in Lausanne, Switzerland, as an arbitrator. Together with their Appeal, the Appellants filed a bundle of documents which included also the statements of a number of witnesses.

42. On 23 January 2025, the CAS Court Office acknowledged receipt of the Appeal, initiated the present arbitration procedure and *inter alia* invited the Respondent to file its position on the request for provisional measures.

43. On 27 January 2025, the Respondent filed its answer to the Appellants' request for provisional measures, asking that such request be dismissed. Additionally, it requested a suspension of the time limit to file its answer to the Appeal until the reasons in support of the Appealed Decision were issued.

44. On 28 January 2025, as a result, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division, or her Deputy, would issue shortly an Order on the request for provisional measures. At the same time, the Respondent was

    invited to clarify, by 31 January 2025, when the FEI Tribunal was expected to issue the reasons of the Appealed Decision.

45. On 28 January 2025, the Respondent informed the CAS Court Office that it was not able to provide the requested information, as the FEI Tribunal is an independent judiciary body. Therefore, the CAS Court Office invited the Appellants to comment, by 31 January 2025, on the Respondent's request for suspension of the time limit to file an answer to the Appeal.

46. On 29 January 2025, the President of the CAS Appeals Arbitration Division issued the operative part of an Order on Application for Provisional Measures, stating as follows:

"*1. The application for provisional measures filed by Ms Evi Strasser and Ms Tanya Strasser on 21 January 2025 in the matter CAS 2025/A/11145 Evi Strasser & Tanya Strasser v. Fédération Equestre Internationale (FEI) is denied*.

2. The costs of the present Order shall be determined in the final award or any final disposition of this arbitration."

47. On 30 January 2025, the Appellants objected to the FEI's request to stay the proceedings pending the issuance of the reasons for the Appealed Decision.

48. On 4 February 2025, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had decided to deny the Respondent's request for the suspension of the present procedure. Consequently, the suspension of the Respondent's time limit to file its answer was lifted with immediate effect.

49. On 6 February 2025, the CAS Court Office noted that the Respondent had failed to nominate an arbitrator within the granted deadline. Consequently, it informed the Parties that, in accordance with Article R53 of the CAS Code, the President of the CAS Appeals Arbitration Division would appoint an arbitrator on the Respondent's behalf.

50. On 6 February 2025, the Respondent nominated Prof. Ulrich Haas, Professor of law in Zurich, Switzerland, and Attorney-at-Law in Hamburg, Germany, as an arbitrator in this matter. As a result, the CAS Court Office on the same day invited the Appellants to confirm whether they agreed with the Respondent's nomination, given that the deadline for the Respondent had expired.

51. On 6 February 2025, the Respondent in a message to the CAS Court Office wrote that:

"*... The FEI ... did not request only for a stay in the deadline to file its Answer but in the Appeal Proceedings in their entirety including the deadline to nominate an arbitrator.*

It would be unreasonable to only suspend part of the Appeal Proceedings, especially as the FEI's choice of the arbitrator may depend on the availability of the reasoned decision, which was the main reason behind the FEI's request for a stay in the Appeal Proceedings in the first place.

Taking both aspects as above into account, the FEI therefore rightfully so assumed that the suspension referred to the entire Appeal Proceedings and requests that the FEI's nomination of an arbitrator is accepted. …".

52. On 11 February 2025, the Appellants informed the CAS Court Office that they "*object[ed] to the FEI's nomination of Prof. Haas, and consider[ed] that, pursuant to Article R53 of the CAS Code, it [was] for the President of the CAS Appeals Arbitration Division, or her Deputy, to nominate an alternative arbitrator in lieu of the FEI.*"

53. On 12 February 2025, the CAS Court Office advised the Parties that the issue of the validity of the Respondent's nomination of Prof. Dr Haas had been submitted to the President of the CAS Appeals Arbitration Division.

54. On 19 February 2025 the Respondent filed with the CAS Court Office its answer to the Appeal (the "Answer"), pursuant to Article R55 of the CAS Code, seeking its dismissal.

The Answer contained also the request that the Appellants disclose copies of all non-disclosure agreements ("NDAs") that they had entered into with employees at the Stables.

55. On 20 February 2025, the CAS Court Office invited the Parties to express a preference as to the holding of a hearing or whether they wished the Panel to decide on the basis of their written submission.

56. On 25 February 2025, the Respondent informed the CAS Court Office that:

"*… it does not request for a hearing to be held in the above stated Appeal and deems that the Panel will be sufficiently informed on the matter to issue an award based on the Parties' written submission solely, in particular as the majority of the submitted arguments pertain to the Statute of Limitations, which is a purely procedural question. In consequence, the FEI also does not request a case management conference.*"

57. On 26 February 2025, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division, pursuant to Article R53 of the CAS Code, had ruled that the Respondent's nomination of Prof. Dr Haas was late, and that, consequently, the Deputy President would appoint an arbitrator on the Respondent's behalf.

58. On 27 February 2025, the CAS Court Office informed the Parties that Mr Pierre Muller had not accepted his nomination as arbitrator in the present procedure, and therefore requested the Appellants to nominate another arbitrator. Additionally, it noted that the Deputy President of the CAS Appeals Arbitration Division had appointed Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark, as arbitrator in the matter in lieu of the Respondent.

59. On 27 February 2025, the Appellants sent a letter to the CAS Court Office as follows:

"*The Appellants request that a hearing is held, in order to, inter alia, allow the Appellants to:*

a. address the FEI's arguments (as presented in its Answer) and evidence. In particular, the FEI has filed with its Answer new witness evidence which was not submitted during the first instance proceedings. The Appellants thus were not able to address that witness evidence in their Appeal Brief. It is therefore essential that a hearing is held so that the Appellants can address this new evidence; and

b. set out their position orally and answer any questions which the Panel may have.

The Appellants do not consider a case management conference to be necessary at this stage."

60. On 28 February 2028, the Appellants in a letter to the CAS Court Office nominated Mr Patrick Grandjean, Attorney-at-Law in Belmont, Switzerland, as an arbitrator.

61. On 20 March 2025, the CAS Court Office noted that, pursuant to Article R54 of the CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Panel appointed to hear the Appeal had been formed as follows:

President:	Prof. Luigi Fumagalli, Professor and Attorney-at-Law in Milan, Italy;
Arbitrators:	Mr Patrick Grandjean, Attorney-at-Law in Belmont, Switzerland; and Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark.

62. On 1 April 2025, the Appellants wrote a message to the CAS Court Office requesting that a hearing be scheduled, at the Panel's earliest convenience.

63. On 1 April 2025, the CAS Court Office noted that the Panel had decided to hold a hearing in this matter on 21 May 2025. The Parties were invited to inform whether they would be available on this date by 4 April 2025.

64. On 2 April 2025, the Appellants confirmed their availability on such date.

65. On 4 April 2025, the Respondent informed the CAS Court Office of a change in its representation and confirmed its availability on the date proposed for the hearing. Enclosed to its letter, the Respondent submitted also a copy of the full written reasons for the Appealed Decision issued by the FEI Tribunal on 27 March 2025 (§ 40 above). At the same time, the Respondent noted that the Appellants had not provided the NDAs requested by FEI in its Answer: it therefore reiterated the request, demanding that the Panel order such production in the event of failure of the Appellants to provide them voluntarily.

66. On 7 April 2025, the Parties were informed that the hearing would be held by videoconference on 21 May 2025. In the same letter, the Appellants were invited by the CAS Court Office to file by 14 April 2025 their comments on the grounds of the Appealed Decision, as transmitted by the Respondent on 4 April 2025, with the possibility of subsequent rebuttal by the Respondent.

67. On 8 April 2025, the Appellants wrote a letter to the CAS Court Office stating as follow:

> "*We write further to your letter of 7 April 2025, in relation to the grounds of the appealed decision (the "Reasoned Decision"), which invited the Appellants to 'file their comments on this document, if any'.*
>
> *The Appellants are content to address the Reasoned Decision, to the extent that it could be relevant (given that the appeal is de novo), at the hearing, rather than by way of any additional written submissions, in the interests of saving costs.*
>
> *Accordingly, the Appellants do not wish to file any comments on the Reasoned Decision.*
>
> *We note that your letter stated that the Respondent will be granted an opportunity to file a 'rebuttal' to any comments filed by the Appellants regarding the Reasoned Decision. Given that the Appellants have not filed any such comments, we understand that the Respondent will not now be entitled to file any submissions of its own. However, the Appellants respectfully reserve the right to reconsider their decision not to file comments on the Reasoned Decision, to the extent that this understanding is not correct.*"

68. On 10 April 2025, the Appellants, in a letter to the CAS Court Office, referred to the grounds of the Appeal and noted that one of them related to the unfairness of the Provisional Suspension, owing to the delays in the FEI's investigation of the allegation, because, at the time the Appeal was filed, FEI had not yet charged the Appellants with any misconduct. However, since the Appeal Brief was filed, the FEI concluded its investigation and formally charged the Appellants (§ 37 above). As a result, "*in light of this development and with a view to narrowing the issues in dispute*", they notified the FEI and the CAS Panel that they no longer intended to pursue that ground of Appeal.

69. On 15 April 2025, the Appellants provided their comments on the Respondent's request for the production of documents, stating *inter alia* what follows:

i. the documents sought were neither in the possession of the Appellants, nor under their control. Accordingly, the Appellants were not in a position to produce or provide copies of them;

ii. the use of NDAs between employers and employees constitutes a standard across all industries and a lawful practice. As a result, it cannot be construed as an attempt to conceal instances of horse abuse;

iii. the assertion in the Appeal Brief, that the complainants in this matter had entered into NDAs with the Appellants, was made in error and was factually incorrect, as it should have read that the Appellants "*may*" have entered into NDAs with the complainants;

iv. the correct position as to the Appellants use of NDAs was the following:

"*(a) The Appellants do not routinely use, and have never routinely used, NDAs at Good Tyme Stables. However, in the past, they have, on occasion, entered into termination / settlement agreements with (former) employees, which agreements have included certain non-disclosure obligations.*

(b) The Appellants have not used any such settlement agreements in recent years and have been unable to locate copies of any historic settlement agreements. However, the Appellants have obtained from their former lawyer a copy of a draft settlement agreement that was prepared (but not ultimately concluded) for a former employee, who left Good Tyme Stables in January 2018 after suffering an injury at work (the "Draft Settlement Agreement", enclosed). The Draft Settlement Agreement includes obligations relating (inter alia) to confidentiality, non-disparagement, and non-use of confidential business information, in addition to obligations regarding the mutual release of claims. The Draft Settlement Agreement is thus typical of settlement agreements arising from the termination of an employment relationship.

(c) Given that seven years have passed since [A.] left their employment, the Appellants cannot specifically recall entering into an NDA with [A.]. However, [A.] suffered a riding accident whilst working at Good Tyme Stables and the Appellants may therefore have asked her to sign a settlement agreement prior to leaving their employment (in order to avoid any future liability or litigation). If they did so, [A.]'s settlement agreement would likely have taken the same form as the Draft Settlement Agreement, which had been prepared a matter of months before [A.] left their employment, for another injured employee. It would thus likely have included the same clauses regarding confidentiality, non-disparagement, and non-use of confidential business information.

(d) However, having searched their electronic and physical records (which … were destroyed by a flood in May 2023), the Appellants do not have a copy of any such settlement agreement (or any NDA) with [A.]. The Appellants' former lawyer (who provided them with a copy of the Draft Settlement Agreement) also does not have any such document. Notably, [A.] does not appear to have a copy of any such document, either, as no such document has been filed by the FEI.

(e) The Appellants are confident that they did not enter into any NDA or settlement agreement with [B.] or [C.]. Notably, the witness statements of [B.] and [C.] … do not suggest otherwise."

70. On 30 April 2025, the Appellants informed the CAS Court Office *inter alia* of a change in their representation.

71. On 7 May 2025, the Respondent sent a letter to the CAS Court Office requesting the CAS Panel that some new documents, consisting in (a) a copy of a NDA between A. and the Stables dated 31 January 2018 (but allegedly signed in June 2018), (b) a "*Settlement Agreement and Release*" dated 20 June 2018 between the same parties, (c) a "*Cease and Desist Demand*" sent to A. by a law firm representing the Stables on 3 December 2023, and (d) a Facebook post of the Appellants, be added to the case file in accordance with Article R56 of the CAS Code, as such new evidence:

    i. was materially relevant to the Respondent's case that the Appellants could not rely on any limitation defence, due to their alleged concealment of the abuse, including the use of the NDAs, particularly with A.;

    ii. arose as a result of the FEI's further investigations with A. following the Appellants' inability to produce the relevant agreements and their failure to disclose their attempts to enforce on December 2023 those agreements, notably some seven months after the Appellants' copies of those documents were allegedly destroyed.

72. On 9 May 2025, the Appellants, commenting on the Respondent's letter dated 7 May 2025:

    i. opposed the FEI's request that the additional evidence be added to the case file, arguing it did not meet the "exceptional circumstances" standard under Article R56 of the CAS Code, because the documents at stake existed well before the FEI's Answer and could have been filed earlier, considering that they were allegedly under A.'s control;

    ii. denied the FEI's claim that the Appellants' failure to produce the documents justified the late submission, as the burden of proof remained with the FEI. Therefore, admitting the evidence would unfairly prejudice the Appellants.

73. On 13 May 2025, the Parties were informed by the CAS Court Office that the CAS Panel had decided to admit to the case file the new evidence filed by the Appellant.

74. On 16 May 2025, the Respondent sent a letter to the CAS Court Office with respect to the structure and schedule of the hearing.

75. On 18 May 2025, the Appellants sent a letter to the CAS Court Office addressing the issue of the hearing structure and schedule and requesting the admission of an unredacted version of a draft "*Settlement Agreement and Release*" entered into with a former employee, […], previously submitted in redacted form in order to protect her identity. In that regard, the Appellants indicated (i) that, since the Panel had admitted two agreements between the Stables and A., both closely based on the draft "*Settlement Agreement and Release*" with […] and even mistakenly naming her, there was no longer a need for redaction, and (ii) that the unredacted version would help clarify the origin of the agreements entered into with A. At the same time, the Appellants submitted additional legal authorities they intend to rely on at the hearing.

76. On 21 May 2025, a hearing was held by videoconference. In addition to the Panel and Ms Delphine Deschenaux-Rochat, CAS Counsel, the following persons attended the hearing:

for the Appellants: the Appellants in person, assisted by Mr Tom Seamer, Mr Ben Cisneros, and Mr Claude Ramoni, counsel;

for the Respondent: Ms Anna Thorstenson and Ms Ana Kricej, FEI Legal Counsel, assisted by Ms Lauren Pagé, Mr Alasdair Muller, and Mr Riccardo Coppa, counsel.

77. At the beginning of the hearing, the Parties confirmed that they had no objection to the composition of the Panel. The Panel then, after opening statements by counsel, heard the declarations of Ms Evi Strasser and A. In that context, and *inter alia*:

i. Ms Evi Strasser denied the veracity of the accusations of horse abuse brought against the Appellants: they always treated A. well, taking care of her and paying her salary even in the period she was injured and could not work. Ms Evi Strasser explained that the NDA with A. was signed when she left, on the basis of a previous text, prepared for another employee, and modified. The texts of the NDA and of the settlement agreement were prepared by lawyers and were signed without any pressure having been put on A., who was never threatened. Only later a cease and desist letter was sent because she had started to attack the Strassers. The only explanation for A.'s behaviour is that she was irritated because she could not obtain another employment she was later seeking and imputed her failure to the Strassers;

ii. A. confirmed the signing of the NDA and of the settlement agreement when she was only 19, and unexperienced: they were the first legal documents she signed. They were put before her by Ms Evi Strasser in a very aggressive way at the end of the period of employment and it was clear that they had been drafted to threaten her. A. explained that she was really scared at the time and only later was told that any confidentiality obligation she had undertaken would not cover horse abuse. When she denounced the abuses in a post (in 2020, correcting a previous indication of 2019), she received the cease and desist letter.

78. The Parties were finally invited to submit their pleadings. In that context, the Parties answered questions asked by the Panel and insisted for the granting of the relief respectively sought.

79. At the conclusion of the hearing, the Parties confirmed that they had no objections in respect of their right to be heard and to be treated equally in the arbitration proceedings.

80. On 2 June 2025, the CAS Court Office issued on behalf of the President of the Panel an order of procedure (the "Order of Procedure"), which was signed by the Appellants on 9 June 2025, in a slightly amended version, and by the Respondent on 5 June 2025.

IV. THE POSITION OF THE PARTIES

81. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Panel, however, has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summary.

A. The Position of the Appellants

82. In their Appeal, the Appellants requested the CAS to issue an award to:

> "*(a) set aside the Appealed Decision;*
> *(b) declare that the FEI's investigation and/or prosecution of this matter is time-barred owing to the expiry of the applicable statute of limitations;*
> *(c) declare that the Provisional Suspensions are procedurally unfair and/or disproportionate;*
> *(d) lift the Provisional Suspensions with immediate effect; and*
> *(e) order the FEI to reimburse their legal costs and expenses related to this appeal.*"

83. In essence, the Appellants request this CAS Panel to overturn the Appealed Decision, arguing that the Respondent's investigation and prosecution are time-barred. They initially contended also that the Provisional Suspension was to be set aside on the basis of reasons of "*procedural fairness and proportionality*". Such ground was however withdrawn on 10 April 2025 (§ 68 above).

84. In their submissions, the Appellants describe the facts they indicate to be relevant, with respect to the FEI's evidence and allegations. In such regard, the Appellants underline *inter alia* that:

- the accusations come from disgruntled former employees. Doubts exist on their credibility, due to inconsistencies and inaccuracies in their witness statements. Notably, B.'s statement implicates only Ms Evi Strasser, while the allegations against Ms Tanya Strasser rely solely on A.'s testimony, which lacks specific dates and details;
- the alleged incidents date back to 2018, making it difficult to gather exculpatory evidence. Similar accusations were previously investigated by *Ministère de l'Agriculture, des Pêcheries et de l'Alimentation Québec* (MAPAQ), which cleared them of any wrongdoing in 2020;
- Dr Sylvie Surprenant, a respected veterinarian with extensive experience in equestrian sports, attests that she has never observed any signs of abuse in over a decade of working with them. Additional statements from clients, colleagues, and staff further confirm their professionalism and refute any claims of misconduct.

85. The position of the Appellants is that the allegations of the misconduct are time-barred due to the expiration of the applicable five-year statute of limitations. As a result, the Respondent lacks the authority to prosecute the case or impose the Provisional Suspension, which must be lifted immediately.

86. The Appellants, first, contend that they are not precluded from raising in this arbitration

the statute of limitations defence despite the Respondent's claim that the same issue was raised in the First CAS Proceedings. In fact, the Appellants submit that:

i. the Respondent withheld the fact that the alleged misconduct occurred in 2018 and refused to specify the allegations;

ii. when the Respondent eventually disclosed the evidence during the First CAS Appeal, the Appellants immediately raised the statute of limitations issue, but only in brief submissions, without a right of reply;

iii. these submissions were made only at an interim stage, and the issue was never fully determined by CAS, as the First CAS Proceedings were terminated because the appeal was deemed withdrawn;

iv. the statute of limitations issue is not covered by *res iudicata*, because the matter was never discussed or made the object of substantive determination by CAS, and the Appellants are free to raise it again in this Appeal;

v. the First CAS Proceedings were terminated due to the negligence of the Appellants' former *pro bono* counsel, not of the Appellants themselves. Denying them the possibility to invoke now the defence would be unfair.

87. The Appellants then submit that the allegations of the misconduct are time-barred for the following reasons:

i. the alleged misconduct, on which the Provisional Suspension is based, took place in 2018. According to Article 163.12 of the GR in force at that time, such offenses, constituting horse abuse (not committed on the field of play or in its immediate vicinity), fall under the category of "*other offences*" and are subject to a five-year statute of limitations. Since the FEI only initiated its investigation in 2024, the case became time-barred in 2023, rendering the Provisional Suspension unlawful and requiring its immediate removal;

ii. the GR were amended in 2022 to remove the statute of limitations for horse abuse as from 1 January 2022. However, the new rule (Article 157(i)(d) of the GR) cannot be applied retroactively. The principle of non-retroactivity, recognized in both Swiss law and sports law, prevents new substantive rules from affecting past conduct, unless explicitly stated, which is not the case here. Since the current regulations do not include a retroactive provision, the 2018 rules should apply, also on the basis of the *contra proferentem* rule of interpretation, confirming that the prosecution is time-barred. Additionally, the Appellants had a legitimate expectation that any charges against them would be brought within the five-year limit. The FEI's decision to impose a Provisional Suspension beyond this period is therefore unfair and breaches the principle of legal certainty. Furthermore, an unlimited statute of limitations contradicts legal principles, including Article 6(1) of the European Convention on Human Rights (the "ECHR"), as established by the European Court of Human Rights (the "ECtHR") in its jurisprudence (*Volkov v. Ukraine*). Consequently, the FEI's attempt to extend the limitation period indefinitely is unlawful and invalid;

iii. the Respondent's position expressed in the Answer is untenable. Contrary to the

allegations of the Respondent, the Panel should find that:

a. the new (unlimited) statute of limitations in Article 157(1)(d) of the GR cannot be applied retroactively: it is a substantive rule, not merely procedural, as it explicitly extinguishes liability and limits the FEI's jurisdiction. The Respondent's reliance on Article 49 of the Final Title ["*Commencement and Implementing Provisions*"] of the Swiss Civil Code (the "SCC Final Title") is misplaced because that provision applies only to amendments to the Swiss Civil Code (the "SCC"), not to private regulatory frameworks like the GR. Furthermore, Article 49 of the SCC Final Title provides a clear exception to the general principle of non-retroactivity, whereas the FEI regulations lack any such transitional provision;

b. in the absence of explicit language stating otherwise, the Appellants were reasonably entitled to expect that the five-year limitation period from 2018 would apply. Expecting them to preserve potentially exculpatory evidence beyond five years is unreasonable. Additionally, none of the authorities cited by the FEI supports the fairness or validity of an indefinite statute of limitations, which they argue is clearly unlawful;

c. the Respondent's attempt to distinguish *Volkov v. Ukraine* from their case is devoid of merit, since both cases involve serious historical misconduct allegations with significant disciplinary consequences. Therefore, the principles established by the ECHR in *Volkov* are directly relevant. Moreover, if the new unlimited statute of limitations is incompatible with Article 6(1) ECHR, it is invalid, and the original five-year limitation period must apply;

d. the present case does not concern a contractual dispute, but a disciplinary matter, making the Swiss limitation period for breach of contract inapplicable;

e. animal mistreatment constitutes a criminal offence and therefore falls within the scope of criminal law. As a result, fundamental principles of criminal law must apply, including the prohibition of retroactive application of more severe legal provisions, as provided by Article 389 of the Swiss Criminal Code with respect to the statute of limitations;

f. the accusation of having required A. and B. to sign NDAs in order to deliberately conceal misconduct is denied. In fact, NDAs between employers and employees are standard practice across industries to protect sensitive information and client privacy. There is no concrete evidence, but only speculation from the complainants, to support the claim that the NDAs were used to hide wrongdoing. Furthermore, the FEI Tribunal previously rejected a similar argument in its confidential decision of 30 August 2024.

B. The Position of the Respondent

88. On 19 February 2025 in its Answer, the Respondent requested the CAS:

"*10.1. declare the Second CAS Appeal inadmissible;*

10.1.2 in the alternative, declare that:

10.1.2.1 the FEI is not time-barred from adducing the FEI Evidence, nor from bringing charges against the Appellants in relation to the acts described therein; and

10.1.2.2 maintaining the Provisional Suspensions pending determination of those charges is not procedurally unfair on the Appellants;

10.1.3 dismiss the Second CAS Appeal and uphold the Appellants' Provisional Suspensions;

10.1.4 order the Appellants to reimburse the FEI with its legal costs and other expenses pertaining to the Second CAS Appeal."

89. In support of its requests, the Respondent submits that the Appellants are precluded from raising in the present arbitration a time bar exception, and that in any case FEI is not time-barred from investigating and/or prosecuting instances of horse abuse alleged to have occurred in 2018/2019.

90. The Respondent in fact first contends that the present second CAS arbitration is an abuse of process. The Appeal is therefore inadmissible:

i. the case before this Panel largely mirrors the issues which were the object of the First CAS Proceedings. Those issues would have been determined by the CAS Panel appointed in the First CAS Proceedings, if the Appellants had not missed the deadline for the appeal brief. As a result, the present Appeal is merely an attempt to rectify the Appellants' own procedural error:

ii. the behaviour of the Appellants constitutes an abuse of process and a violation of procedural good faith under Swiss law and any statute of limitations issues should be addressed in the main proceedings regarding the charges, which can be expedited if necessary;

iii. the limitation issue was raised in the First CAS Proceedings, and the Panel appointed in that case could hear the matter in the exercise of its *de novo* power of review. If the CAS Panel could not reach that stage of evaluation and consider the issue, it was only because of the Appellants' procedural mistakes, and the Appellants should not be allowed to evade the consequences of the withdrawal due to their own fault.

91. The Respondent then submits that no time-bar precludes it from investigating and prosecution the case of the Appellants, since:

i. "*GR Art. 157.1(d) can and does apply retroactively*":

a. the Appellants incorrectly argue that all statutes of limitations under Swiss law are substantive. In reality, Swiss law distinguishes between procedural and substantive limitations, with both types being capable of retroactive application. According to Article 49 of the SCC Final Title, "*where the new law specifies a longer period than the previous law, the new law applies, provided prescription has not yet taken effect under the previous law*". This principle has been confirmed by the CAS and the FEI Tribunal, which found that the new extended limitation period for horse abuse cases under Article 157.1(d) of the GR applies to allegations not yet time-barred. The Appellants' claim that Article 49 of the SCC Final Title only applies to limitations under

the SCC is incorrect, as the provision applies more broadly to all statutes of limitation under Swiss private law;

b. given that the FEI's regulations lack provisions for intertemporal issues, it is appropriate to apply Swiss law. The Appellants themselves acknowledge that Swiss law applies subsidiarily in the absence of specific FEI provisions. Therefore, the prosecution of the Appellants' alleged horse abuse is not time-barred;

c. moreover, even if Article 157.1(d) of the GR is considered procedural, CAS case law (CAS 2000/A/274; and CAS 2001/A/340) affirms that procedural regulations apply immediately when enacted, without the need of explicit retroactive effect. Therefore, the Respondent can pursue disciplinary action against the Appellants for alleged violations under the new extended limitation period;

ii. "*Applying GR Art. 157.1(d) retroactively is not contrary to the Appellants' legitimate expectations*":

a. the allegations against the Appellants involve deliberate, severe and repeated horse abuse, along with efforts to conceal this behaviour that fundamentally opposed to the values of equestrian sport. No participant in equestrian sport should ever expect that such abuse is tolerated or exempt from sanction, regardless of when it occurred;

b. a strict zero-tolerance policy on horse abuse is maintained, which is why the current GR include no limitation period for such cases. Consequently, the Appellants cannot reasonably claim that Article 157.1(d) should not apply retroactively, and any other approach would undermine the integrity of the sport;

iii. "*Applying GR Art. 157.1(d) retroactively is not unfair to the Appellants*":

a. the unlimited limitation period for horse abuse came into effect on 1 January 2022, before the previous five-year period for the Appellants' alleged conduct had expired. Therefore, its application is not retroactive in a way that forbids past permitted behaviour or removes acquired rights; it merely extends the timeframe during which already illegal acts can be prosecuted;

b. the Appellants' argument that this extension is unfair, is rejected noting that CAS case law consistently upholds long limitation periods, even if they make it harder to gather exculpatory evidence. Moreover, the Appellants fail to specify what exculpatory evidence they lost and why. Consequently, the Respondent maintains that it is fully entitled to use its evidence and pursue disciplinary action for the alleged horse abuse;

iv. "*GR Art. 157.1(d) does not violate Article 6(1) ECHR*":

a. the Appellants' argument that the lack of a limitation period for horse abuse under Article 157.1(d) of the GR violates the principle of legal certainty and Article 6(1) of the ECHR is denied;

b. the decision of the ECtHR in *Volkov v Ukraine* case dealt with judicial misconduct and procedural issues, vastly different in nature from the current

case, which concerns serious and repeated acts of physical horse abuse, potentially amounting to criminal behaviour. Unlike *Volkov*, this case also involves allegations of deliberate concealment by the accused;

c. due to the gravity of horse abuse, it is justified to have no limitation period for such violations, without infringing Article 6(1) ECHR. However, if the CAS Panel were to find that an indefinite limitation violates the ECHR, the longest applicable limitation under Swiss law of ten years for contractual breaches, should apply instead, rather than the five-year limit proposed by the Appellants;

v. "*the Appellants have concealed their alleged acts of horse abuse and so cannot rely on any limitation defence in any event*":

a. A., in her witness statement, confirms she was required to sign a non-disclosure agreement while working for the Appellants and was threatened with legal action by Ms Evi Strasser if she disclosed information about their alleged horse abuse. Although the Appellants argue that NDAs are standard in many industries, the Respondent disputes the idea that broad NDAs are common in equestrian sport, especially those preventing discussion of stable practices not inherently confidential. Furthermore, in this case NDAs were used not for standard confidentiality, but to actively conceal misconduct. This is supported by additional allegations of intimidation by Ms Evi Strasser against other witnesses, including C., who delayed giving testimony until January 2025 due to feeling threatened;

b. the Appellants deliberately hid their abusive actions to later rely on a statute of limitations defence. Therefore, the limitation period should begin only when the Respondent became aware of the misconduct around February 2024, not when the acts occurred in 2018 and 2019. Furthermore, under Article 2 of the SCC, invoking a limitation defence after deliberately concealing wrongdoing constitutes an abuse of rights and should be barred;

c. while a previous FEI Tribunal decision rejected similar concealment arguments in another case, the current matter can be distinguished due to the gravity of the allegations and the use of NDAs as tools of concealment. Horse abuse cases, due to the centrality of horse welfare in equestrian sport, deserve special treatment and should not allow abusers to escape accountability through concealment tactics.

V. JURISDICTION

92. The jurisdiction of the CAS is not disputed by the Parties.

93. According to Article R47, first paragraph of the CAS Code:

"*An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.*"

94. The jurisdiction of CAS is contemplated by Article 39 of the FEI Statutes as follows:

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

39.2 Any dispute between National Federations or between any National Federation and the FEI, which falls outside the jurisdiction of the FEI Tribunal shall be settled definitively by the CAS in accordance with the CAS Code of Sports-related Arbitration. […]

39.4. The parties concerned acknowledge and agree that the seat of the CAS is in Lausanne, Switzerland, and that proceedings before the CAS are governed by Swiss Law.

39.5. Notwithstanding anything to the contrary in the CAS Code of Sports-related Arbitration, no evidence discoverable by due diligence during proceedings before the FEI Tribunal may be brought before the CAS on Appeal. If any such evidence is produced after a Decision is issued by the FEI Tribunal, it must first be produced to the FEI Secretary General before all legal remedies are exhausted within the meaning of the CAS Code of Sports-related Arbitration. Any such additional evidence produced post-Decision may be the subject of additional proceedings and penalties. […]".

95. In addition, Article 162 of the GR states that:

"*162.1 An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorized under the Statutes, GRs or Sport Rules, provided it is admissible […]:*

(b) With the CAS against Decisions by the FEI Tribunal. The person or body lodging such Appeal shall inform the FEI Legal Department. […]

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

162.8. Cross appeals and other subsequent appeals by any respondent named in cases brought to CAS under the FEI Rules and Regulations are specifically permitted. Any party with a right to appeal to CAS must file a cross appeal or subsequent appeal at the latest with its answer."

96. Finally, the jurisdiction of CAS has been confirmed by the Parties by signing the Order of Procedure.

97. The Panel, consequently, has jurisdiction to decide on the Appeal filed by the Appellants against the Appealed Decision.

VI. ADMISSIBILITY

98. The Statement of Appeal was filed by the Appellants within the deadline set in Articles 162(7) of the GR and R49 of the CAS Code and complied with the requirements of Article R48 of the CAS Code.

99. The Panel notes that the admissibility of the Appeal is however challenged by the Respondent, which in fact requested it to be dismissed on that basis, without any further consideration in its merits.

100. At the same time, however, the Panel remarks that the Respondent's objection relates specifically to one of the grounds on which the Appeal was originally based. As a result, the Panel will examine it in the framework of the discussion of that specific ground.

101. Subject to the further discussion of the admissibility of a specific claim, the Appeal is therefore admissible.

VII. SCOPE OF THE PANEL'S REVIEW

102. According to Article R57, first paragraph of the CAS Code,

> "*The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. ...*".

VIII. APPLICABLE LAW

103. The law applicable in the present arbitration is identified by the Panel in accordance with Article R58 of the CAS Code.

104. Article R58 of the CAS Code provides the following:

> "*The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision*".

105. In light of the foregoing, the "applicable regulations" in the present case for the purposes of Article R58 of the CAS Code are those adopted by FEI. Swiss law applies subsidiarily.

IX. PRELIMINARY PROCEDURAL MATTERS

106. In the course of the arbitration, on 13 May 2025 (§ 73 above), the Panel admitted to the case file the new evidence filed by the Appellant on 7 May 2025 (§ 71 above), with reasons to be given in the final award.

107. The Panel confirms here such decision and finds that "*exceptional circumstances*" pursuant to Article R56 of the CAS Code justified it. In fact, the Panel notes that the necessity to produce those documents, which were originally not in the possession of the Respondent, but of one of its witnesses, arose only after the Appellants' indication (on 15 April 2025: § 69 above) that the documents sought by the Respondent in its Answer were not in their possession or control. As a result, it appeared fair to the Panel to allow these new documents to be admitted to the file, putting the Appellants in a condition to examine them ahead of the hearing.

108. In that regard, the Panel remarks that, on 18 May 2025 (§ 75 above), the Appellant filed with the permission of the Panel new documents directly relating to those admitted to the file upon the Respondent's request, and that no further issue arose or objection raised at the hearing.

X. MERITS

A. The issues

109. The object of this arbitration is the Appealed Decision, which denied the Appellants' second application to lift the Provisional Suspension. In fact, the Provisional Suspension had been reinstated following the termination of the First CAS Proceedings.

110. In essence, the Appellants submit that the investigation into the facts which allegedly occurred in 2018, and their prosecution as disciplinary violations, is time-barred. Therefore, the Provisional Suspension imposed on them pending the investigation should be set aside. The Respondent denies the Appeal, maintaining that the Appellants are precluded from raising the time-bar argument and that in any case the investigation is not time-barred.

111. The present case presents some peculiarities. The case, in fact, is about a Provisional Suspension, and not about a final determination of a violation. However, the disputed matter is not about the satisfaction or not of the conditions which are normally required in order to justify a provisional measure (the suspension) pending the final outcome of an investigation, or whether an *interim* measure is to be granted to stay the execution of the Provisional Suspension. The dispute regards a time-bar issue for the investigation and prosecution of an alleged offence. As a result, the decision required of this Panel appears to go beyond the matter directly discussed (the justification of a Provisional Suspension pending the investigation), but the possibility in itself to conduct an investigation. The determination of this Panel, however, will be strictly limited to the relief requested. In other words, any finding regarding the Provisional Suspension would not imply any conclusion regarding the commission by the Appellants of any action amounting or not to a disciplinary violation.

112. In light of the foregoing, there are two main issues to be examined by the Panel. They are the following:

    i. are the Appellants precluded from raising in this arbitration procedure the time-bar argument?

    ii. is the investigation into facts which allegedly occurred at the Stables in 2018 time-barred?

113. The CAS Panel will examine those issues in sequence.

i. Are the Appellants precluded from raising in this arbitration procedure the time-bar argument?

114. The Respondent requested the Appeal to be dismissed, claiming that the ground on which

it is based is inadmissible. According to the Respondent, in fact, the Appeal is precluded because it constitutes an abuse of rights. More specifically, the Appellants would be precluded from invoking a time-bar to the investigation and prosecution into the alleged horse abuse at the Stables, because that issue was before CAS in the First CAS Proceedings and because the matter should be more properly discussed in the framework of a determination on the merits of the violation.

115. The Panel does not agree with the Respondent's contention and finds that the Appellants are not precluded from raising the limitation defence in the present procedure. In fact, in the Panel's opinion:

    i. the Appeal is not precluded by any *res iudicata* effect that could be produced by the First CAS Award. Such prior decision, rendered in the First CAS Proceedings, in fact, dealt with a different issue, *i.e*. whether the Appellants' request to be allowed to file their appeal brief past an expired deadline had to be granted or not. And on that basis the Panel in the First CAS Proceedings only decided that the First CAS Appeal had to be considered as withdrawn. In other words, the Panel in the First CAS Proceedings did not decide in any way on the issue of time-bar, irrespective of whether that issue was, or could have been, before it;

    ii. no bad faith can be imputed to the Appellants. There is no indication and no reason to find that the Appellants, by bringing the present Appeal and raising in this arbitration a matter that was never decided at CAS level, acted in bad faith or abused any procedural right they might have. Well to the contrary, this CAS Panel notes that the Appealed Decision contained a final note confirming that it could be appealed before the CAS within 21 days of receipt. It would be odd to find an abuse in the exercise by the Appellants of a right explicitly mentioned in the Appealed Decision, which expressly dealt with the limitation issue.

116. As a result, this CAS Panel finds that the Appellants are not precluded from raising the issue of time-bar in this arbitration.

ii. Is the investigation into facts which allegedly occurred in 2018 at the Stables time-barred?

117. The main issue before this Panel concerns the Appellants' claim that the Respondent was precluded from starting on 22 April 2024 an investigation (§ 11 above), and therefore to impose the Provisional Suspension, because, at the time the alleged events of horse abuse occurred (in 2018), the statute of limitations then in force, as defined by Article 163.12(ii) of the GR (the "GR 2018"), provided for a 5-year time-bar, and had therefore expired. The Respondent's submission on the other hand is that no time-bar can be invoked by the Appellants, since Article 157.1 of the GR, as entered in force as from 1 January 2022 (the "GR 2022"), legitimately removed all limits to the prosecution of issues of horse abuse if not already time-barred.

118. With regard to the disputed issue, and for the purposes of the identification of the applicable rule, several aspects have been discussed by the Parties. They include questions regarding the interpretation of sporting regulations, the nature of the rules on time-bar, Swiss law, the principle of legality and the limits to retroactivity, and the impact

of the rules on the protection of human rights. In the end, however, the question remains whether Article 163.12 of the GR 2018 or Article 157.1 of the GR 2022 applies in the case of the Appellants with respect to the investigation into events which allegedly occurred in 2018: if Article 163.12 of the GR 2018 applies, then, the prosecution of the Athletes would be time barred; if Article 157.1 of the GR 2022 applies, the prosecution of the Athletes would not be time barred. In fact, it is common ground between the Parties (and cannot be disputed) that on 1 January 2022, when the GR 2022 entered into force, the period of limitation for the prosecution of the alleged violation that had occurred at the Stables in 2018 had not elapsed yet.

119. The rules invoked by the Parties are the following:

i. Article 163.12 of the GR 2018, which reads as follows:

"*There is a statute of limitation on prosecution by the FEI, which is time-barred after:*

(i) one (1) year for offences committed on the field of play or in its immediate vicinity;

(ii) five (5) years for all other offences;

(iii) ten (10) years for doping offences;

(iv) Match-fixing, bribery and corruption shall not be subject to a statute of limitations."

ii. Article 157.1 of the GR 2022, which provides the following:

"*There is a statute of limitation on prosecution by the FEI, which is time-barred after:*

(a) one (1) year for offences committed on the field of play or in its immediate vicinity;

(b) five (5) years for all other offences;

(c) ten (10) years for doping offences;

(d) Horse Abuse, Match-fixing, bribery and corruption and offences falling under the FEI Safeguarding Policy against Harassment and Abuse are not subject to a statute of limitations."

120. In the context of such discussions, the Parties made reference also to, and discussed the relevance of, some Swiss law provisions. More specifically of:

i. Article 49 of the SCC Final Title:

"*1 Where the new law specifies a longer period than the previous law, the new law applies, provided prescription has not yet taken effect under the previous law.*

2 Where the new law specifies a shorter period, the previous law applies."

ii. Article 389 of the Swiss Criminal Code:

"*1 Unless the law provides otherwise, the provisions of the new statute of limitations for prosecution and the execution of sentences and measures, if they are less strict, also apply to offenders who have committed offences or been convicted before this Code comes into force.*

2 The periods of time that have elapsed before the new law comes into force are taken into account."

121. The Panel finds, in application of Article 157.1(d) of the GR 2022, that the investigation into the events which allegedly occurred at the Stables in 2018 was not time barred when

on 22 April 2024 the Notice was sent. In the Panel's opinion, the rule set by the GR 2022, allowing the prosecution of horse abuse without being constrained by prescription periods, was correctly applied by the Appealed Decision to the case of the Appellants: the investigation into the Appellants was not time barred under the GR 2018 when the GR 2022 entered into force; and the GR 2022 as from 1 January 2022 did not retroactively make it punishable a behaviour that was legal (or became unpunishable) under the previous edition of the GR: they simply extended the possibility to investigate into a alleged behaviour uninterruptedly considered illegal and liable for punishment.

122. The Panel is led to this conclusion by a number of reasons, relating to the identification of the scope of application of Article 157.1(d) of the GR 2022, *i.e.* of the provision in force at the time the investigation was opened.

123. The Panel starts its observations by noting that the GR 2022 do not contain any provision describing the "temporal" scope of application of Article 157.1. In fact, Article 157.1(d) of the GR 2022 simply indicates that no time-bar period applies to the prosecution by FEI of instances of horse abuse, but does not clarify whether the FEI can prosecute at any time also instances of horse abuse allegedly occurred prior to the entry into force of the GR 2022.

124. At the same time, the Panel remarks that no indication can be found in the GR 2022, suggesting that Article 157.1 does not apply to violations committed when the GR 2018 was in force. In fact the indication that the modifications to the preceding version of the GR introduced by the GR 2022 became effective on 1 January 2022, as explicitly mentioned in the text of the GR 2022, in the Panel's view, means only that the new provisions of the 2022 edition of the GR could be applied only after their entry in force, and not that Article 157.1 was applicable to govern only the prosecution of violations committed after 1 January 2022 and could not be applied, once entered into force, to govern the prosecution of instances of horse abuse irrespective of when they occurred.

125. The absence of a provision describing the "temporal" scope of application of Article 157.1 of the GR 2022 is, in other words, the starting point of a required analysis, as an element thereof, and does not offer in itself the solution to the issue before this Panel.

126. At the same time, the Panel remarks that the absence of a specific rule making the new provision on the statute of limitations applicable the prosecution of violations committed before its entry into force marks an important distinction with respect to a precedent invoked by the Respondent. In the decision of 16 June 2022, rendered in CAS 2021/ADD/42, the Single Judge of the CAS Anti-Doping Division (the "ADD") in fact noted that a specific provision in the sporting regulation at stake so provided and found that such provision was not inconsistent with Swiss law. The point therefore remains (as it was not addressed by the ADD decision) whether, in the absence of a specific indication, a rule providing for a longer period of limitation can be applied with respect to the prosecution of violations committed before its entry into force, when the relevant rules provided for a shorter limitation period.

127. The mentioned ADD decision is however meaningful at another, more general, level. As noted, in fact, the Single Judge in that case evaluated the consistency of the rule explicitly

providing for the application of the new period of limitation to violations predating its entry into force with Article 49 of the SCC Final Title, *i.e*. with a provision governing the entry into force and the applicability of new rules on prescription of rights in civil law matters (see the *Basler Kommentar Zivilgesetzbuch II* (BSK ZGB II), ad Art. 49 SchlT ZGB (2023), 3-5, where reference is made to the applicability of Article 49 of the SCC Final Title, in the absence of specific rules, to "federal civil law" and to "provisions of civil law", not limited to the limitation periods set out in the SCC).

128. The meaning of the indication of the ADD goes in that regard beyond the direct applicability of Article 49 of the SCC Final Title to that (and the present) case. In general terms, in fact, it can be seen as a further confirmation of a consistent line of CAS precedents, underlining the "civil law" nature of disputes involving disciplinary matters, even though subject to some fundamental principles, common to criminal law proceedings (such as the principle of legality and of predictability, the prohibition of double jeopardy, etc.). With respect specifically to the nature of the rules on statute of limitations, a CAS Panel, in the opinion rendered in CAS 2005/C/841, § 78, noted the following:

"*[…] it must be noted that doping rules enacted by sports authorities are private law rules (and not penal law rules). Consequently, in the Panel's view, any legal issue concerning the application of such eight-year rule should be dealt with in the context of the principles of private law of the country where the interested sports authority is domiciled. For instance, with respect to the doping rules issued by international federations domiciled in Switzerland, the rules of Swiss civil law concerning the statute of limitations – in French 'prescription' – should be applied complementarily to the sports rules themselves. By the same token, Italian sports authorities, when applying their own rules setting forth a statute of limitations – in particular, the eight-year rule implemented by CONI and by Italian federations after Article 17 of the WADC –, should interpret such rules in the context of the Italian civil code and the related civil law jurisprudence on 'prescrizione' in order to evaluate whether they are actually time-barred from opening a disciplinary proceeding for facts occurred years before.*"

129. In other words, this Panel finds it meaningful that the possibility to have an application of a new provision on the statute of limitations to the prosecution of violations committed before its entry into force is to be evaluated against a "civil law", not a "criminal law", benchmark. As a result, this Panel finds that the provision of the Swiss Criminal Code on the temporal scope of application of the rules on prescription (Article 389, mentioned above) is not relevant to the interpretation of Article 157.1 of the GR 2022, and this irrespective of the fact that horse abuse might be considered also as a criminal offence in several jurisdictions, including Switzerland (see Article 25 of the Swiss Animal Welfare Act cited by the Appellants for the first time during the hearing).

130. The issue whether, in the absence of a specific indication, Article 157.1 of the GR 2022 providing for a longer period of limitation can be applied to the prosecution of violations committed before its entry into force, at a time when the relevant rules provided for a shorter limitation period, is therefore a question of interpretation.

131. It is generally admitted that rules and regulations of international large sports federations are subject to the methods of interpretation applicable to statutory provisions rather than contracts (see SFT 4A_564/2020 E.6.4 of 7 June 2021; SFT 114 II 193, E.5a; SFT

4A_600/2016, E.3.3.4.1; CAS 2010/A/2071, para. 20; CAS 2016/A/4602, § 101). Given that the Respondent encompasses 136 affiliated national federations, oversees more than 4,200 events globally, and maintains a database comprising 478,000 horses, 178,000 competitors, and 11,500 officials, the Panel is satisfied that its rules require interpretation consistent with the principles applied to legal norms. In this regard, the CAS panel in CAS 2010/A/2071 rightly found that:

"*The interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rules, which falls to be interpreted. The adjudicating body – in this instance the Panel – will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule […]*".

132. The Panel notes that:

i. as already remarked, the text of the rule is silent as to the definition of its temporal scope of application, *i.e*. it does not explicitly adopt a solution in favour or against its applicability to events that had occurred prior to the entry into force of the GR 2022. However, the wording adopted ("*Horse abuse … [is] not subject to a statute of limitations*") is suitable to extend to any instances of "horse abuse" irrespective of the time such "*abuse*" is committed;

ii. the subtraction of "horse abuse" from the application of any statute of limitations, making such violation prosecutable without any time limit, corresponds to a fundamental interest of the Respondent, in the pursuit of one of its objectives ("*To preserve and protect the welfare of the Horse*": Article 1.4 of the FEI Statutes). As a result, it advocates for an application to "horse abuse" irrespective of the time such "*abuse*" is committed, since, from the FEI's point of view, "horse abuse" cannot be tolerated, whenever it occurred;

iii. the *contra proferentem* rule of interpretation does not lead to a different conclusion: there is no ambiguity in the text of the rule, in that, as noted, it is suitable to extend to any instances of "horse abuse" irrespective of the time such "*abuse*" is committed.

133. Such provision, however, as objectively construed to be applicable to the prosecution of violations committed before 1 January 2022, must be interpreted in conformity with Swiss law and the general principle of "legality". As a result, the application of Article 157.1 of the GR 2022 to the prosecution of violations committed before its entry into force is to be limited to the instances in which on 1 January 2022 the disciplinary action with respect "horse abuse" had not become time-barred under the preceding rules.

134. Article 49 of the SCC Final Title, in fact, explicitly allows the application of a new law specifying a longer period of prescription than the previous law, but only if prescription has not yet taken effect under the previous law.

135. The principle of legality, then, prohibits the "punishment without law" (according to the principle "*nullum crimen, nulla poena sine lege*"), ensuring that no one can be held guilty of an offence on account of any act or omission which did not constitute a violation under

the applicable law at the time when it was committed, or that a penalty is imposed heavier than the one that was applicable at the time the offence was committed.

136. In other words, by ensuring that the legality of an action must be evaluated on the basis of the rules in force at the time it was committed, the principle of legality corresponds to the principle "*tempus regit actum*", which excludes the retroactive application of new laws, "creating" *ex post factum* a responsibility that did not exist or had ceased to exist under the law in force at the time of the action or increasing *ex post* the sanction provided under that law.

137. As a result, the application of Article 157.1 of the GR 2022 to the prosecution of violations committed before 1 January 2022, extending the limitation period previously in force, would not lead to a conviction of the accused for an act or omission which did not constitute a disciplinary offence at the time when it was committed, when the disciplinary action had not been time barred under the preceding rules. In such situation, in fact, the acts which the accused are alleged to have committed constituted, at the time when they were committed, the same offence and were punishable by the same penalties as those applicable after the entry into force of the GR 2022.

138. This conclusion is confirmed by the case-law of the ECtHR in relation to Article 7 of the ECHR, which expresses the principle of legality ("*No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed*"). According to that case-law, the extension of the limitation period and its immediate application do not entail an infringement of the rights guaranteed by Article 7 of the ECHR, since that provision cannot be interpreted as prohibiting an extension of limitation periods where the relevant offences have never become subject to limitation (see, to that effect, *Coëme and Others v. Belgium*, Nos 32492/96, 32547/96, 32548/96, 33209/96 and 33210/96, § 149; *Scoppola v. Italy (no. 2)* [GC], No 10249/03, § 110; and *OAO Neftyanaya Kompaniya Yukos v. Russia*, No 14902/04, §§ 563, 564, 570). The point was restated by the ECtHR as recently as on 26 April 2024, in the advisory opinion rendered upon request of the Armenian Court of Cassation (P16-2021-001), where it was held that if a criminal offence was subject to a statute of limitation pursuant to the domestic law and the applicable limitation period had already expired, Article 7 of the ECHR precluded the revival of a prosecution in respect of such an offence: only in that case, to hold otherwise would be tantamount to accepting the retrospective application of the criminal law to an accused's disadvantage.

139. In that context, the characterization of the rules on prescription as having substantive or procedural nature ceases to be relevant. In the Panel opinion, the issue concerns the identification of the scope of application of the rules in question, and even considering the time-bar as an institute of substantive law no prohibition could be found preventing the application of new (substantive) rules to govern (within the limits described above) the prescription of violations committed before their entry into force.

140. In the same way, in the Panel's opinion, no legitimate expectation can be opposed to the application of the new rules. No party allegedly committing a violation, and chiefly a

violation of a rule expressing a fundamental principle (such as the protection of horses against abuse), can have a "legitimate" expectation not to be punished, at least as long as prosecution remains possible. In the case of the Appellants, the investigation into their alleged actions (still to be determined in their merits) has always been and remained possible: the time for its opening was extended before it expired, but never expired. Therefore, no "legitimate" expectation can be invoked by them.

141. The possibility to prosecute horse abuse without time limits is challenged by the Appellants under an additional point of view. According to the Appellants an unlimited statute of limitations contradicts legal principles, including Article 6(1) of the ECHR, as established by the ECtHR in its jurisprudence (*Volkov v. Ukraine*). Consequently, the FEI's attempt to extend the limitation period indefinitely would be unlawful and invalid.

142. The Panel notes that the ECtHR in *Volkov v. Ukraine*, No. 21722/11, decision of 9 January 2013 (§§137-140), found a violation of Article 6(1) of the ECHR in an "*an open-ended approach to disciplinary cases involving the judiciary*" on account of a breach of the principle of legal certainty caused by the lack of a limitation period, underlining that:

> "*... The Court has held that limitation periods serve several important purposes, namely to ensure legal certainty and finality, protect potential defendants from stale claims which might be difficult to counter and prevent any injustice which might arise if courts were required to decide upon events which took place in the distant past on the basis of evidence which might have become unreliable and incomplete because of the passage of time (see Stubbings and Others v. the United Kingdom, 22 October 1996, § 51, Reports 1996-IV). Limitation periods are a common feature of the domestic legal systems of the Contracting States as regards criminal, disciplinary and other offences.*
>
> *.... As to the applicant's case, the facts examined by the HCJ in 2010 dated back to 2003 and 2006 […]. The applicant was therefore placed in a difficult position, as he had to mount his defence with respect to events, some of which had occurred in the distant past.*
>
> *.... It appears […] submissions that domestic law does not provide for any time bars on proceedings for dismissal of a judge for "breach of oath". While the Court does not find it appropriate to indicate how long the limitation period should be, it considers that such an open-ended approach to disciplinary cases involving the judiciary poses a serious threat to the principle of legal certainty.*"

143. At the same time, the Panel remarks that the findings in *Volkov* were considered by the ECtHR in the case of *Sanofi Pasteur v. France* (No 25137/16, decision of 13 February 2020, §§ 54-57), where it was underlined, by reference to additional precedents (*Howald Moor and Others v. Switzerland*, Nos 52067/10 and 41072/11, decision of 11 March 2014) that a balancing was necessary between competing interests and that a broad margin of discretion is to be left in this respect for the setting of the appropriate period of limitation.

144. In the present case, the Panel notes that an unlimited period of limitation has been set in order to strengthen the pursuit of a fundamental policy, i.e. the adoption of a zero tolerance approach to any cruelty against or abuse of horses. The Panel does not express any final view as to the compatibility *in abstracto* of an unlimited period of limitation. The Panel is in fact content to remark that in the case at stake it cannot be found to be a violation of the Appellants' rights not to be prosecuted, on the basis of the new rules

extending the time-limit previously applicable before its expiration, around 6 years after the alleged facts occurred.

145. In light of the foregoing, the Panel concludes that the investigation started on 22 April 2024 into facts which allegedly occurred at the Stables in 2018 is not time-barred in accordance with Article 157.1 of the GR 2022. As a result, any issue regarding the concealment of evidence, put forward by the Respondent for the case the Panel would find that Article 163.12 of the GR 2018 remained applicable, is moot.

B. Conclusion

146. In summary, according to the Panel the Appeal is admissible, but must be dismissed. The Appealed Decision is confirmed.

XI. COSTS

(…)

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ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Ms Evi Strasser and Ms Tanya Strasser on 21 January 2025 against the decision rendered on 12 December 2024 by the FEI Tribunal is dismissed.

2. The decision rendered on 12 December 2024 by the FEI Tribunal is confirmed.

3. (…).

4. (…).

5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 28 July 2025

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

Patrick Grandjean
Arbitrator

Lars Hilliger
Arbitrator