



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2022/A/8656 Danish Modern Pentathlon Association (MPADK) v. Union Internationale de Pentathlon Moderne (UIPM)

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: Rt. Hon Lord John A. Dyson, Arbitrator in London, United Kingdom
Mr Jean-Philippe Rochat, Attorney-at-law in Lausanne, Switzerland

Clerk: Ms Stéphanie De Dycker, CAS Clerk in Lausanne, Switzerland

in the arbitration between

Danish Modern Pentathlon Association, Denmark

Represented by Mr Louis Weston, Barrister, Outer Temple Chambers, London United Kingdom

Appellant

and

Union Internationale de Pentathlon Moderne, Monaco

Represented by Mr Christian Keidel and Dr Paul Fischer, Attorneys-at-law, Lentze Stopper, Munich, Germany

Respondent

I. PARTIES

1. The Danish Modern Pentathlon Association (the “Appellant” or the “MPADK”) is the National Federation for modern pentathlon for Denmark and a member federation of the Union Internationale de Pentathlon Moderne.
2. The Union Internationale de Pentathlon Moderne (the “Respondent” or the “UIPM”) is the world governing body of the multi-discipline sport of modern pentathlon and various variations of this sport. It is headquartered in Monaco.
3. The MPADK and the UIPM are hereafter jointly referred to as the Parties.

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the main relevant facts, established on the basis of the written and oral pleadings of the Parties and the evidence submitted to the Panel. Although the Panel carefully considered all the facts submitted to it by the Parties, only those relevant for deciding the present dispute are set out below. Additional facts may be set out, where relevant, in connection with the legal discussion.
5. On 28 and 29 October 2021, the UIPM Innovation Commission met to discuss considerations for the replacement of horse riding as one of the five disciplines of the sport of modern pentathlon. During this meeting, the members of the Innovation Commission also discussed criteria for determining a possible new fifth discipline for modern pentathlon and heard the presentation made by Mr David Luckes, IOC Associate Director, about the work and process of the IOC Programme Commission in view of the Olympic Games that are to take place in Los Angeles in 2028 (“LA2028”). At the end of such meeting, the UIPM Innovation Commission decided to recommend to the UIPM Executive Board (the “EB”) to open a consultation process regarding the replacement of horse riding as one of the five disciplines of modern pentathlon and that “*there is a need to include current and former athletes, our current committee, and media/marketing groups in the replacement discussion*”, “*that the process should be narrowed down based on specific target interest groups*”, and “*that UIPM should start with new generations for a smooth transition*”.
6. Following the meeting of the UIPM Innovation Commission, the EB held an extraordinary meeting in the form of a virtual meeting on 31 October 2021. During this meeting, the President of the UIPM stated as follows:

“[D]ue to the undelayable deadline (Nov 24) to provide the IOC a proposal to the Program Commission for LA2028 Olympic Games and the high risk of losing UIPM’s spot in the 2028 Olympic Games if a proposal is submitted with riding as 5th discipline, the Board finds itself in a very difficult situation. [O]bviously the place in the Olympic Games is of utmost importance for the UIPM and all future athletes also considering the history of Modern Pentathlon. To secure this spot and under the given circumstances of the IOC’s time limit the UIPM EB has to consider taking the drastic decision to purpose to the IOC a format for the 2028 Olympic Games in which riding would be replaced by a discipline to be determined by the UIPM Congress in consultation with the IOC at a later stage. There seems to be no other way to secure UIPM’s spot at the 2028 Olympic Games.[...]”

7. After deliberations, the EB decided as follows (the “EB Decision”):

“The UIPM EB unanimously approved the submission of a competition format to the IOC for the 2028 Olympic Games without riding and replacing discipline to be determined upon approval by the UIPM Congress in collaboration with all stakeholders at a later stage. In addition, the EB unanimously approved to open the consultation process regarding the 5th discipline. The UIPM EB further unanimously approved that the EB was exercising its power according to article 13.2 of the UIPM Statutes.”

8. On 4 November 2021, the UIPM issued a media release, which is entitled “*UIPM OPENS CONSULTATION ON REPLACEMENT OF RIDING DISCIPLINE IN MODERN PENTATHLON*” and explained that “[a]ll changes resulting from the consultation process will be implemented in time for the Los Angeles 2028 Olympic Summer Games – only coming into force after Paris 2024”.

9. On 10 November 2021, the MPADK sent a letter to the UIPM requesting it:

“to confirm in writing [...] by no later than 12 noon UK time on 17 November 2021 that:

- 1. the decision made by the EB to amend the Statutes and Competition Rules to remove horse riding as a discipline of Modern Pentathlon is invalid and shall therefore be rescinded;*
- 2. should, following the rescission of the decision, UIPM seek to amend the Statutes and Competition Rules to remove horse riding as a Modern Pentathlon discipline, it shall follow the correct procedures and processes as required under UIPM’s constitutional documents by: (i) postponing the General Assembly meeting currently scheduled to take place on 27 November 2021; and (ii) properly reconvening the General Assembly meeting, providing the participants with all motions and a final agenda at least 30 days prior to the meeting, and further, with it being an election year, with nominations for elections.”*

10. On 17 November 2021, the UIPM replied to the MPADK stating *inter alia* that:

“First, I kindly wish to clarify that the UIPM Executive Board (“UIPM EB”) has not decided on any amendments of the UIPM Statutes and/or UIPM Competition Rules. The decision made by the UIPM Executive Board referred to UIPM’s obligation to propose a format to the IOC for the 2028 Los Angeles Olympic Games, which according to a time limit set by the IOC must be submitted by all International Federations to the IOC Sports Department until 24 November 2021, that is one week before IOC Program Commission meeting. [...]

The UIPM EB discussed at length the occurrence of a force majeure event and concurred that the tight timeline by the IOC to propose an acceptable format for the 2028 Los Angeles Olympic Games amounts to a force majeure event. On such basis, the UIPM EB approved the proposal coming from the Innovation Commission to provide the IOC with a proposal for the 2028 Los Angeles Olympic Games in which riding shall be replaced.

We take the liberty to remind you that UIPM is a Monaco based organization and that the concept of “force majeure” derives from the Napoleonic Code referring to events unforeseeable, external to the parties, and unavoidable. As you will appreciate all the three criteria were met in the scenario at hands. As reiterated before the UIPM Innovation Commission and the Executive Board following their discussions with IOC as of October 2021 identified a clear risk that UIPM could lose its spot in the 2028 Olympics if no change to UIPM proposed format for this event with respect to horse riding is proposed. This was unforeseeable for these UIPM bodies. Due to the time-limit set by the IOC the UIPM had to make the decision at hands before 24 November 2021.

With such decision however, no amendments have been made to the UIPM Statutes and/or UIPM Competition Rules (in contrast to your letter dated 10 November 2021). If and when needed those amendments will be submitted to a UIPM Congress for approval. It will certainly be the right of the

UIPM Congress to approve any discipline (including riding) as the fifth discipline of Modern Pentathlon or to decide on any other changes to the UIPM Statutes and the UIPM Competition Rules. Within this decision-making process, the UIPM Congress will not be bound by the UIPM EB decision about the proposal to be submitted to the IOC regarding the 2028 Olympics, which was decided under the circumstances mentioned above with the only aim to save the UIPM Olympic spot for the entire Modern Pentathlon family. [...]"

11. On 24 November 2021, the UIPM Secretary General, Ms Shiny Fang, sent to the IOC the UIPM Application for LA2028 including the UIPM sport proposal for LA2028 sports program.
12. On 27 and 28 November 2021, the UIPM General Assembly held an extraordinary meeting. The Agenda of the meeting included the “*Ratification of the EB Decision taken on Oct 31, 2021*”.
13. During that meeting, which was held virtually, the President of the UIPM, Dr Schormann, made an introductory presentation, stating that:

“[...] when he started in 1993, he received an invitation by the then IOC president Juan Antonio Samaranch to Lausanne to have a first conversation where the future of Horse Riding at the Olympic Games was quickly raised, after Modern Pentathlon has experienced issues during the Riding discipline at the Barcelona Games in 1992. The IOC president asked to consider cycling instead of Riding. Dr. Schormann notes that cycling was explored but it was too expensive.

He recalls that in 1996 in Atlanta there were further issues and ahead of the IOC session in 1997 in Lausanne, newspaper reports predicted that Modern Pentathlon would be removed of the program for Sydney 2000. However “after a concerted team campaign, we survived for Sydney”.

Dr. Schormann recalls that [...] in Mexico City in 2002, it was on the agenda to again remove Modern Pentathlon, as well as baseball and softball. Dr. Schormann notes that [...] after a serious [sic!] of talks and successful presentation to the IOC session it was possible to keep Modern Pentathlon “away of a place in the Olympic Museum.”

Subsequently after issues at the 2008 Olympics when the Riding discipline at the Men’s competition in Beijing was not successful, IOC President Rogge called again and asked Dr. Schormann to “please understand that you need a new fifth discipline to make your sport more accessible”.

[...] In a meeting in 2018, once more in our history, UIPM got a clear message from the IOC President. In a meeting with Dr. Thomas Bach, the IOC Sports Department, and the SG Shiny Fang a clear message was delivered that a solution to replace riding and make the sport more inclusive had to be made.”

14. During the meeting, presentations were made by the UIPM Vice-Presidents, and questions were asked and answered, with respect to the need to replace riding with a new discipline.
15. In conclusion, the General Assembly decided to answer in the affirmative (with 66 votes in favour, 15 against and 3 abstentions) the question: “*Does the General Assembly ratify the EB decision of Oct 31, 2021, to submit to the IOC a competition format for the 2028 Olympic Games without riding and replacing discipline to be determined by the UIPM in collaboration with all stakeholders and that will be decided in 2022 UIPM congress and to open the consultation process regarding the 5th discipline?*”.
16. On 9 December 2021, the IOC issued a media release stating that the Executive Board of the IOC had, on the same day, approved a list of sports to be included in the Initial Sports Programme for LA2028 to be submitted for approval at the upcoming IOC Session in February 2022. With respect to modern pentathlon, the media release stated that the IOC Executive Board had decided that modern pentathlon might potentially be included in the LA2028 Initial Sports

Programme by the IOC Session in 2023, if by then the UIPM addressed the following issues:

“The UIPM must finalise its proposal for the replacement of horse riding and the overall competition format, and demonstrate a significant reduction in cost and complexity and an improvement across the areas of safety, accessibility, universality and appeal for young people and the general public”.

17. On the same day, the UIPM issued a public statement accepting the clear communication from the IOC Executive Board, about the pathway for potential changes to modern pentathlon and stating *inter alia* that “UIPM’s global community is ready to embrace the new opportunity presented by the IOC to futureproof Modern Pentathlon as an enduring highlight of the Olympic Games” and that upcoming actions linked to the reformation process will be conducted by the new 5th Discipline Working Group.

B. Proceedings before the UIPM Court of Arbitration

18. On 18 November 2021, the MPADK filed a Request for Arbitration, together with supporting letters and documents, with the UIPM Court of Arbitration, essentially requesting it to find that the EB had no power to take the EB Decision, to be declared a nullity, and that the members of the EB who purported to make such EB Decision without a valid power breached the UIPM Statutes and the UIPM Code of Ethics.

19. On 25 and 27 November 2021, the MPADK and the UIPM agreed to submit the case to Mr Alexander Georgiev, Sole Arbitrator of the UIPM Court of Arbitration.

20. On 17 December 2021, the UIPM submitted its answer to the claim before the UIPM Court of Arbitration.

21. On 1 February 2022, the sole arbitrator of the UIPM Court of Arbitration ruled that:

*“I. the [MPADK]’s requests for relief are dismissed;
II. all other requests are dismissed;
III. the [MPADK] bears the costs of these proceedings.
IV. the [MPADK] shall pay a contribution to the legal costs of the Respondent in an amount of EUR 1.000.[...]”*

22. The reasoning of the award rendered by the UIPM Court of Arbitration on 1st February 2022 (the “Challenged Decision”) can be summarised as follows:

“[T]he Claimant requests the Sole Arbitrator to declare “that the UIPM EB had no power to take the decision of 31 October 2021; and that it is a nullity”. [...]

The Sole Arbitrator considers that the EB did not take a decision to amend the UIPM Statutes and/or the UIPM Rules on Internal Organisation as well as the UIPM Competition Rules. The Claimant does not submit that the EB has decided on any changes to the wording of these UIPM Regulations within the EB Decision. These UIPM Regulations apparently remain unchanged until the present day.

Hence, the [...] Request of the Claimant could only be interpreted in a way that it seeks to clarify whether the EB would have the power to endorse the recommendation to replace riding and to open a consultation process about it. The Sole Arbitrator considers that such a sought for clarification about the competences of a federation’s body could only be based on violation of the respective body with regard to the allocation of competences (i.e. the EB acting ultra vires).

The Sole Arbitrator considers that [Articles 13.1 and 13.2 of the UIPM Statutes] vest the EB with the power to provide leadership to the UIPM. In particular, in between General Assemblies, it is the EB

which is competent to take up relevant matters and to get also fundamental changes of the ground by setting political directions. Certainly, according to the UIPM Statutes, the General Assembly being the supreme legislative body, and the members of UIPM (through their minority rights) have the power to eventually determine whether to follow the path guided by the EB in between General Assemblies or not.

The Sole Arbitrator further notes that there are no provisions within the UIPM Statutes or other UIPM rules and regulations providing for the competence who may take a decision on starting a reform process which could lead to the amendment of the UIPM Statutes and the UIPM Competition Rules.

The Sole Arbitrator considers that due to the lack of an allocation of competence within the UIPM Statutes, the EB could rely on its general governing role and its subsidiary competence as defined under Article 13.2 UIPM Statutes to endorse the recommendation to replace riding by another discipline.

This finding is made under the reservation that also under the Sole Arbitrator's understanding of the UIPM's Statutes, it must be the General Assembly which eventually decides whether to replace riding by another discipline, i.e. whether to amend the UIPM Statutes and the UIPM Competition Rules. By referring the matter for ratification of the UIPM 2021 Congress and the final decision for amendment to the UIPM 2022 Congress, the Respondent showed that it shares such understanding. [...]

In view that the UIPM EB acted in line with its competences following from the UIPM Statutes, the question whether the Claimant had legal interest for its claim following the ratification of the EB Decision by the UIPM 2021 Congress does need to be addressed by the arbitrator. However, the ratification by the supreme legislative body of the UIPM certainly emphasis that the EB Decision represented the will of the majority of the UIPM members.

In summary, the Sole Arbitrator concludes that the [...] Request of the [MPADK] has no merits and must be dismissed."

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

23. On 13 February 2022, the Appellant filed with the Court of Arbitration for Sport (the "CAS") a Statement of Appeal against the Respondent with respect to the Challenged Decision, pursuant to Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the "CAS Code"). In its Statement of Appeal, which was designated as its Appeal Brief by the Appellant, the Appellant suggested the present matter to be submitted to a sole arbitrator and nominated the Rt. Hon Lord John A. Dyson as an arbitrator in the event the dispute was eventually referred to a three-member Panel. The Statement of Appeal also included a request that the Respondent disclose some documentary evidence.
24. On 18 February 2022, the CAS Court Office initiated an appeal arbitration procedure and invited the Respondent to file its Answer within the prescribed time limit and to advise whether it agreed with the appointment of a sole arbitrator to decide upon the present matter.
25. On 21 February 2022, the CAS Court Office invited the Respondent to file the documents requested by the Appellant in the Statement of Appeal or to state the reasons of any objection.
26. On 28 February 2022, the Respondent in a letter to the CAS Court Office stressed that the Appellant had failed to demonstrate that the requested documents were "*likely to exist and to be relevant*" for the matter at stake, as required by Article R44.3 of the CAS Code. Without acknowledging any legal obligation thereto, the Respondent nevertheless submitted "*the invitation to the UIPM Executive Board's meeting*", "*the invitation to the Member Federations and Committee members for a meeting in order to inform them about the UIPM Executive Board's meeting and the situation of urgency*", as well as the minutes of the EB's meeting of

31 October 2021.

27. On 1 March 2022, the CAS Court Office invited the Appellant to advise whether, in light of the submitted documents, it maintained its request for production of “*all documents (i) referring to riding or the intended new 5th discipline and (ii) which reflect communications between UIPM and IOC leading to the deadline of 24 November 2021, including all such communications between them after 31 October 2021 to date*”.
28. On 2 March 2022, the Respondent informed the CAS Court Office that it did not agree that the present case be submitted to a sole arbitrator, and nominated Mr Jean-Philippe Rochat as arbitrator.
29. On 6 March 2022, the Appellant informed the CAS Court Office that it maintained its request for “*all documents (i) referring to riding or the intended new 5th discipline and (ii) which reflect communications between UIPM and IOC leading to the deadline of 24 November 2021, including all such communications between them after 31 October 2021 to date*”, clarifying that the documents to be disclosed under such request were those falling within both categories (i) and (ii) above. In addition, the Appellant filed a new request for disclosure of “[a]ll documents created by or for consideration at the UIPM Innovations Commission meeting on 28 and 29 October 2021 (i) referring to riding or the intended new fifth discipline and (ii) which reflect communications between UIPM and IOC leading to the deadline of 24 November 2021”.
30. On 7 March 2022, the CAS Court Office informed the Parties that the Panel would rule on the Appellant’s request for the production of documents that the Appellant had declared to maintain. At the same time, the CAS Court Office invited the Respondent to file the documents mentioned by the Appellant in its new request or to state the reasons of any objection.
31. On 14 March 2022, the Respondent informed the CAS Court Office that it considered that the Appellant’s new request for documentary evidence had no merit, because there had been no request in writing of the IOC leading to the deadline of 24 November 2021 and the minutes of the UIPM Innovation Commission meeting held on 28 October 2021 are not relevant for the present dispute. For the sake of transparency, however, it submitted the minutes of the mentioned UIPM Innovation Commission meeting.
32. On the same day, pursuant to Article R50 of the CAS Code, the President of the CAS Appeals Arbitration Division decided to submit the present procedure to a Panel of three arbitrators.
33. On 15 March 2022, the Appellant informed the CAS Court Office that, in light of the Respondent’s disclosures and of the burden on the Respondent to prove the existence of a *force majeure* situation, it saw no need for any further request for disclosure.
34. On 17 March 2022, the Respondent filed with the CAS Court Office its Answer to the appeal.
35. On 21 March 2022, the CAS Court Office invited the Parties to advise whether they wished that a hearing be held in this matter or whether they preferred that the Panel issue an award based solely on the Parties’ written submissions.
36. On 25 March 2022, the Appellant informed the CAS Court Office of its preference for a hearing.
37. On 28 March 2022, the Respondent informed the CAS Court Office that it preferred that the case be decided on the basis of the written submissions only.

38. On 28 March 2022, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter had been constituted as follows:

President: Prof. Luigi Fumagalli, Attorney-at-law, Milan, Italy

Arbitrators: Rt. Hon Lord John A. Dyson, London, United Kingdom

Mr Jean-Philippe Rochat, Attorney-at-law, Lausanne, Switzerland

The CAS Court Office further informed the Parties that Ms Stéphanie De Dycker, Attorney-at-law and CAS Clerk, would assist the Panel in the present matter.

39. On 19 April 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in the present matter and consulted the Parties on possible hearing dates.

40. On 25 April 2022, the CAS Court Office informed the Parties that a hearing would be held on 19 May 2022 by videoconference.

41. On 10 May 2022, the Appellant requested the Panel to order that “*neither party may seek to adduce at the hearing of 19 May any further evidence in oral examination of its own witness beyond the production of that witness’s filed written statement*” and to authorise the Parties to exchange skeletons submissions.

42. On 11 May 2022, the CAS Court Office issued an order of procedure (the “Order of Procedure”) and requested the Parties to return a signed copy of it. In addition, the CAS Court Office invited the Respondent to comment on the Appellant’s letter of 10 May 2022.

43. On 12 May 2022, the Respondent objected to the Appellant’s requests.

44. On 13 May 2022, the CAS Court Office informed the Parties on behalf of the Panel of the following:

- “• *The Appellant’s request for an order that “neither party may seek to adduce at the hearing of 19 May any further evidence in oral examination of its own witness beyond the production of that witness’s filed written statement” is rejected. The examination of the Respondent’s witnesses will be conducted on the basis of their witness statements. Any objection during the course of the (cross-)examination will be addressed at the hearing.*
- *The Appellant’s proposal to exchange skeleton submissions is rejected. The Panel considers that such additional submissions are not necessary.”*

45. On 16 and 17 May 2022, the Respondent and the Appellant, respectively, returned to the CAS Court Office a signed copy of the Order of Procedure.

46. On 19 May 2022, a hearing was held in the present matter by videoconference. In addition to the members of the Panel, Ms Delphine Deschenaux-Rochat, CAS counsel, and Ms Stéphanie De Dycker, CAS Clerk, the following persons virtually attended the hearing:

For the Appellant: Mr Benny Elmann-Larsen, President of the MPADK

Mr Louis Weston, Counsel

Mr Dominic Mahony, Counsel

Mr Anthony Temple KC, witness.

For the Respondent: Ms Shiny Fang, UIPM Secretary General and witness
Ms Fulvia Lucantonio, UIPM Legal counsel
Mr Christian Keidel, Counsel
Mr Paul Fischer, Counsel
Mr Ivar Sisniega, witness.

47. At the outset of the hearing, the Parties declared that they had no objections as to the constitution of the Panel.
48. At the hearing, the Panel heard evidence from Mr Anthony Temple KC, a witness named by the Appellant, and from Ms Shiny Fang and Mr Ivar Sisniega, witnesses named by the Respondent. Before taking their evidence, the President of the Panel informed the witnesses of their duty to tell the truth, subject to sanctions of perjury under Swiss law. Then, the Parties and the Panel had the opportunity to examine and cross-examine them.
49. The content of the witnesses' testimonies can be summarised as follows:

Mr Anthony Temple KC: Mr Temple is a former modern pentathlon athlete and legal advisor to the British National Federation for modern pentathlon. He was also involved in the drafting of the 2018 edition of the UIPM constitutional documents. In his deposition, Mr Temple confirmed the content of his written statement dated 20 November 2021, subject to any factual development which occurred after 20 November 2021. Riding has always been an integral part of modern pentathlon and worldwide riding is regarded as one of the five central elements of modern pentathlon. The application of the criteria for the replacement discipline included in the press release of 4 November 2021, in which the UIPM announced the opening of a consultation process to identify a replacement riding in modern pentathlon, completely preclude the inclusion of riding in modern pentathlon. In a press release dated 17 November 2021, the UIPM referred to *force majeure* to justify the EB Decision. However, there was no evidence demonstrating the existence of a situation of *force majeure*, as no document evidenced a communication by the IOC to the UIPM about the existence of a tight deadline imposed by the IOC to propose an acceptable format for LA2028.

Ms Shiny Fang: Ms Fang is the Secretary General of the UIPM. As is normal routine after every edition of the Olympic Games, she attended several bilateral meetings with the IOC Sports Department in October 2021 after the 2020 Tokyo Olympics. These meetings were conducted on the basis of oral conversations and not by exchanging formal letters. The discipline of horse riding within modern pentathlon had been subject to criticism for a long period of time for multiple reasons, which include (i) a perceived unfairness, because the horses are drawn at random by the athletes, (ii) the lack of accessibility of horse riding training opportunities around the world, (iii) its high cost as well as (iv) its complexity. These points of criticism and the unfortunate events at the UIPM riding competition at the 2020 Tokyo Olympic Games triggered the IOC's strong suggestion to replace horse riding with another discipline as soon as possible, in the framework of the sport selection process for LA2028. Such suggestion became clear following the conversations and meetings, even if the IOC Sports Department did not explicitly say so. At the same time, losing its spot within the Olympic Games would have a dramatic impact on UIPM and all its stakeholders, as more than 85% of the UIPM budget comes from the IOC via the Olympic revenue distribution. The IOC Sports Department explained the timeline with regard to the evaluation of the proposals in the sport selection process for LA2028 and explained that UIPM had therefore to submit a proposal regarding an UIPM event by 24 November 2021 at the latest.

Mr Ivar Sisniega: Mr Sisniega is a former Olympic modern pentathlon athlete having competed three times at the Olympic Games. He chaired the UIPM Innovation Commission meeting on 28 October 2021 and had been part of the meetings with the IOC Sports Department prior to 28 October 2021. He stated that the horse riding discipline within modern pentathlon has been subject to criticism for a long period of time for several reasons, including a perceived unfairness as the horses are drawn at random by the athletes, the lack of accessibility of horse riding training opportunities around the world and its high cost and the complexity. It is a well-known fact that the riding event in modern pentathlon limits the number of nations around the world that are able to organize a full pentathlon competition with all five disciplines and has been one of the reasons why modern pentathlon does not have more active federations all over the world. Before the Tokyo Olympic Games, discussions inside the Innovation Commission had focused on the format of the competition and the accessibility of the sport while maintaining the five sports discipline. After the Tokyo Olympic Games, it became clear that the culture of keeping horse riding as one of the five sports discipline was in itself problematic. It was clear from the meetings with the IOC Sports Department that there was a very real and high risk for UIPM to lose its place in the LA2028 program if it did not propose to the IOC to replace riding with another discipline, given the repeated problems that this discipline has been presenting in the last editions of the Olympic Games. Therefore, after the Tokyo Olympic Games, the discussions inside the Innovation Commission focused on the composition of modern pentathlon and the applicable criteria to identify a replacement discipline in order to preserve UIPM's slot in LA2028. Mr Sisniega also confirmed that the IOC had requested UIPM to submit the proposal regarding the LA2028 program by 24 November 2021 at the latest.

50. The Parties, thereafter, were given full opportunity to present their cases, submit their arguments and submissions and answer the questions from the Panel.
51. At the end of the hearing, the Parties confirmed that they were satisfied with the procedure throughout the hearing, and confirmed that their right to be heard had been fully respected.
52. On 7 July 2022, the Panel issued the operative part of the present Award.

IV. SUBMISSIONS OF THE PARTIES

53. This section of the Award does not contain an exhaustive list of the Parties' contentions, its aim being to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the Panel has accounted for and carefully considered all of the submissions made and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

A. The Appellant's Position

54. In its Statement of Appeal serving as Appeal Brief, the Appellant requested the following:
 - a. *That the Award is quashed.*
 - b. *That it is declared that:*
 - (1) *The UIPM EB had no power to take the decision of 31 October 2021 (hereinafter 'the Decision'); and that it is a nullity.*
 - (2) *Those members of the EB who purported to make the Decision without a valid power to do so have breached the Statutes and the UIPM Code of Ethics.*

- (3) *The UIPM is restrained acting through Dr Schormann or otherwise from making any public pronouncement before Congress has determined the matter to the effect that the EB or any other entity has made a valid decision as regards the removal of riding.*
- c. *The UIPM pays the costs of and associated with the Arbitration and the Appeal.”*

55. The Appellant’s submissions, in essence, may be summarized as follows:

- On 31 October 2021, the EB decided to remove riding from modern pentathlon in the LA2028 sports proposal to the IOC. This decision was taken by the EB without any power to do so, and without public warning and discussion, in breach of the UIPM constitutional documents, in particular Articles 2, 13, 32 and 33 of UIPM Statutes. By sending a sport proposal to the IOC, which did not include riding, the EB acted beyond the framework of the UIPM Statutes, which define modern pentathlon as a multi-disciplinary sport comprising five disciplines, including horse riding, or any combination thereof. The General Assembly on 27/28 November 2021 could not validate such *ultra vires* and void EB Decision.
- The Challenged Decision, which denied an appeal against the EB Decision, is flawed for several reasons: it is based on media releases that mischaracterised the EB Decision; it failed to consider the EB Decision itself, refusing to order its production on the case file; it failed to convene a hearing despite MPADK having requested so; it failed to consider the witness evidence of Mr Antony Temple KC. By misunderstanding the nature of the dispute, which is about the EB Decision to replace riding, rather than to make a recommendation to consult about replacing riding, the Arbitrator inevitably reached wrong conclusions.
- As to the merits, the Challenged Decision failed to consider the *force majeure* as a justification for the EB Decision despite UIPM’s referral in a media release to the *force majeure* situation in which the UIPM was as a result of the tight schedule imposed by the IOC for the filing of the sport proposal in view of LA2028.

B. The UIPM’s Position

56. In its Reply, the UIPM requested the CAS to:

- I. Dismiss all prayers for relief submitted by the Appellant;*
- II. Order the Appellant to pay the costs of the proceedings before the CAS;*
- III. Order the Appellant to contribute to UIPM’s legal and other costs incurred in connection with these proceedings, in an amount to be determined as the discretion of the Panel.”*

57. The UIPM’s submissions, in essence, may be summarized as follows:

- The EB Decision did not remove the riding discipline from LA2028, nor did it change the UIPM Statutes or the UIPM Competition Rules. The EB Decision was only to send to the IOC a sport proposal for LA2028 in which horse riding would be replaced by another discipline.
- The EB Decision falls within the competence of the EB based on Article 13.2, third sentence of the UIPM Statutes. Pursuant to that provision, the EB is competent to decide on any matter (i) not provided for in the UIPM Statutes or (ii) in the event of *force majeure*. Since the UIPM Statutes do not provide for a specific competence for the communication to the IOC with regard to proposed future events formats at the Olympic

Games, the EB was competent to take the EB Decision. Alternatively, since the IOC had requested the UIPM to submit its sports proposal for LA2028 by 24 November 2021, indicating a need for change with regard to the riding discipline, the EB was also competent to take the EB Decision based on the existence of a situation of *force majeure*. Indeed, the future existence of modern pentathlon as an Olympic sport, and therefore the existence of the UIPM itself, was at stake, and the EB could no longer call for an extraordinary General Assembly before the expiry of the deadline set by the IOC.

- Finally, the EB was equally competent to take the EB Decision based on its governing function in between meetings of the General Assembly, as provided for under Article 13.2, first sentence of the UIPM Statutes. The next General Assembly meeting of 27-28 November 2021 validly ratified the EB Decision. The object was validly put on the agenda of the meeting and the MPADK did not raise any objection against the UIPM 2021 General Assembly, nor did it appeal against the decision of the UIPM General Assembly on 27/28 November 2021 ratifying the EB Decision. The Respondent fails to understand the Appellant's legal interest in the present proceedings, considering the ratification of the EB Decision by the General Assembly of the UIPM.

V. JURISDICTION

58. Article R47 of the CAS Code provides as follows:

“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. [...]”

59. Article 8.14 of the UIPM Code of Ethics provides as follows:

“Appeal against decisions of the UIPM Court of Arbitration may be filed with the Court of Arbitration for Sports (CAS), Lausanne.”

60. The Challenged Decision undoubtedly qualifies as a “*decision of the UIPM Court of Arbitration*” within the meaning of Article 8.14 of the UIPM Code of Ethics. Also, any and all legal remedies available to the Appellant prior to the appeal have been exhausted. Moreover, by signing the Order of Procedure, the Parties confirmed the jurisdiction of the CAS in the present matter.

61. As a result, the Panel has jurisdiction to decide on the present appeal.

VI. ADMISSIBILITY

62. Article R49 of the CAS Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made

by the other parties.”

63. The Panel notes that the Challenged Decision was notified to the Parties on 1 February 2022 and the Statement of Appeal was filed on 13 February 2022, *i.e.* within the time limit of 21 days from the receipt of the Challenged Decision. In addition, the further conditions set out under Article R48 of the CAS Code are fulfilled.
64. The present appeal is therefore admissible.

VII. APPLICABLE LAW

65. Article R58 of the CAS Code provides as follows:

“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.”

66. In accordance with Article R58 of the CAS Code, the Panel shall decide the present matter on the basis of the UIPM Statutes, the UIPM Code of Ethics and any other UIPM applicable rules. Monegasque law shall apply on a subsidiary basis, as the Respondent is headquartered in Monaco.

VIII. MERITS

67. The present arbitration has been started by the Appellant against the Challenged Decision, whereby the UIPM Court of Arbitration dismissed its appeal against the EB Decision. In its Appeal Brief, the Appellant essentially submits that the Challenged Decision is invalid since (i) it suffers from procedural flaws; (ii) the arbitrator of the UIPM Court of Arbitration wrongly interpreted the EB Decision, and (iii) the members of the UIPM EB had no power to make the EB Decision. The Respondent, on its side concurs with the Challenged Decision and contends that the EB was perfectly entitled to submit to the IOC a proposal regarding the LA2028 sports program: as a result, the appeal, based on a misunderstanding of the meaning of the EB Decision, is to be dismissed, also taking into account that the EB Decision was ratified by the General Assembly in a resolution which remained unchallenged.
68. In light of the submissions of the Parties, the Panel shall examine the following issues:
- A. Does the Appellant hold a legal interest in pursuing the present proceedings?
 - B. Is the Challenged Decision affected by any procedural flaws?
 - C. What is the true meaning and effect of the EB Decision?
 - D. Did UIPM EB have the power to make the EB Decision?

A. The Legal Interest of the Appellant

69. A preliminary point is involved in the Respondent’s submissions. The Panel notes in fact that the Respondent mentioned, in the course of this arbitration, that since the UIPM General

Assembly ratified the EB Decision, the Appellant lost any legal interest in pursuing an appeal against the EB Decision.

70. The Panel, however, finds that the resolution of the present dispute does not call for a decision on this specific point. Indeed, an arbitral tribunal is free to determine how to address the sequence of the different substantive questions at stake in legal proceedings, and since, for the reasons given hereafter, an answer to this specific point will not change the outcome of the present appeal, the Panel does not deem it necessary to determine whether the Appellant has a legal an interest in appealing the Challenged Decision in the context of the present matter, notwithstanding the ratification of the EB Decision by the General Assembly.

B. Alleged Procedural Flaws affecting the Challenged Decision

71. The Appellant submits that several procedural flaws affected the procedure before the UIPM Court of Arbitration and that the Challenged Decision must therefore be quashed:
- i. Firstly, the Appellant argues that the arbitrator of the UIPM Court of Arbitration failed to convene a hearing, despite the Appellant's request to do so. In the Challenged Decision, the arbitrator of the UIPM Court of Arbitration considered that, based on Article 8.8 of the UIPM Code of Ethics and Article 1 of the UIPM Procedural Rules attached to the UIPM Code of Ethics, it was appropriate not to hold a hearing in the matter before him, since "*the relevant facts of the case at hands are not in dispute*", "*the Parties did not submit any witness statements or named any witness to be heard*", "*the Claimant [MPADK] submitted a reply to the Respondent's [UIPM] Answer*" and "*the Respondent [UIPM] has not been deprived of his right to be heard since the Claimant's [MPADK] Reply did not fundamentally affect the Respondent's [UIPM] position*"(see Challenged Decision, paras. 50 ff.).
 - ii. Secondly, the Appellant contends that despite its request to do so, the arbitrator of the UIPM Court of Arbitration failed to order the production of several documents, *i.e.* of "*all documents on which UIPM relies in support of its claim that there was an event of force majeure*", "*all papers before the EB meeting on 31 October 2021*"; "*a list of attendees, decisions and resolutions made at the meeting [of 31 October 2021]*"; "*the minutes of the meeting [of 31 October 2021]*" as well as "*[a]ll documents (i) referring to riding or the intended new 5th discipline and (ii) which reflect communications between UIPM and IOC leading to the deadline of 24 November 2021, including all such communications between them after 31 October 2021 to date*". In the Challenged Decision, the arbitrator of the UIPM Court of Arbitration referred to Article R44.3 of the CAS Code in the absence of any procedural rule within the UIPM Code of Ethics and other UIPM rules, and dismissed MPADK's request based on the fact that "*[t]he Claimant did not demonstrate why the production of these documents would be relevant to the case, e.g. to what extent a violation of the UIPM Statutes could follow from reviewing these documents*".
 - iii. Thirdly, the Appellant submits that the arbitrator of the UIPM Court of Arbitration failed to consider the witness evidence in the proceedings before him. In the Challenged Decision, the arbitrator stated that "*the Parties did not submit any witness statements*", although it is apparent that the Appellant had submitted the witness statement of Mr Anthony Temple KC.
 - iv. Finally, the Appellant submits that, on 22 December 2021, the arbitrator of the UIPM

Court of Arbitration wrongly requested the MPADK to refrain from unsolicited submissions.

72. The Panel notes that according to Article R57 of the CAS Code, “[t]he Panel has full power to review the facts and the law” and “[i]t may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance”. The Panel shall therefore examine the Challenged Decision, and the underlying EB Decision, with full power of review of the facts and the law. It is thus not limited to a review of the legality of the Challenged Decision, but can issue a new decision on the basis of the applicable rules (D. MAVROMATI, M. REEB, *The Code of the Court of Arbitration for Sport, Commentary, Cases and Materials*, 2015, p. 507-508, para. 12). The Panel further notes that such full power of review of the facts and the law of the case by the CAS also means that “*procedural flaws, which occurred during the proceedings of the previous instance, can be cured by the CAS Panel*” in the context of the appeal proceedings (D. MAVROMATI, M. REEB, *The Code of the Court of Arbitration for Sport, Commentary, Cases and Materials*, 2015, p. 508, para. 12). Hence, any possible procedural flaw that affected the first instance proceedings can be cured by the CAS panel in the appeals proceedings, since the case on appeal is heard *de novo*.
73. In light of the above considerations, the Panel finds that it is not necessary to examine the alleged specific procedural flaws mentioned above. Any such procedural flaws would therefore be cured in the framework of the present appeal proceedings. The Panel recalls that in the present appeal, the written procedure was followed by a hearing, at the end of which the Parties confirmed that they were fully satisfied as to their right to be heard throughout the procedure before the CAS. In addition, the Panel recalls that the Appellant requested the production of the same documents as those requested in the previous instance, that the Respondent produced such documents, and that the Appellant confirmed on 15 March 2022 that it had no further request for disclosure. Finally, at the hearing on 19 May 2022, the Panel heard the evidence of Mr Anthony Temple KC to the satisfaction of both Parties.
74. In light of the above considerations, the Panel finds that the alleged procedural flaws – if any – have been cured to the satisfaction of both Parties in the framework of the present appeal proceedings.

C. The meaning of the EB Decision

75. The Appellant claims that the Challenged Decision is erroneous as to the true meaning and effect of the EB Decision. According to the Appellant, the EB decided on 31 October 2021 to remove the riding discipline from the competition of LA2028, by submitting to the IOC a format without the riding discipline. The Respondent in turn contends that the EB did not decide to remove the riding discipline from the competition format for LA2028. Rather it decided only to send a sport proposal for LA2028 to the IOC for the replacement of the riding discipline by another discipline (to be determined). The Respondent also points that it did so under the pressure of the tight schedule imposed by the IOC on the Appellant and other international sports federations.
76. In order to determine the exact meaning of the EB Decision, it is necessary to examine the minutes of the EB meeting which approved the EB Decision in the context of the circumstances in which the meeting was held.
77. Several quotations appear relevant in this context [underscores added]:

- i. At the outset of the meeting, the President of the UIPM addressed the members of the EB stating that:

“[...] due to the undelayable deadline (Nov 24) to provide the IOC a proposal to the Program Commission for LA2028 Olympic Games and the high risk of losing UIPM’s spot in the 2028 Olympic Games if a proposal is submitted with riding as 5th discipline, the Board finds itself in a very difficult situation.[...] To secure this spot and under given circumstances of the IOC’s time limit the UIPM has to consider taking the drastic decision to purpose (sic) to the IOC a format for the 2028 Olympic Games in which riding would be replaced by a discipline to be determined by the UIPM Congress in consultation with the IOC at a later stage.”

- ii. Then, Ms Shiny Fang, the Secretary General of the UIPM, explained that:

“Nov 24th is the deadline for UIPM to present to the IOC Sports Department its proposal indicating that riding would be replaced with another discipline upon approval by the UIPM Congress.”

- iii. Still during the discussion, Mr Andris Feldmanis, Acting President of the European Confederation, stated:

“To avoid speculations, when announcing the proposal of the EB to replace riding it is important to also state which discipline could replace it.”

- iv. Finally, the minutes of the EB Decision state that:

“KS [the UIPM President] then asked the Board Members to vote on proposing to the IOC until the deadline of 24 November a competition format for the 2028 Olympic Games without riding and a replacing discipline to be determined upon approval by the UIPM Congress in collaboration with all stakeholders and the IOC at a later stage and to open the consultation process regarding the 5th discipline.”

- v. Most importantly, in the minutes of the EB Decision, the text of the decision taken by the EB is drafted as follows:

“The UIPM EB unanimously approved the submission of a competition format to the IOC for the 2028 Olympic Games without riding and replacing discipline to be determined upon approval by the UIPM Congress in collaboration with all stakeholders at a later stage.”

78. The foregoing makes it clear, in the Panel’s view, that the proposal that the EB decided to submit to the IOC Sport Department did not *per se* mean that one of the disciplines of modern pentathlon had been excluded from the possible UIPM event at LA2028. Indeed, for such exclusion to be confirmed, the UIPM General Assembly would have to decide to amend the UIPM Statutes and other regulations.

79. The wording of the minutes of the EB Decision is clear and unambiguous: what the EB decided on 31 October 2021 was to make a proposal to the IOC, in which riding would be excluded from the competition format at the Olympic Games of Los Angeles in 2028. The EB Decision is therefore “a decision to make a proposal”, not a mere recommendation as was argued by the Appellant. The Panel’s conclusion is further reinforced by the witness evidence. Ms Shiny Fang stated in her witness statement, confirmed at the hearing, that:

“the UIPM had therefore to submit a proposal regarding an UIPM event for the LA2028 program by 24 November at the latest” [underscore added]

80. Similarly, Mr Ivar Sisniega also confirmed in his written statement that:

“the IOC had requested for us to submit a proposal regarding the LA2028 program by 24 November 2021 at the latest. It was also clear to me ... that there was a very real and high risk for UIPM to lose its place within LA2028 if we did not propose to the IOC to replace riding with another discipline [...]. [...] to propose a replacement of the riding discipline by the proposal to be submitted to the IOC was the correct decision to save modern pentathlon’s place in the Olympic program.” [underscore added]

81. Finally, at the UIPM General Assembly meeting on 27-28 November 2021, the legal advisor of the UIPM stated that:

“At the moment when a decision on sending the proposal to the IOC by November 24 had to be taken, UIPM General Assembly was not in session, and it is the EB who governs the UIPM in between General Assemblies.

82. In light of the above, there is no doubt that what the EB decided on 31 October 2021 was to submit to the IOC within the prescribed time limit a *proposal* for a sport event for LA2028, in which the horse riding discipline would be replaced by another discipline to be determined in the future. For such decision to be adopted no amendment to the UIPM Statutes was required, since the EB Decision was not to replace riding *per se* but merely to *propose* to the IOC a sport event for LA2028, in which the horse riding discipline would be replaced by another discipline to be determined in the future, so as to preserve the UIPM’s slot at the Olympic Games of 2028 in Los Angeles. In order for horse riding to be removed definitively from modern pentathlon (in general terms or for the Olympic event only), the UIPM General Assembly would need to make a decision to that effect, by amending the UIPM Statutes and other UIPM regulations accordingly. In the Panel’s view, if the General Assembly did not make such a decision, then the proposal made by the EB to the IOC, even if already accepted by the IOC, would necessarily become moot.

D. The validity of the EB Decision

83. The Appellant contends that by making the EB Decision, the members of the EB breached the UIPM Statutes and other UIPM rules. In particular, the Appellant argues that the members of the EB could not validly propose to replace horse riding as one of the disciplines of modern pentathlon without General Assembly’ prior approval. Also, the Appellant argues that the Challenged Decision failed to address the alleged *force majeure* justification advanced by the EB to justify its competence in the context of the EB Decision. The Respondent firmly disagrees, insisting that the Challenged Decision validly confirmed that the EB was competent to take the EB Decision, and that such decision did not remove riding from modern pentathlon.
84. The Panel first notes that, as indicated above, the EB Decision was not a decision to remove the riding discipline from modern pentathlon; but a decision to *propose* to the IOC a sport event without the horse riding discipline, in an attempt to preserve UIPM’s slot for LA2028. This was conditional on a replacement discipline being identified following a consultation process and the General Assembly deciding to modify the UIPM Statutes and other UIPM regulations in order to give effect to the new format of modern pentathlon. If the General Assembly were to refuse to remove the horse riding discipline from modern pentathlon by refusing the necessary amendments to the UIPM Statutes and regulations, the proposal made to the IOC would necessarily become moot.
85. As a result, the question is whether the EB was competent under the applicable rules to adopt the EB Decision as envisaged above.

86. The competence of the EB is defined under Article 13 of the UIPM Statutes, which provides as follows:

“13.1. UIPM is governed by the General Assembly and the Executive Board.

13.2. In between General Assemblies UIPM is governed by the Executive Board. Its composition, role and duties are specified hereafter and in the UIPM Rules on Internal Organisation. The Executive Board is competent to take decisions on any matter not provided for in these Statutes, or in the event of force majeure.”

87. In addition, the UIPM Rules on Internal Organisation provide at Article 6:

“The Executive Board has powers to:

- a) represent the General Assembly in the period between the meetings and to decide on all necessary matters which cannot be postponed till the next meeting of the General Assembly or where a specific authorisation by the General Assembly has been granted. The Executive Board is entitled to amend the Competition Rules in lieu of the General Assembly only in case of force majeure and with a majority of $\frac{3}{4}$ of the members of the Executive Board. [...]*
- e) report to the General Assembly; [...]*
- k) submit motions to the General Assembly [...]*”

88. According to the UIPM Statutes and the UIPM Rules on Internal Organisation, the EB is thus competent to govern the UIPM in between meetings of the General Assembly, *i.e.* to “*decide on all necessary matters which cannot be postponed till the next meeting of the General Assembly*”. In particular, the EB is competent “*to take decisions on any matter not provided for in these Statutes, or in the event of force majeure*”.

89. The Panel also notes that the IOC time limit for submission of the LA2028 sport proposals was 24 November 2021 at the latest. This time limit is mentioned in several documents, including the minutes of the EB meeting at which the EB Decision was made, the minutes of the meeting of the UIPM Innovation Commission of 28 and 29 October 2021, the email sent by Ms Shiny Fang to the IOC on 24 November 2021 transmitting the UIPM sport proposal, and the minutes of the General Assembly’s meeting of 27 and 28 November 2021. The Appellant does not contest the existence of such time limit either. Hence, in the Panel’s view, there is no doubt that the EB was under pressure to decide on the competition format to be proposed to the IOC in view of LA2028 by 24 November 2021 at the latest.

90. Having carefully reviewed the above provisions and the UIPM Statutes and Rules on Internal Organisation, the Panel is of the opinion that (i) the submission to the IOC of a sport proposal for the Olympic Games is not a matter provided for in the UIPM Statutes; (ii) the EB could not have postponed the matter until the next General Assembly meeting, which was planned to take place *after* the expiry of the time limit imposed by the IOC, *i.e.* 24 November 2021; and finally (iii) the EB Decision was made when the EB could no longer move the date of the General Assembly to a date prior to the 24 November 2021 time limit since, pursuant to Article 19.4 of the UIPM Statutes, “[*t*]he President shall summon the Members to the General Assembly at least 90 days before the date of the meeting (...)”. The Panel therefore finds that the EB was fully competent in accordance with the first part of the last sentence of Article 13.2 of the UIPM Statutes to resolve to propose to the IOC to remove horse riding from the UIPM sport proposal for LA2028.

91. Finally, the Panel notes that the EB Decision, *i.e.* the decision to submit to the IOC a sport proposal without the horse riding discipline, was ratified by the UIPM General Assembly at its

meeting of 27-28 November 2021, a few days after the EB Decision and the corresponding proposal made to the IOC on 24 November 2021. By ratifying the EB Decision, the General Assembly, which is “*the supreme and legislative body of UIPM*” as per Article 19.1 of the UIPM Statutes, confirmed that the EB Decision had been validly made.

92. Since the EB Decision expressly falls within the scope of the competence attributed to the EB by the UIPM Statutes in between UIPM General Assemblies, pursuant to the first part of the last sentence of Article 13.2 of the UIPM Statutes, the Panel finds that there is no need to examine whether the EB was also competent to adopt the EB Decision on the basis of force majeure pursuant to the second part of the last sentence of Article 13.2.
93. The Panel therefore finds that the present appeal has to be dismissed.

IX. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Danish Modern Pentathlon Association on 13 February 2022 is dismissed.
2. The award rendered by the UIPM Court of Arbitration on 1 February 2022 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 17 April 2023

(Operative part of the Award notified on 7 July 2022)

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

John Dyson
Arbitrator

Jean-Philippe RoCHAT
Arbitrator

Stéphanie De Dycker
CAS Clerk