CAS 2024/A/10833 International Eventing Officials Club (IEOC) v. Fédération Équestre Internationale (FEI)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Dr Vladimir **Novak**, Attorney-at-law in Brussels, Belgium.

Arbitrators: Prof. Dr Pascal **Pichonnaz**, Full Professor at Fribourg University, Switzerland
Mr Benoît **Pasquier**, Attorney-at-Law in Zurich, Switzerland

in the arbitration between

International Eventing Officials Club (IEOC), represented by Ms Donna Bartley, Mr Nick Williams, Ms Ellen Kerr, Morgan Sports Law, London, United Kingdom and by Mr Fabrice Robert-Tissot, Ms Sumin Jo and Ms Léa Steudler, Bonnard Lawson, Attorneys-at-law, Geneva, Switzerland

Appellant

and

Fédération Équestre Internationale (FEI), represented by Ms Aine Power, Deputy Legal Director and Ms Ana Kričej, Legal Counsel and by Mr Vincent Jäggi, Mr Riccardo Coppa, Mr Michael Kottmann, Kellerhals Carrard, Attorneys-at-law, Lausanne, Switzerland

Respondent

I. PARTIES

1. The International Eventing Officials Club (the "IEOC" or the "Appellant") is an organisation formed to provide a forum for communication between, and education of, Eventing officials and a pooling of knowledge of the technical aspects of Eventing.

2. The Fédération Équestre Internationale is a not-for-profit association and the international governing body of equestrian sports, having its principal office in Switzerland (the "FEI" or the "Respondent").

3. The Appellant and the Respondent are each referred to as a "Party" and collectively as the "Parties".

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations based on the Parties' written submissions and evidence adduced. Additional facts and allegations found in the Parties' submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, the present Award (the "Award") refers only to the submissions and evidence, which the Panel considers necessary to explain its reasoning.

5. The FEI engages with certain third-party associations, including so called Direct Stakeholder Associations that represent equestrian stakeholders with a direct link with the FEI disciplines.

6. The IEOC's objective is to "*give a voice to Eventing Officials, providing a vital link between them and the FEI*".

7. In 2014, the FEI decided to formalise its relationship with stakeholder groups by signing memorandums of understanding. Signatories thereof have been recognised as Official Stakeholders of the FEI and the memorandums of understanding "*define the working relationship between both parties, their rights and obligations, and specify a common line of mutual cooperation*".

8. On 30 January 2014, the Parties entered into a Memorandum of Understanding (the "2014 MoU") for a period of four years to regulate their relationship, based on their mutual commitment to equestrian sport and fostering of its growth.

9. The 2014 MoU expired on 30 January 2018. Around five months later, on 5 June 2018, the Parties entered into a new Memorandum of Understanding for another four-year

term (the "2018 MoU"). The terms were the same as the 2014 MoU (except one of the email addresses for communicating with the FEI, which was updated as per Article 14 of the 2018 MoU).

10. During 2020, the FEI started discussions on the development of a new FEI Education System for all equestrian disciplines, including Eventing.

11. On 5 June 2022, the four-year term of the 2018 MoU elapsed.

12. On 26 August 2022, the FEI published the new Eventing Officials Education System (the "Education System"), which came into force on 1 January 2023.

13. On 6 October 2022, the IEOC Chairman wrote to the FEI asking about the procedure for the signing of a new MoU.

14. On 7 October 2022, the IEOC Chairman sent to the FEI a list of questions and concerns about the Education System.

15. On 21 October 2022, the FEI responded to the IEOC Chairman that many of the queries in the letter of 7 October 2022 had been addressed in an online webinar and other material prepared by the FEI.

16. On 8 November 2022, the IEOC Chairman responded to the FEI that some of their questions had remained unanswered.

17. On 9 December 2022, the FEI invited the IEOC to an in-person meeting to discuss open queries.

18. On 23 and 27 of May 2023 respectively, the IEOC Chairman asked for an update on the new MoU.

19. On 30 May 2023, the FEI Director of Governance responded that the content of a new MoU was being updated and a new copy would be provided to the IEOC in due time:

"*The MOU renewal is in my list to do but we are currently updating the MOUs content in view of the latest developments and discussions around certain topics […]. We will provide you with a copy for your review in due time. […] Regarding the Candidates for the Eventing Committee and as per the MOU that we had signed with IEOC, any appointment to an FEI Committee where an Eventing official representative is required will optimally be made following a consultation with the IEOC. This year the Eventing Committee has showed its preference for a Candidate with Eventing Judge background and for this reason we are sharing with you the Candidacies received. We would be grateful if you can please provide us with your*

reasoned input by 9 June so we can share it with the Nominations Committee ahead of its meeting on 13 and 14 June. […]".

20. On 21 June 2023, an in-person meeting between the Parties took place at the FEI headquarters in Lausanne, Switzerland.

21. On 11 October 2023, the IEOC wrote to the FEI setting out its concerns and requesting mediation under Article 12 of the 2018 MoU.

22. On 12 October 2023, the FEI President sent an internal e-mail (and inadvertently copied the Chairman of the IEOC) as follows: "*Not sure but I understood that the MOU was expired and consequently not applicable anymore".* A few minutes later, the FEI President attempted to recall that email.

23. On 17 October 2023, the FEI Legal Director replied to the IEOC's letter rejecting mediation and stating that there was no active MoU between the Parties.

"[…] *I just want to clarify that the MOU between the IEOC and the FEI has expired (as it was signed for a period of 4 years in 2018) and therefore there is no MOU between the two organisations at the moment. Having said this, the FEI has extensively engaged with the IEOC in the past months and we have provided you with the FEI replies/feedback/position on all your queries*. […]".

24. On 27 December 2023, the IEOC sent a Notification Letter to the FEI, claiming breaches of the 2018 MoU. The Notification Letter enclosed the First Legal Expert Opinion from Professor Thomas Probst, professor (em.) at the Law Faculty of the University of Fribourg, Switzerland.

25. On 6 January 2024, the FEI replied to the Notification Letter, denying any breach and the existence of a valid MoU.

B. Proceedings before the FEI Tribunal

26. On 26 January 2024, the IEOC filed a claim to the FEI Tribunal. The IEOC alleged that the 2018 MoU was automatically renewed for another four-year term, i.e. until 5 June 2026, and that FEI was liable for six breaches of the 2018 MoU. The IEOC requested that the breaches be remedied and that the FEI be subject to a penalty ("astreinte") in case of non-compliance.

27. On 29 February 2024, the FEI filed its reply to the FEI Tribunal, and sent a letter to the IEOC terminating the 2018 MoU with immediate effect (the "Purported Termination"). The FEI claimed that the 2018 MoU expired or alternatively was renewed for an indefinite period of time and terminated as of 29 February 2024. The FEI denied any breaches of the 2018 MoU.

28. On 4 April 2024, the IEOC submitted the Second Legal Expert Opinion prepared by Professor Probst, refuting the FEI's categorisation of the MoU as an agency-like contract and claiming that a termination of a contract can only be valid when it is unconditionally expressed.

29. On 2 May 2024, the Parties confirmed that they did not require a hearing to be held.

30. On 20 August 2024, the FEI Tribunal notified the Parties of its decision (the "Appealed Decision"), with the following findings:

- The FEI Tribunal sided in part with the FEI and supported that the 2018 MoU was renewed, following its expiration, for an indefinite period of time, but did not accept the Purported Termination's immediate effect. In particular, after failing to assert the Parties' true and common intent regarding the renewal of the 2018 MoU and as required by Article 18 of the Swiss Code of Obligations ("SCO"), the FEI Tribunal found comfort in the following specialised doctrine:

  "*[w]here it is not possible to reach an agreement on the duration of the renewed contract, it should in principle be assumed that the contract will be transformed into a contract of indefinite duration, unless the circumstances of the specific case require a different solution. Both parties may therefore terminate the contract in accordance with the rules applicable to the termination of open-ended contracts, which vary according to the legal classification of the contract in dispute. This allows the parties, as a general rule, to terminate the contract within a suitable period established by law. This solution is inspired by the general tendency of the legislator to consider that a tacitly renewed fixed-term contract becomes a contract of indefinite duration".*

- The FEI Tribunal therefore determined that at the end of its four-year term (i.e. on 5 June 2022), the 2018 MoU was tacitly and indefinitely renewed. Thereafter, the Parties were entitled to terminate the 2018 MoU within a "*reasonable timeframe*", which the FEI Tribunal considered to be six months.

- The Purported Termination of 29 February 2024 "*constitute[d] the starting point for the reasonable six-month notice period. Consequently, the MoU [came] to an end on 29 August 2024*".

- The Parties were, therefore, expected to comply with their obligations established in the 2018 MoU until 29 August 2024, and the FEI was ordered to restore the IEOC's rights under the 2018 MoU until that date.

- All other prayers for relief were rejected.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

31. On 30 August 2024, the Appellant submitted an Application for *ex parte* Provisional Measures within the meaning of Article 37 of the Code of Sports-related Arbitration ("Code") before the Court of Arbitration for Sport ("CAS"), requesting that its rights under the 2018 MoU be recognised beyond (at least) 29 August 2024 pending the conclusion of the appeal. The Application for Provisional Measures was dismissed by the Deputy President of the Appeals Arbitration Division of the CAS on 30 August 2024.

32. On 10 September 2024, the Appellant submitted a Statement of Appeal within the meaning of Article R47 of the Code before the CAS against the Appealed Decision (the "Appeal"), along with the Third Legal Expert Opinion of Professor Probst. The Appellant requested, pursuant to Article R32 of the Code, the suspension of the proceedings (including the time limit to file the Appeal Brief) for one month, until 10 October 2024, to allow the Parties to explore a potential mediation.

33. On 17 September 2024, the Respondent informed the CAS Court Office that its Board had unanimously agreed that the Respondent would not participate in mediation with the Appellant. The CAS proceedings resumed on the same day.

34. On 19 September 2024, the Appellant requested an extension of the time limit to file its Appeal Brief until the later of (a) three weeks after the receipt of the CAS operative order issued on 30 August 2024, regarding the Appellant's Application for Provisional Measures, or (b) 31 October 2024. The Respondent was invited to comment by 24 September 2024.

35. On 24 September 2024, the Respondent objected to the Appellant's request for an extension of the time to file its Appeal Brief.

36. On 25 September 2024, the CAS Court Office noted that the extension request would be decided by the President of the CAS Appeals Arbitration Division, or her Deputy, in accordance with the Article R32 of the Code.

37. On 30 September 2024, the Appellant requested a suspension of its time limit to file the Appeal Brief pending the decision of the President of the CAS Appeals Arbitration Division, or her Deputy, in accordance with Article R32 of the Code.

38. On 1 October 2024, the CAS Court Office informed the Parties that the Appellant's request for an extension to file its Appeal Brief until 31 October 2024 was granted.

39. On 31 October 2024, the Appellant filed the Appeal Brief. The Appellant requested that the Respondent produce all correspondence and documents shared among the FEI

Board and senior FEI officials insofar as they relate to the renewal and/ or termination of the 2018 MoU.

40. On 1 November 2024, the Respondent was invited to submit its Answer within 20 days.

41. On 15 November 2024, the Respondent requested an extension of the time limit to file its Answer by 72 days, until 13 January 2025. The Appellant was invited to comment by 21 November 2024, pending of which the Respondent was granted an automatic 10-day extension pursuant to Article R32(2) of the Code.

42. On 21 November 2024, the Appellant agreed to the Respondent's deadline extension request, provided that (a) its document production request is satisfied by 30 November 2024, and (b) there are no further extensions to the deadline for the Respondent's Answer. The Respondent was invited to comment by 26 November 2024.

43. On 26 November 2024, the Respondent objected to the Appellant's first condition and accepted in principle the Appellant's second condition.

44. On 26 November 2024, the CAS Court Office stated that the extension request would be decided by the President of the Division or her Deputy, pursuant to Article R32 of the Code, pending of which the Respondent's time limit was suspended.

45. On 28 November 2024, the Respondent's requested time limit extension was granted.

46. On 4 December 2024, the Appellant inquired about the status of its document production request.

47. On 9 January 2025, the Respondent requested an additional extension of 18 days to the time limit to file its Answer, until 31 January 2025. The Appellant was invited to comment by 13 January 2025, pending which the Respondent's time limit was suspended.

48. On 13 January 2025, the Appellant objected to the additional extension.

49. On 14 January 2025, the CAS Court Office informed the Parties that the extension request would be decided by the President of the Division or her Deputy, pursuant to Article R32 (2) of the Code, pending of which the Respondent's time limit remained suspended.

50. On 15 January 2025, the Respondent was granted a partial extension until 23 January 2025.

51. On 17 January 2025, the CAS Court Office informed the Parties that the Panel appointed to decide the present case was constituted as follows:

President: Dr Vladimir Novak, Attorney-at-law in Brussels, Belgium

Arbitrators: Prof. Dr Pascal Pichonnaz, Full Professor at the University of Fribourg, Switzerland

Mr Benoît Pasquier, Attorney-at-Law in Zurich, Switzerland

52. On 23 January 2025, the Respondent filed its Answer, accompanied by an Expert report prepared by Professor Jacques De Werra, professor at the Law School of the University of Geneva.

53. On 24 January 2025, the CAS Court Office invited the Parties to state by 31 January 2025 whether they preferred to hold a hearing in the present proceedings or for the Panel to issue an award based solely on the Parties' written submissions.

54. On 31 January 2025, the Appellant stated its preference to hold a hearing while the Respondent preferred to forego a hearing.

55. On 4 February 2025, the Appellant was invited to further substantiate, by 7 February 2025, its request for document production under Article R44.3 of the Code, in particular with respect to its relevance.

56. On 7 February 2025, the Appellant provided additional comments on its document production request. The Respondent was invited to comment by 13 February 2025.

57. On 13 February 2025, the Respondent provided its comments on the Appellant's request for document production.

58. On 20 February 2025, the CAS Court Office informed the Parties that the Panel dismissed the Appellant's request for document production and that the reasons would be provided in the Award. The Parties were also invited to submit by 26 February 2025 their final position regarding the holding of a hearing.

59. On 26 February 2025, the Appellant maintained its request for a hearing while the Respondent maintained its preference to forego a hearing.

60. On 7 March 2025, the CAS Court Office informed the Parties that the Panel decided to hold a hearing. The date of the hearing was subsequently set for 8 October 2025 with the agreement of the Parties.

61. On 14 May 2025, the CAS Court Office transmitted the Order of Procedure, which the Parties returned on 22 May 2025.

62. On 24 September 2025, the Respondent provided a witness statement of Mr Mikael Rentsch.

63. On 3 October 2025, the Respondent reiterated that Mr Lima will attend the hearing in person and concurrently submitted his witness statement.

64. On 8 October 2025, a hearing (the "Hearing") took place in Lausanne, Switzerland. The Panel was assisted by Ms Amelia Moore, CAS Counsel, and in an administrative capacity by Mr Christos Spentzos (with the agreement of the Parties), and joined by the following participants:

- For the Appellant:
  - Mr Andrew Griffiths, Appellant's representative;
  - Ms Susan Stewart, Appellant's representative;
  - Mr Nick Williams, Counsel;
  - Ms Ellen Kerr, Counsel;
  - Mr Fabrice Robert-Tissot, Counsel;
  - Ms Léa Steudler, Counsel;
  - Ms An Ting Koh, Counsel;
  - Ms Donna Bartley, Counsel, attended remotely;
  - Mr Andrew Bennie, Witness, attended remotely; and
  - Prof. Thomas Probst, Legal Expert Witness.
- For the Respondent:
  - Ms Áine Power, Respondent's Representative;
  - Mr Vincent Jäggi, Counsel;
  - Ms Louise Reilly, Counsel;
  - Mr Riccardo Coppa, Counsel;
  - Mr Francisco Lima, Witness;
  - Mr Mikael Rentsch, Witness; and
  - Prof. Jacques de Werra, Legal Expert Witness.

65. At the Hearing, the Parties agreed to the following schedule of witness examination:

- Mr Andrew Griffiths, the Appellant's Witness;
- Mr Andrew Bennie, the Appellant's Witness;
- Mr Francisco Lima, the Respondent's Witness;
- Mr Mikael Rentsch, the Respondent's Witness;
- Prof. Thomas Probst, the Appellant's Legal Expert Witness; and
- Prof. Jacques de Werra, the Respondent's Legal Expert Witness.

66. The witness testimonies and arguments raised by the Parties during the Hearing are, where relevant, discussed in the corresponding Merits section of the present Award.

67. During the Hearing, the Parties had ample opportunity to present their case, submit their arguments and answer the Panel's questions.

68. At the end of the Hearing, the Parties stated that they had no objections as to the procedure adopted by the Panel and confirmed that their right to be heard had been respected.

69. On 28 October 2025, the CAS Court Office provided the Parties with the reasoned Order on Request for Provisional Measures, the operative part of which was already notified to the Parties on 30 August 2024.

IV. SUBMISSIONS OF THE PARTIES

70. **The Appellant**. The Appellant's Appeal Brief contained the following requests for relief:

"*The IEOC respectfully requests the CAS to:*

- *set aside the Decision;*
- *declare the validity of the MoU until at least 5 June 2026;*
- *order the FEI to fully comply with all obligations arising from the MoU at least until 5 June 2026;*
- *declare the Purported Termination to be invalid;*
- *determine that FEI has breached the MoU;*

- *order the FEI to remedy the breaches of the MoU by consulting with the IEOC in connection with the Education System;*

- *order the FEI to:*

  (i) reimburse the IEOC its legal costs and any other expenses pertaining to this matter;

  (ii) bear any and all costs pertaining to the arbitration;

  (iii) pay penalties (astreinte) of CHF 5,000 per day to the IEOC should the FEI not timely comply with the orders set out in requests (c) and (f) above; and

- *order any such other relief as it deems appropriate".*

71. In support of its relief, the Appellant relied on the Legal Expert Opinions prepared by Professor Thomas Probst, which are referenced in the summary below as well as in the merits section below.

72. The Appellant relied on the following principal arguments:

- The 2018 MoU is valid and enforceable until at least 5 June 2026:

  - Neither the Respondent nor the Appellant terminated the 2018 MoU prior to 5 June 2022. Accordingly, the MoU was automatically renewed for a further four-year term on that date, i.e. until 5 June 2026. According to the Appellant and its Legal Expert Professor Probst (First Legal Expert Opinion of Prof. Probst, para. 29), the wording of Article 9 of the 2018 MoU is self-contradictory, i.e. it is not possible for the 2018 MoU to be both a fixed term contract, which automatically ends upon the end of the stated term and for it to contain the right for one party to terminate it upon a 6 months prior written notice, because parties are not permitted to unilaterally terminate a fixed term contract before the end of the term.

  - Article 9 of the 2018 MoU should, therefore, be interpreted as follows: the six-month notice period was not intended to interfere with the contractually agreed four-year fixed term. It was intended to allow either Party to avoid the 2018 MoU's extension for another 4-year fixed term, by giving notice to the other Party at least 6 months before the end of the 4-year fixed term (First Legal Expert Opinion of Prof. Probst, para. 31). According to the Appellant, the Parties' conduct before and after the end of the fixed term of the 2018 MoU corroborates this

interpretation. The Respondent's "expiry at the end of the fixed four-year term" argument, therefore, fails.

- Invalidity of the Purported Termination:
  - According to the Appellant's Legal Expert, the exercise of a right to (unilaterally) terminate a contract must be unconditional and irrevocable (Second Legal Expert Opinion of Prof. Probst, para. 2). However, in this case, the Purported Termination was conditional on the fact that the 2018 MoU did not cease to exist as of 5 June 2022. Therefore, the Purported Termination cannot be legally binding.
  - Moreover, Article 9 of the 2018 MoU provides for an immediate termination only on the occasion when a breach occurred. The Respondent's Notice of Termination of 29 February 2024 did not invoke any breach. Accordingly, the Notice of Termination did not qualify as a lawful exercise of a formative right to terminate the 2018 MoU with an immediate effect and is thus not legally effective.
- The FEI Tribunal's "termination six months from the Purported Termination" finding is invalid:
  - The unilateral termination of a contract constitutes a formative right that must be exercised in a manner that is both unconditional and irrevocable. Consequently, the Tribunal should not unilaterally infer or reconstruct an intent that the contracting parties themselves failed to expressly articulate within their agreement. Given these principles, the Tribunal is not in a position to recharacterise the Purported Termination – expressed as an immediate termination allegedly based on Article 404 SCO – into a six-month notice of termination under an alternative legal basis that was neither invoked nor relied upon by the Respondent in its submissions (see also, Third Legal Expert Opinion of Prof. Probst, para. 28).
  - Moreover, the Appellant maintains that an immediate termination effected without just cause is not only inconsistent with the explicit wording of Article 9 of the 2018 MoU but is also in direct contravention of the principles of good faith and fair dealing as enshrined in Article 2 of the Swiss Civil Code ("SCC"). The principle of good faith requires that contractual rights and obligations be exercised in a manner that respects fairness, predictability, and the reasonable expectations of the parties. Any attempt to terminate the agreement immediately, absent a justified legal basis, constitutes an abuse of rights and is therefore impermissible under Swiss law.

- The Respondent breached the 2018 MoU by failing to consult with the Appellant in connection with the Eventing Education System:
    - The Respondent violated its obligations under the 2018 MoU by failing to engage in consultations regarding the Eventing Education System, as expressly required by Article 5 of the 2018 MoU. This omission constitutes a general disregard for the spirit of the 2018 MoU and a breach of the cooperation framework agreed between the Parties, which mandates mutual consultation on matters falling within the scope of the 2018 MoU.
    - The Eventing Education System falls squarely within the scope of "*matters generally affecting Eventing Officials*" as defined under Article 5 of the 2018 MoU. Consequently, the Respondent was under an obligation to consult with the Appellant in good faith prior to adopting or implementing any decision that would materially impact the other party. The Respondent failed to fulfil this obligation, as no such consultation took place before the Eventing Education System decision was made, despite its significant effect on the Appellant's interests. Lastly, the FEI Tribunal's finding that the Respondent did not provide agendas and minutes of the FEI Eventing Committee meetings, as explicitly required by Article 8 of the 2018 MoU, represents only one aspect of this broader failure to consult.
    - Furthermore, the Appellant challenges the FEI Tribunal's conclusion that the consultation requirements under Article 5 of the 2018 MoU were fulfilled by the presence of the Officials' representative on the Eventing Committee. The Appellant maintains that Mr Andrew Bennie was only appointed to the Eventing Committee in his personal capacity without any formal association or mandate from the Appellant. Accordingly, the mere presence of an individual on the Eventing Committee without an express link to the Appellant cannot be deemed sufficient to satisfy the Respondent's consultation obligations under the 2018 MoU.
    - Lastly, the Respondent's conduct constituted additional multiple breaches of the 2018 MoU, including, *inter alia*, the Respondent's public announcement of the Purported Termination in violation of Articles 5 and 13, and its refusal to mediate contrary to Article 12; the Respondent's dismissive approach to communications, the 1 March 2024 announcement portraying the Appellant as disrespectful, and the allegedly misleading statements in the webinar of 15 October 2024 reflect a broader disregard for the Appellant's role.

- If the Panel were to determine that the 2018 MoU continued to apply after the date of the Purported Termination, the Appellant was denied key rights under the 2018 MoU, such as receiving Eventing Committee agendas, accessing restricted stakeholder areas on the Respondent's website, receiving industry updates, participating in consultations, proposing rule modifications to the Respondent, be recognised on the Respondent website and attending the Respondent's General Assembly as an Official Stakeholder.

73. **The Respondent**. The Respondent's Answer contained the following requests for relief:

"*The FEI respectfully requests the CAS to rule as follows:*

- *The appeal filed by the International Eventing Officials Club (IEOC) is dismissed.*
- *The decision of the FEI Tribunal, dated 20 August 2024, in the matter of C24-0007 IEOC v FEI, is confirmed.*
- *All the motions and prayers for relief requested by the Appellant in the Statement of Appeal and/or Appeal Brief are entirely dismissed.*
- *The arbitration costs shall be borne by the Appellant.*
- *The FEI is granted a significant contribution to its legal and other costs".*

74. In support of its relief, the Respondent relied on a Legal Expert Opinion prepared by Professor Jacques De Werra, which is referenced in the summary below as well as in the merits section below.

75. The Respondent relied on the following principal arguments.

- The 2018 MoU naturally expired after four years, namely on 5 June 2022, and has not been (expressly or tacitly) renewed:
  - The 2018 MoU did not contain any express provision for renewal terms upon its expiry.
  - The Parties' conduct after the agreed expiry of the 2018 MoU could not be interpreted as a tacit renewal of the 2018 MoU.
  - In response to the Appellant's claims regarding the "self-contradictory" and "unfeasible" character of Article 9 of the 2018 MoU, the Respondent relies on the Legal Expert Report prepared by Prof. de Werra, which states that, following the principle of contractual freedom,

the parties to an agreement are free to define the content of their contractual rights and obligations, provided they do not violate mandatory laws (Legal Expert Report of Prof. De Werra, para. 43).

- In the Respondent's view, a renewal of the 2018 MoU would require a re-signing of a new MoU.

- If the Panel were to determine that the 2018 MoU was renewed, such alleged renewed MoU was, in any event, validly terminated by the Purported Termination letter of 29 February 2024. That termination was fully valid and took immediate effect pursuant to Article 404 (1) SCO, which governs the termination of the MoU. Alternatively, even if Article 404 (1) SCO is not deemed a valid legal basis for the termination, the Purported Termination remained fully valid and became effective no later than six months after its issuance, i.e., on 29 August 2024. Either way, there is no valid and binding MoU between the Parties (*See also*, Legal Expert Report of Prof. De Werra, para. 68).

- The 2018 MoU was not breached.

  - In regards to the alleged breach of Article 5 of the 2018 MoU, and the non-consultation with the Appellant regarding the development and implementation of the Eventing Education System, the Respondent denies any such breach, claiming that the Appellant was closely consulted on numerous occasions and most importantly, was efficiently and timely represented during this development and implementation period by the involvement in the FEI Eventing Committee and the FEI Education Working Group of the eventing official, Mr Andrew Bennie. According to the Respondent, Mr Bennie has been unanimously endorsed by the Appellant's Board as a FEI Eventing Committee member, and ultimately the FEI Eventing Committee approved the FEI Education System.

  - Additionally, in regard to the non-consultation breach, the Respondent claims that they provided the Appellant numerous opportunities for consultation, including webinars, Q&A's documentation, an in-person meeting with the Respondent's officials and seminars organised for the exchange of information and the addressing of any questions surrounding the development and implementation of the FEI Education System. Therefore, the Respondent maintains that the Appellant "*has been effectively and timely consulted and any (perceived) lack of consultation is solely attributable to the IEOC's own failures"* including their failure to attend the seminars.

- In regard to the alleged breach of Article 8 of the 2018 MoU, and the failure to provide the Appellant with the minutes and agendas for all official Eventing Committee meetings, the Respondent notes that as the FEI Tribunal has already held, this breach and the relevant request for relief has become moot, since the Respondent has voluntarily offered to provide the Appellant with the requested minutes and agendas.

- In regard to the alleged breach that the Respondent has shown general disregard for the spirit of the 2018 MoU in its course of dealing with the Appellant, the Respondent denies this claim by providing correspondence between the Parties proving the latter respected the spirit of the MoU until the moment when the Appellant seemed to have encouraged its members to initiate legal proceedings against the Respondent by offering to cover all legal costs involved in the process.

V. JURISDICTION

76. The Appellant submitted that the CAS has jurisdiction pursuant to Article R47 of the Code, Article 12 of the 2018 MoU, and Article 162.1 of the FEI General Regulations (24th Edition).

77. Article R47 of the Code provides as follows:

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

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned".

78. Article 12 of the 2018 MoU provides as follows:

"*Article 12 -- Dispute Resolution*

Any dispute or difference between the Parties in connection with this Agreement or either Party's understanding thereof shall be submitted to the FEI Tribunal, with an appeal right to the Court of Arbitration for Sport in Lausanne, Switzerland, in accordance with the Statutes and Procedural Rules of the Court of Arbitration for Sport, Lausanne, Switzerland, to the exclusion of any recourse to ordinary courts".

79. Article 162.1 of the FEI General Regulations (24th Edition) provides as follows:

"*An Appeal may be lodged by any person or body with a legitimate interest against any Decision made by any person or body authorised under the Statutes, GRs or Sport Rules, provided it is admissible (see Article 162.2 below):*

(a) With the FEI Tribunal against Decisions of the Ground Jury or any other person or body.

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

80. The CAS's jurisdiction is not contested by the Respondent and is further confirmed by the Parties' signature of the Order of Procedure.

81. The Panel finds that the CAS has jurisdiction pursuant to Article 12 of the 2018 MoU and Article 162.1 of the FEI General Regulations (24th Edition).

VI. ADMISSIBILITY

82. Article R49 of the 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 if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after any submission made by the other parties".*

83. Article R51 of the Code provides as follows:

"*Within ten days following the expiry of the time limit for the appeal, the Appellant shall file with the CAS Court Office a brief stating the facts and legal arguments giving rise to the appeal, together with all exhibits and specification of other evidence upon which it intends to rely. Alternatively, the Appellant shall inform the CAS Court Office in writing within the same time limit that the statement of appeal shall be considered as the appeal brief. The appeal shall be deemed to have been withdrawn if the appellant fails to meet such time limit".*

84. Article 162.7 of the FEI General Regulations (24th Edition), provides as follows:

"*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".

85. Article 39.2 of the Internal Regulations of the FEI Tribunal (3rd edition), provides as follows:

"*The time to Appeal shall not begin to run until receipt of the written, reasoned Decision".*

86. The Appealed Decision was notified to the Appellant on 20 August 2024. The Appellant filed the Statement of Appeal on 10 September 2024, and therefore within the 21-day time limit prescribed by the FEI General Regulations. The Appellant's deadline to file the Appeal Brief was extended until 31 October 2024. The Appellant filed the Appeal Brief on 31 October 2024 and thus timely.

87. Accordingly, the present Appeal is admissible.

VII. APPLICABLE LAW

88. Article R58 of the 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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".*

89. Article 38.3 of the FEI Statutes (25th Edition), provides as follows:

"*All disputes shall be settled in accordance with these Statutes and other regulations of the FEI and, additionally, Swiss law".*

90. Article 11 of the 2018 MoU provides as follows:

"*Article 11 -- Governing Law*

This Agreement shall be governed by and interpreted in accordance with the laws of Switzerland".

91. The Appealed Decision was issued under the FEI Regulations.

92. Accordingly, pursuant to Article R58 of the Code, the Panel concludes that the FEI General Regulations (24th edition) and the FEI Statutes (25th edition) should apply as

the primary applicable law to the present case. Swiss law will apply on a subsidiary basis.

VIII. MERITS

A. DOCUMENT PRODUCTION REQUEST

93. As a preliminary matter, the Panel explains why it dismissed the Appellant's document production request.

94. Article R44.3 of the Code provides as follows:

"*R44.3 Evidentiary Proceedings Ordered by the Panel*

A party may request the Panel to order the other party to produce documents in its custody or under its control. The party seeking such production shall demonstrate that such documents are likely to exist and to be relevant.

If it deems it appropriate to supplement the presentations of the parties, the Panel may at any time order the production of additional documents or the examination of witnesses, appoint and hear experts, and proceed with any other procedural step. The Panel may order the parties to contribute to any additional costs related to the hearing of witnesses and experts".

95. The Appeal Brief included the following document production request:

"*The IEOC respectfully requests that the FEI produces all correspondence and documents shared amongst any of the following: (a) the FEI Board; (b) Ms Catrin Norinder; (c) Mr Francisco Lima; and (d) the FEI legal department; in so far as they relate to the renewal and/or termination of the MoU, from 6 October 2022 to 29 February 2024".*

96. The Appellant submitted that their document production request is limited in scope, as it describes the type of documents requested, *i.e.* correspondence and shared documents, the subject matter of those documents, *i.e.* the renewal and/ or termination of the 2018 MoU, and is limited in time, *i.e.* between 6 October 2022 and 29 February 2024. Additionally, it is referring to documents which are likely to exist due to the internal discussions and announcements made by the Respondent's named officials. The documents are also relevant to the issues at hand, *i.e.* the renewal and/or termination of the 2018 MoU and the request was timely, as Article R44.3 of the Code provides that "*the Panel may at any time order the production of additional documents*".

97. The Respondent opposed the document production request, on the grounds that it should have been submitted earlier, citing Article 39.5 of the FEI Statutes (25th edition)

and Article R57.3 of the Code, and that it was anyway overly broad, lacking specificity (only vaguely referring to "*all correspondence and documents*"), and lacking relevance and materiality to the dispute at hand, constituting therefore "*a textbook example of a fishing expedition*".

98. Article 39.5 of the FEI Statutes (25th Edition) provides as follows:

"*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".*

99. Article R57.3 of the Code provides as follows:

"*The Panel has discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. Articles R44.2 and R44.3 shall also apply".*

100. The Panel dismissed the request for production of documents for the following reasons.

101. Any document production request must refer to documents which are relevant and likely to exist, it must be made in a timely manner and not produce unnecessary or disproportionate burden to the parties. The burden of demonstrating the basis for such request bears on the requesting party. The Appellant failed to fulfil the burden.

102. The Appellant sought "*all correspondence and documents*" from an extensive group comprising at least 32 individuals across different departments of the Respondent's organisation, without adequately specifying the nature, format, or the particular type of correspondence or documents sought (*e.g.*, FEI board of directors meeting minutes, official internal memoranda, or reports). The suggested search terms such as "International Eventing Officials Club", "IEOC", "MoU" and "Memorandum of Understanding" is too generic, and when applied across numerous custodians and databases over an extended timeframe of 17 months, would inevitably yield a significant amount of unrelated information, making the exercise disproportionately burdensome without a targeted aim.

103. Absent a sufficiently precise articulation by the Appellant regarding what specific information or evidence it reasonably expects to find, such as references to particular meetings, decisions, or known communications, or a clear explanation as to exactly how such documents would materially affect the determination of the legal questions at issue, the document production request remained speculative and broadly exploratory.

Consequently, rather than being focused and targeted, the Panel considered that the request resembles a "fishing expedition" designed in the hope of uncovering evidence, rather than based on a concrete understanding or reasonable expectation of relevant and material documentation, and dismissed it accordingly.

B. ANALYSIS OF THE MERITS

104. The case at hand raises the following principal issues:

- a. Did the 2018 MoU expire or was it automatically or tacitly renewed?
- b. If it was renewed, was it validly terminated by the Purported Termination?
- c. Were there any breaches of the 2018 MoU?

105. These issues are addressed below and reflect the testimonies of the Parties' Legal Experts at the Hearing on the following pre-agreed 'hot-tub' questions:

1. What is the legal qualification of the 2018 MoU under Swiss law and which provisions apply to it?
2. How should Clause 9 of the MoU executed between the parties in 2018 be interpreted under Swiss law (under the subjective and under the objective method of contract interpretation)?
3. What is the relevance of the parties' conduct during and after the four-year period of the 2018 MoU with regard to its extension/renewal?
4. For there to be a binding contract under Swiss law which aspects must be agreed by the parties and what happens with aspects not (yet) agreed?
5. Under Swiss law how can a contract of (fixed or indeterminate) duration be unilaterally terminated?
6. Assuming that the contractual relationship between the FEI and IEOC continued after the 2018 MoU's original expiry (as defined in Clause 9), is the notice of termination sent by the FEI to IEOC on 29 February 2024 legally valid?
7. If so, what are the consequences of such termination under Swiss law?
8. If the termination was invalid, what are the consequences for the Contract under Swiss law?

9. What is the concept of "conversion" under Swiss law and does it apply to the Notice of Termination addressed by the FEI to the IEOC of 29 February 2024?

10. Does the FEI Tribunal's decision comply with Swiss law?

a. Renewal

106. The issue of the 2018 MoU expiry or renewal raises two questions:

- (i) Did the 2018 MoU automatically renew for another successive four-year period?
- (ii) If not, was the 2018 MoU tacitly renewed for an indefinite period of time?

i. *Did the 2018 MoU automatically renew for another successive four-year period?*

107. The initial question is whether the 2018 MoU concluded on 5 June 2018 was *automatically* renewed beyond its initial four-year term (which ended on 5 June 2022), for another four-year period.

108. The topical provision is Clause 9 of the 2018 MoU which reads as follows:

"*The MOU shall remain in effect for a period of four (4) years from the date of execution. The Parties shall meet at least once annually to review the Agreement and discuss its effectiveness and, where appropriate, modify its terms on mutual written agreement. This Agreement can be terminated with immediate effect upon a breach by either party or, in the absence of a breach, on six (6) month's prior written notice to the other".*

109. **Legal Experts testimony**. The Legal Experts testified as follows in relation to Q1 and Q2 of the 'hot tub' questions list:

- Both experts agreed the 2018 MoU is a binding innominate contract under Swiss law and not a pre-contractual instrument.
- The Appellant's Legal Expert characterised it as a bespoke, atypical innominate contract with no sufficient similarity to a mandate, lease, or simple partnership to justify analogical application of legal provisions related to those instruments (*See also*, First Legal Expert Opinion of Prof. Probst, para. 21).
- The Respondent's Legal Expert likewise accepted the 2018 MoU's innominate nature, but considered it sufficiently akin to a mandate-type

relationship, given reciprocal duties of consultation/information (e.g., Clauses 5–7 of 2018 MoU). On this basis, he opined that provisions applicable to a mandate agreement – especially the termination rules under Article 404 SCO – may apply by analogy (*See also*, Legal Expert Report of Prof. De Werra, paras. 22 – 23).

- Both experts agreed that the MoU title is not of dispositive nature; Article 18 SCO directs focus to content and the Parties' intent. In response to the Panel's "*center-of-gravity of the relationship*" inquiry, the Appellant's Legal Expert resisted analogy with a mandate for lack of similarity while the Respondent's Legal Expert maintained the analogy with a mandate is appropriate where sufficient similarity exists, particularly for termination issues.

- The Appellant's Legal Expert contended that Clause 9 of the 2018 MoU provision is internally inconsistent ("*a self-contradictory and unfeasible concept*"), because it provides for a fixed term while also enabling any Party to walk away at any time upon giving a notice (*See also*, First Legal Expert Opinion of Prof. Probst, para. 29). By applying the objective method, such inconsistency should be interpreted to mean that the 2018 MoU renews automatically for a subsequent four-year term unless a Party gives a 6-month notice prior to the expiry of the original term. Finally, he stressed that subjective interpretation (true common intent) is a factual matter for the Panel to decide and did not opine on it.

- Conversely, the Respondent's Legal Expert rejected any "*tension of logic*," invoking freedom of contract and contemporary Swiss practice (Federal Supreme Court ["FSC"], Decision 4A_245/2024 [24.06.2025]) to support the coexistence of a fixed term and an early termination with a six months' notice by either Party; in his view, the text does not support automatic renewal. He added that subsequent conduct and statements indicate the Parties did not regard the 2018 MoU as automatically renewing, and that a six-month notice can be exercised at any time (not just pre-expiry), absent contrary wording.

- Finally, both Legal Experts confirmed that a clause that combines a fixed term with early termination on notice does not violate any mandatory Swiss-law provision.

110. **Panel analysis**. Article 18(1) of the SCO provides as follows, in the unofficial English translation of the federal administration:[1]

"*When assessing the form and terms of a contract, the true and common intention of the parties must be ascertained without dwelling on any inexact expressions or designations they may have used either in error or by way of disguising the true nature of the agreement".*

111. The analysis must be conducted *ex tun*c, focusing on the Parties' intentions at the time of contract conclusion, rather than based on post-facto interpretations arising from the current dispute (*ex nunc*). However, pursuant to established case law (Decision of the Federal Supreme Court ["DFSC"] 144 III 93, rec. 5.2.2), "*the Tribunal must first seek to ascertain the actual and common intention of the parties (subjective interpretation), if necessary empirically, on the basis of evidence. Indications in this regard include not only the content of the declarations of intent – whether written or oral – but also the general context, i.e. all the circumstances that enable the actual intent of the parties to be ascertained, whether these are declarations made prior to the conclusion of the contract or events subsequent to it, in particular the subsequent behaviour of the parties establishing what the contracting parties themselves believed at the time*" (free English translation of the French original).

112. Pursuant to DFSC 144 III 93, rec. 5.2.3, "*if the tribunal is unable to determine the actual and common intention of the parties – because the evidence is lacking or inconclusive – or if it finds that one party did not understand the intention expressed by the other at the time the contract was concluded – which is not already apparent from the mere fact that it asserts this in the proceedings, but must result from the taking of evidence – it must resort to normative (or objective) interpretation, i.e. seek their objective intention by determining the meaning that, according to the rules of good faith, each of them could and should reasonably have attributed to the other's declarations of intention" (interpretation selon le principe de la confiance).* "[…] *According to this principle, the declarant's internal intention to commit is not the only determining factor; an obligation on their part may arise from their behaviour, from which the other party could, in good faith, infer an intention to commit. The principle of trust thus allows the objective meaning of a party's statement or behaviour to be attributed to that party, even if it does not correspond to their innermost intention*" (free English translation of the original text in French).

113. The starting point of this analysis is, therefore, the wording of the contract – the literal interpretation (DFSC 133 III 406, para. 2.2). Furthermore, the Panel has to assess other elements of interpretation – such as the overall circumstances and the Parties' behaviour

[1] https://www.fedlex.admin.ch/eli/cc/27/317_321_377/en#art_18.

and actions prior to and after the conclusion of the contract – which can assist in clarifying what (if any) was the Parties' "*true and common intention*" at the time of conclusion of the contract (DFST 144 III 93 rec. 5.2.2).

114. The Panel considers that the literal interpretation of Clause 9 of the 2018 MoU – governing the duration and termination of the agreement – is not ambiguous. The wording of Clause 9 provides that the MoU "*shall remain in effect for a period of four (4) years*" establishing a fixed term contract without explicitly or implicitly providing for an automatic renewal at the expiry of the stipulated term. Moreover, the Appellant's argument that Clause 9 is "*self-contradictory*" or ambiguous – due to its inclusion of a six-month termination notice within a fixed-term agreement – is unconvincing. Under Swiss law – which recognises contractual freedom – the parties to an agreement are free to define the content of their contractual rights and obligations, provided they do not violate mandatory laws (Article 19(1) SCO). Neither the Appellant nor its Legal Expert identified or cited any mandatory provision of Swiss law prohibiting the inclusion of a termination clause at will upon notice in a fixed-term contract. When probed about this by the Panel at the Hearing, the Appellant's Legal Expert stated that such clause is not prohibited by Swiss law.

115. Accordingly, the Parties were entirely free to agree to a fixed term contract, while maintaining the ability to terminate it within a pre-defined period ahead of the term's expiry. Put simply, the Parties exercised their contractual freedom and agreed specific contours of the duration of their arrangement – a fixed term that provides some degree of foreseeability while maintaining a flexibility to walk away.

116. Moreover, the Panel notes that the Parties' conduct further reinforces their common understanding that the 2018 MoU was not automatically renewed for another four-year term.

- First, at the time the 2014 MoU (which was almost identical to the subsequent 2018 MoU) expired on 30 January 2018, the Parties did not act as if that MoU was automatically extended for another four-year period but signed a new MoU some five months later – the 2018 MoU.

- Second, upon the expiry of the four-year term of the 2018 MoU, the Parties' contemporaneous communications clearly showed a common understanding that the 2018 MoU was not automatically renewed for a four-year period:

    - On 6 October 2022, Mr Andy Griffiths (Chairman of the IEOC) e-mailed Mr Francisco P. Lima (FEI Governance & Institutional Affairs Director) as follows:

"*Dear Francisco*

I believe the MOU [i.e. the MoU] we have with the FEI is due to be re- signed ? Can you let me know the procedure

Many thanks

Andy

Chairman IEOC".

- On 23 May 2023 Mr Andy Griffiths e-mailed Mr Francisco P. Lima as follows:

"*Dear Francisco*

I was just wondering what has happened to our MOU which was due for re signing last year, can you possibly look into this for us. […]

Look forward to hearing and thanks

Kindest regards,

Andy".

- On 30 May 2023, Mr Francisco P. Lima e-mailed Mr Andy Griffiths as follows:

"*Dear Andy,*

Thanks for your email.

The MOU renewal is in my list to do but we are currently updating he [sic] MOUs content in view of the latest developments and discussions around certain topics e.g. Social License to Operate and Good Governance. We will provide you with a copy for your review in due time.

Thanks for your patience here.

Regarding the Candidates for the Eventing Committee and as per the MOU that we had signed with IEOC, any appointment to an FEI Committee where an Eventing official representative is required will optimally be made following a consultation with the IEOC.

> *This year the Eventing Committee has showed its preference for a Candidate with Eventing Judge background and for this reason we are sharing with you the Candidacies received. We would be grateful if you can please provide us with your reasoned input by 9 June so we can share it with the Nominations Committee ahead of its meeting on 13 and 14 June.*
>
> *Please keep the attached documents strictly confidential, to be shared with your Board only, which should be also informed about the confidential status of it. […]".*

117. **Conclusion**. Both the literal interpretation of Clause 9 of the 2018 MoU and the Parties' prior and subsequent conduct confirm that the true and common intent of the Parties was not to provide for a mechanism for an automatic renewal of the MoU. They both understood that the renewal of the MoU needed a reaffirmed common understanding to renew such agreement. Accordingly, the Panel finds that the 2018 MoU did not automatically renew for a further four-year period.

ii. *Was the 2018 MoU tacitly renewed for an indefinite period of time?*

118. The Appealed Decision found that the 2018 MoU was tacitly renewed for an indefinite period of time. The Appellant's alternative plea maintains that the 2018 MoU was tacitly renewed.

119. The Respondent argues in the present proceedings that the 2018 MoU expired at the end of its four-year term and was not tacitly renewed. However, the Panel notes that the Respondent did not file a separate appeal against the Appealed Decision within the applicable time limit for appeal. In its Answer and request for relief, the Respondent requested solely that the Appeal be dismissed and the Appealed Decision be confirmed. This raises two threshold issues.

120. First, absent an individual appeal, the Respondent cannot use the Appellant's Appeal to modify the Appealed Decision. The CAS jurisprudence (CAS 2010/A/2252, para. 40; CAS 2010/A/2098, paras 51-54 and CAS 2010/A/2108, paras 181-183) treats such attempts as inadmissible in appeals proceedings.

121. Second, while Article R57 of the Code grants the Panel a power to conduct a *de novo* review, such power does not extend to ruling on matters beyond the scope of the Parties' prayers for relief (limitation by the principle *non ultra petita*). It follows from CAS case-law that "*in accordance with the non ultra petita principle, a CAS panel must adhere to the specific parameters of the party's request for relief and is unable to substitute an alternative relief irrespective of whether it would be correct based on the evidence*" (CAS 2020/A/6916; CAS 2020/A/6889; CAS 2020/A/6950).

122. In light of the foregoing, the Panel is therefore prevented from ruling that the 2018 MoU was not tacitly renewed, insofar as that would inevitably go beyond the Respondent's request to dismiss the Appeal and confirm the Appealed Decision.

123. That said, for the sake of completeness, the Panel explains why the evidence at hand in any event shows that the 2018 MoU was in fact tacitly renewed.

124. **Legal Experts testimony**. The Legal Experts testified as follows in relation to Q3 and Q4 of the 'hot tub' questions list:

- On the relevance of the Parties' conduct during and after the four-year period of the 2018 MoU regarding its extension or renewal, the Appellant's Legal Expert explained that such conduct may serve two distinct functions. It can either constitute an act intended to produce legal effects ("*acte juridique*"), such as a renewal or amendment, or merely provide factual evidence of the Parties' understanding of the contract. He stressed that conduct before, at, or after conclusion may prove the subjective interpretation of the Parties' common intent, whereas under objective interpretation only circumstances existing at the time of conclusion are relevant. Later conduct may indicate a new agreement, but not alter the meaning of the original one (*See also*, First Legal Expert Opinion of Prof. Probst, para. 33 *et seq*.).

- The Respondent's Legal Expert agreed that post-signing conduct can assist in determining the real and common intention of the Parties, or even establish a new agreement by conclusive acts. However, he emphasised that in order to infer a tacit renewal of the 2018 MoU, the Parties would have had to perform all essential obligations. He added that the entire agreement clause contained in Clause 10 of the 2018 MoU shows that the Parties did not intend amendments or renewals to occur informally through conduct.

- On the elements that must be agreed for a binding contract under Swiss law, both Experts concurred that a contract requires agreement on its essential elements. The Appellant's Legal Expert noted that for atypical contracts like the 2018 MoU, such elements must be determined case-by-case, and that any term considered subjectively essential by one Party must have been clearly communicated to the other. If secondary points remain open, the contract is still valid, and any gaps may be filled by a judge.

- The Respondent's Legal Expert agreed, describing subjective essential elements as conditions *sine qua non* that must be flagged in advance. He further clarified that while courts may fill contractual gaps by analogy or

general principles, this process differs from applying mandatory statutory provisions, which apply regardless of any gap.

125. **The Panel analysis**. The 2018 MoU does not contain any express provision governing its renewal upon expiration. The FEI Tribunal observed in the Appealed Decision that when the parties' real and common intent regarding renewal cannot be ascertained under Article 18 SCO, Swiss doctrine provides that "*where it is not possible to reach an agreement on the duration of the renewed contract, it should in principle be assumed that the contract will be transformed into a contract of indefinite duration.*[…] *This solution is inspired by the general tendency of the legislator to consider that a tacitly renewed fixed-term contract becomes a contract of indefinite duration*" (Appealed Decision, para. 56).

126. The above rule is expressly provided for certain nominate contracts – such as a lease (Article 266[2] SCO) and an employment agreement (Article 334[2] SCO) – where a fixed-term contract expires, but the parties continue to perform their duties thereafter, and the contractual relationship converts into an indefinite-term contract. Legal doctrine confirms that this principle applies by analogy to innominate contracts, such as the 2018 MoU, where continued performance after expiry implies tacit renewal for an indefinite period (DURANTE, Le renouvellement des contrats de durée, Zurich 2016, p. 38 and 134; TERCIER/CARRON, Les contrats spéciaux, 6th ed., Zurich 2025, N 8295; WILDHABER in: Handkommentar zum Schweizer Privatrecht, 2007, Innominatverträge / Franchisenvertrag, 4th ed., Zurich 2024, N 25).

127. Moreover, as the Legal Experts noted in their testimonies, in order to infer a tacit renewal of the 2018 MoU, the Parties must have continued to perform all essential obligations of the expired agreement. This view also aligns with CAS jurisprudence. In CAS 2013/A/3375 & 3376, the panel held that post-expiration conduct – such as continued performance, salary payments, and renewal of administrative requirements – constituted material evidence of the parties' acceptance of a contractual extension. The panel concluded that these acts collectively demonstrated mutual intent to maintain the contractual relationship.

128. It follows that a tacit renewal may arise when, following the expiry of a fixed-term contract, both parties continue to perform their essential obligations in a manner that unequivocally indicates their common intent to preserve their arrangement. The determination of such intent is a factual inquiry guided by the conduct of the parties before and after the contract's expiration. Accordingly, the Panel will assess the true intent of the Parties through their behaviour surrounding the expiry of the 2018 MoU.

129. The evidence and the density of the Parties' conduct show that following the expiry of the four-year term of the 2018 MoU on 5 June 2022, the Parties largely continued to cooperate and to act in accordance with the framework and rights and obligations

provided under the 2018 MoU, at least for some time. This reflects the following considerations in particular:

- **Continued discussions on the re-signing of the 2018 MoU**. The correspondence exchanged between the Parties, confirmed by the testimony of witnesses during the Hearing, demonstrates the continuity of the collaboration and ongoing discussions concerning a planned re-signing of the 2018 MoU. Notably, this is evidenced by the email exchanges between Mr Andy Griffiths and Mr Francisco P. Lima on 6 October 2022, 23 May 2023, and 30 May 2023 (*supra* para. 115).

- **Broader collaboration between the Parties during this period.** As testified during the Hearing by Mr Andrew Griffiths, Chairman of the Appellant, the Respondent never raised any objection or indicated that the 2018 MoU had expired in the months following June 2022. The first time such a position was explicitly taken was by email dated 12 October 2023 – more than sixteen months after the 2018 MoU's expiry. This extended period of continued interaction included consultations and discussions between the Parties, participation of the Appellant's representatives in the Respondent's meetings, and ongoing exchanges on governance and officiating matters. For example, on 30 May 2023, Mr Francisco P. Lima e-mailed Mr Andy Griffiths explicitly inviting him to comment on the Eventing Committee candidates – almost a year after the four-year period of the 2018 MoU had lapsed. Moreover, by email dated 17 October 2023, Mr Rentsch (the Respondent's Legal Director), while asserting that the four-year period of the 2018 MoU had lapsed, expressly acknowledged that the Respondent had "*extensively engaged with the IEOC in the past months*," thereby confirming the continuation of cooperation under the 2018 MoU's framework.

- **Access to privileged information available to Recognised Stakeholders only**. Following the expiry of the 2018 MoU in June 2022, the Appellant retained access to the restricted stakeholder section of the FEI website – reserved exclusively for Recognised Stakeholders. This access remained available well into 2023. Additionally, as submitted by the Appellant in its Appeal Brief and also confirmed during the Hearing, on 18 October 2023, 19 October 2023, 2 November 2023, and 7 November 2023, the Respondent continued to provide the Appellant with email updates on governance and officiating matters addressed exclusively to National Federations and copied only to the FEI Board, Official Stakeholders and the FEI Headquarters, *i.e.* information reserved exclusively for FEI Recognised Stakeholders.

- **Website listing**. As late as 26 January 2024, the Appellant continued to be publicly listed on the Respondent's website as an official FEI Stakeholder. This public acknowledgment reinforced the notion that the Parties' relationship remained governed by the framework and mutual rights provided under the 2018 MoU.

- **Meetings**. The evidence further demonstrates that the Parties continued to meet and cooperate after 5 June 2022. On 21 June 2023, the Parties met in person at the Respondent's headquarters in Lausanne, Switzerland, to discuss ongoing cooperation and matters surrounding the newly established Eventing Education System. Moreover, between 18–21 November 2023, Mr Griffiths and Ms Stewart attended parts of the FEI General Assembly in their official stakeholder capacity.

- **Parties' historical relationship and prior conduct.** The Parties' prior conduct further shows that their collaboration had also continued uninterrupted during the interval period between the 2014 MoU's expiry on 30 January 2018 and the conclusion of the 2018 MoU on 5 June 2018. This has also been confirmed by the testimony of Mr Francisco Lima, FEI Director of Governance, who acknowledged during the Hearing that cooperation persisted during that intervening period in 2018 – demonstrating the Parties' prior practice of maintaining relations seamlessly beyond formal expiry dates.

130. In light of the foregoing conducts by both Parties after the expiry of the MoU 2018, the Panel concludes that the Parties' 2018 MoU was tacitly renewed for an indefinite duration.

131. This raises a separate question as to the form and nature of the renewed arrangement. The Respondent's Legal Expert argued that the renewed arrangement bore similarities to either a mandate agreement (Article 394 seq. SCO) or a simple partnership (Article 530 seq. SCO). In his view, the 2018 MoU contained reciprocal obligations to provide services – such as consultation, information sharing, and cooperation – comparable to those typically found in mandate relationships. He further submitted that the 2018 MoU's emphasis on "trust," "mutual commitment," and "spirit of cooperation" aligned it conceptually also with a simple partnership, given the Parties allegedly pursued a shared goal within the equestrian sport community. On that basis, he contended that provisions applicable to simple partnerships and mandate agreements – particularly the right of termination at will under Article 404 SCO – could apply by analogy to the 2018 MoU and its tacit renewal (*See also*, Legal Expert Report of Prof. De Werra, paras. 23 – 28).

132. The Panel is not convinced with these comparisons.

- Comparison with a mandate. Pursuant to Article 394(1) SCO, a mandate is defined as "*a contract whereby the mandatee undertakes to conduct certain business or provide certain services in accordance with the terms of the contract"*.[2] From the definition, it is evident that the very essence of a mandate presupposes the existence of a principal–agent relationship, characterised by a clear allocation of duties and a relationship of trust. However, as the Respondent's own Legal Expert acknowledges at paragraph 31 of his written opinion, "*In this case, it is difficult to identify the specific contractual obligation(s) that characterize the MoU and also to identify who (between the Parties) would be the one performing such contractual obligation(s)".*

  Moreover, as noted by the Appellant's Legal Expert during the Hearing, if it is unclear who acts as principal and who as agent, the defining elements of a mandate are absent. The 2018 MoU contains mutual commitments of collaboration, consultation, and information exchange – not an obligation by one party to act on behalf of the other.

  Accordingly, the Panel finds that the Parties' arrangement post-expiry of the 2018 MoU did not constitute a mandate or an innominate contract containing obligations of services that are typical to mandate agreements.

  Comparison with a simple partnership. Pursuant to Article 530 SCO "*two or more persons agree to combine their efforts or resources to achieve a common goal*", coupled with the so-called *affectio societatis* – the intent to act jointly and to assume shared liability for the actions of the partnership. According to the Appellant's Legal Expert, such intention is absent in this case as the Parties' cooperation under the 2018 MoU did not entail joint management, common assets, or mutual liability; rather, each Party retained its own institutional autonomy and responsibilities. The Panel agrees that the 2014 MoU and the 2018 MoU primarily established a framework for consultation and coordination between two independent, sophisticated organisations that always maintained their distinct nature and characteristics. It is also difficult to accept that the Parties each made a contribution pursuant to the requirement of Article 531(1) SCO ("*Each partner must make a contribution, which may be money, objects, claims or labour* ").[3]

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[2] Unofficial translation from the website of the Federal administration, Fedlex: https://www.fedlex.admin.ch/eli/cc/27/317_321_377/en#art_394.

[3] Unofficial translation from the website of the Federal administration, Fedlex: https://www.fedlex.admin.ch/eli/cc/27/317_321_377/en#art_531.

Accordingly, the Panel finds that the Parties' arrangement post-expiry of the 2018 MoU did not constitute a simple partnership.

133. Instead, the Panel is mindful that the Parties operated under essentially identical MoUs from 2014 until June 2022. And since June 2022, the Parties continued to cooperate within the framework and rights and obligations provided under the 2018 MoU, at least for some time. Accordingly, based on the Parties' prior and subsequent conducts and dealings, the Panel considers that the 2018 MoU was tacitly renewed in the same format and content (except in relation to its duration, which became indefinite).

134. **Conclusion**. In light of the foregoing, the Panel concludes that the 2018 MoU was tacitly renewed in the form and content of the 2018 MoU, but for an indefinite period.

b. Termination

135. On 29 February 2024, the Respondent sent the Appellant the Purported Termination notice, which provided as follows:

"*Dear Mr Griffiths, Dear Ms Stewart,*

You are notified that the FEI hereby terminates the Memorandum of Understanding (MOU) between the International Eventing Officials Club (IEOC) and the FEI that had been signed in June 2018, provided that the MOU has not already expired. The termination shall take effect immediately.

As a consequence, please kindly note that the FEI will no longer recognise the IEOC as an official FEI Stakeholder and that the FEI will update the FEI website accordingly. The FEI will also remove the IEOC's access to any restricted (password-protected) areas in the FEI website that are reserved exclusively to Stakeholders recognised by the FEI.

Given the circumstances, we trust that you understand the FEI's position.

Yours sincerely

Sabrina Ibáñez, Mikael Rentsch".

136. The Appellant argues that such a termination is invalid for the following principal reasons:

- (i) It is not unconditional;
- (ii) Absent a breach, there is no right to terminate with an immediate effect;

- (iii) There is no basis to *convert* an invalid termination with an immediate effect into a valid termination within a reasonable notice period.

137. The Panel will deal with each issue in turn.

i. Conditionality

138. The Legal Experts testified as follows in relation to Q5 and Q6 of the 'hot tub' questions list:

- On the essential Swiss-law framework governing termination of long-term contracts, the Appellant's Legal Expert explained that a fixed-term contract ordinarily binds the parties until expiry, subject only to termination for just cause, while a contract of "*indeterminate*" duration is terminable by unilateral notice, subject to notice periods and termination dates, as reflected in statutory models such as lease and employment law (Article 266a(1) SCO – Ordinary termination of leases, Article 335(1) SCO – Ordinary termination of employment contracts).

- The Respondent's Legal Expert concurred on these general principles, but emphasised the Parties' freedom to define termination modalities, which in his view they did in Clause 9 of the 2018 MoU. He further submitted that if the Panel finds that the 2018 MoU (or any renewed version) bears sufficient resemblance to a mandate-type contract, Article 404 SCO applies, allowing termination at any time. He reiterated that if the Panel would not apply mandate-related provisions, the 2018 MoU also shares features with a simple partnership, allowing termination by analogy with Article 546(1) SCO.

- On the validity of the Purported Termination, the Appellant's Legal Expert considered the notice legally invalid because it (1) cited no legal basis for termination, (2) was expressed conditionally ("*provided that the MoU has not already expired*") – which he argued is impermissible for a unilateral formative act, comparing it to a student tenant attempting to terminate a lease "on the condition that I pass my exams", and (3) could not rely on Article 404 SCO, as the 2018 MoU does not have the characteristics of a mandate (*See also*, Third Legal Opinion of Prof. Probst, paras. 22, 28).

- The Respondent's Legal Expert maintained that the notice was valid, explaining that Swiss law imposes no requirement to identify a statutory basis in a termination letter (*See also*, Legal Expert Report of Prof. De Werra, para. 32). Moreover, he rejected the exam/lease analogy on the grounds that the notice's formulation did not depend on an external, future and uncertain

event, but merely reflected an ongoing dispute regarding the 2018 MoU's continuation.

139. The Panel notes that the Appellant's argument on conditionality rests on the proposition that the Purported Termination was expressed in uncertain terms, namely that it would take effect only "*provided that the MoU has not already expired*". According to the Appellant's Legal Expert, such wording rendered the declaration ineffective *ab initio*, as unilateral formative acts under Swiss law – such as termination – must be clear and unconditional to produce legal effect.[4]

140. Under Swiss law, a contract is conditional where its legal effect depends on an uncertain future event (*condition suspensive*), such as a result or occurrence external to the declarant's will.[5] In the present case, the Purported Termination did not depend on any such uncertain (future) event. The reference in the Purported Termination to termination taking effect "*provided that the MoU has not already expired"* does not constitute a condition dependent on a future event, but rather a clarification addressing an existing legal uncertainty – namely, whether the 2018 MoU remained in force at the time of the notice.

141. In light of the foregoing, the Panel concludes that the Purported Termination was not conditional within the meaning of Swiss law and cannot be regarded as *ab initio* invalid.

ii. Termination with an immediate effect

142. The Legal Experts testified as follows in relation to Q7 and Q8 of the 'hot tub' questions list:

- On the validity of the Purported Termination, the Appellant's Legal Expert explained that if the termination was valid, it would take immediate effect upon receipt, as is typical for termination of a long-term relationship under Swiss law. However, in his opinion, the Purported Termination is invalid

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4 DFSC 135 III 444 ("*Surtout, l'exercice du droit formateur, en raison de ses effets pour le cocontractant, doit reposer sur une manifestation de volonté claire et dépourvue d'incertitudes. Ainsi, il a été jugé que l'exercice d'un droit formateur doit être univoque, sans condition et revêtir un caractère irrévocable* (ATF 133 III 360 consid. 8.1.1 p. 364; 128 III 129 consid. 2a p. 135) – Free translation (« Above all, the exercise of a formative right, because of its effects on the co-contractor, must be based on a clear expression of will, devoid of uncertainties. Thus, it has been ruled that the exercise of a formative right must be unambiguous, unconditional and irrevocable (DFSC 133 III 360 rec. 8.1.1 p. 364; DFSC 128 III 129 rec. 2a p. 135)").

5 Article 151 of the SCO states: "*1. A contract is conditional if its binding nature is made dependent on the occurrence of an event that is not certain to happen. 2. The contract takes effect as soon as this condition precedent occurs, unless the parties clearly intended otherwise*".

and therefore, the legal consequence is that the 2018 MoU has renewed for a further four-year period (*See also*, First Legal Opinion of Prof. Probst, para. 37).

- The Respondent's Legal Expert maintained the view that the Purported Termination was legally effective, reiterating that Article 404 SCO applies not only to typical mandate agreements but also to atypical mandate-like long-term contracts, *i.e.*, innominate agreements that display sufficient functional similarities with mandates, particularly where trust and ongoing cooperation are central to the relationship. On that basis, he considered the termination immediately effective upon receipt. If, however, the termination was held invalid, he accepted that the contractual relationship would continue, but argued that any tacit renewal could only be for an indefinite duration rather than for a further fixed four-year period (*See also*, Legal Expert Report of Prof. De Werra, para. 68).

143. As explained above, the 2018 MoU was not tacitly renewed in the form of a mandate, (or an innominate contract containing obligations of services that are typical to a mandate), or a simple partnership. There is therefore, according to the Panel, no reasonable basis to apply by analogy termination provisions related to a mandate or a simple partnership.

144. Instead, the Panel found above that the Parties' arrangement was effectively tacitly renewed in the form and nature of the 2018 MoU (but for the duration, which was indefinite). It follows that Clause 9 of that MoU expressly provides that the agreement "*can be terminated with immediate effect upon a breach by either party or, in the absence of a breach, on six (6) month's prior written notice to the other".* The Panel notes that no breach was claimed and therefore the condition for an immediate termination within the meaning of Clause 9 was not met.

iii. Conversion

145. The Legal Experts testified as follows in relation to Q9 and Q10 of the 'hot tub' questions list:

- Both Experts agreed that the concept of a conversion is recognised under Swiss law and, in principle, allows a defective legal act to be re-interpreted as another valid act if such requalification reflects the presumed intent of the party and does not prejudice the other. This doctrine, derived from Article 18 SCO and confirmed by the Swiss legal doctrine and case law (DFSC 126 III 184 rec. 3b) is an expression of the principle of good faith and aims to preserve, where possible, the effectiveness of a party's declaration rather than its nullity.

- The Appellant's Legal Expert, while acknowledging the existence of this doctrine, contended that it could not apply to the present case. In his view, the Purported Termination was invalid *ab initio* and therefore incapable of transforming into another valid form of termination. He further argued that the doctrine of conversion must not be applied to the disadvantage of the other party or invoked *sua sponte* by the adjudicating authority in the absence of a corresponding plea by a party (*See also*, Third Legal Opinion of Prof. Probst, paras. 23 *et seq.*).

- Thus, as the Appellant's Legal Expert opined, the Panel cannot substitute or reconstruct a different and conditioned declaration of intent, when the party itself never expressed it. Finally, he emphasised that an expansive application of the conversion doctrine would undermine legal certainty, citing case DFSC 135 III 441, where the Swiss Federal Tribunal cautioned that conversion must not be admitted where it would create ambiguity or uncertainty as to the parties' rights and obligations (DFSC 135 III 444 *supra,* and DFSC 133 III 360 rec. 8.1.1; DFSC 128 III 129 rec. 2a).

- Conversely, the Respondent's Legal Expert accepted that conversion is available "*in principle*" and argued that its application in the present circumstances was both legally sound and equitable. He explained that Swiss jurisprudence allows for the conversion of an invalid or inoperative termination into a valid one with a reasonable notice period, particularly in the context of duration contracts and leases, where courts have consistently sought to maintain continuity of the contractual relationship while avoiding undue surprise to the counterparty.[6] He noted that the present situation is comparable to the one regulated by Article 266a(2) SCO in relation to the termination of lease agreements (*See also*, Legal Expert Report of Prof. De Werra, para. 74 *et seq.*).

- On the compliance of the Appealed Decision with Swiss law, the Respondent's Legal Expert noted that construing the Purported Termination as the initiation of a six-month notice period complied with Swiss law. He noted that this decision did not prejudice the Appellant, as such interpretation merely gave practical effect to the Respondent's manifest intention to terminate the 2018 MoU and came with no surprise to the Appellant. The Respondent's Legal Expert thus considered that conversion was not only permissible but aligned with the principle of good faith and the Parties' common understanding of Clause 9 of the 2018 MoU.

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6 DFSC 135 III 441.

- The Appellant's Legal Expert opined that the Appealed Decision did not comply with Swiss law because there was no evidence that the Parties had expressed any intention or will to introduce such a termination mechanism into their relationship.

146. The Panel takes note of the consensus between the Parties' Legal Experts on the fundamental existence and legal recognition of the 'conversion' mechanism under Swiss law. The Parties' Legal Experts, however, disagree as to whether that mechanism is applicable in this case.

147. The Panel recalls that since the inception of the Parties' formal arrangement in 2014, the Parties have expressly agreed that any Party can walk away from the arrangement within a six-month notice (as reflected in both the 2014 MoU and 2018 MoU). The Panel further recalls that it found above that the 2018 MoU was effectively tacitly renewed in the same form and nature as the 2018 MoU (except an indefinite duration). In these circumstances, the Panel finds no reason why the Respondent's *mistake* in believing that the tacitly renewed arrangement could be terminated immediately could not be *converted* into a termination within a six-month notice. Indeed, the Respondent wanted to terminate the contract; if admissible, such a termination would most naturally be aligned with the MoU's provisions to respect, at least by analogy, the intent of the Parties. Given that Clause 9 of the 2018 MoU provided for a six-month notice period for termination in the absence of breach, such a termination notice would not be surprising for any of the Parties.

148. The Appellant's arguments do not call this into question:

- The Appellant argues that the conversion is precluded due to reasons of legal uncertainty or ambiguity. However, the Panel considers that there was no material uncertainty, ambiguity, or prejudice in circumstances where the Parties' arrangement since inception was subject to an unconditional walk away right upon a six-month notice. Converting the Purported Termination notice into a six-month notice is thus entirely in line with the Parties' long-standing common understanding.

- The Appellant also argues that in case DFSC 135 III 441, a conversion was denied in the context of a lease agreement. However, the Federal Tribunal determined so in a specific context of protecting the weaker party – the tenant – against uncertain termination. This is fundamentally different to the case at hand dealing with sophisticated entities of equal standing, who negotiated and collaborated at an institutional level, with no imbalance of bargaining power or dependence that would justify extending safeguards intended for contracts involving a weaker party. Moreover, in case DFSC 135 III 441, the Federal Tribunal did not exclude conversion altogether, but

only "*in principle*", thereby implicitly accepting its applicability under different circumstances (*See also*, Legal Expert Report of Prof. De Werra, paras. 76 – 78).

149. In light of the foregoing, the Panel finds that, while the Purported Termination of 29 February 2024 was not effective as an immediate termination, it validly operated as the initiation of a six-month notice period. Consequently, the Parties' tacitly renewed arrangement in the form and nature of the 2018 MoU was terminated on 29 August 2024.

c. Breaches of the MoU

150. The Appellant contends that the Respondent committed several breaches of the tacitly renewed 2018 MoU.

i. *Did the Respondent effectively consult the Appellant in connection with the development and implementation of the FEI Eventing Education System?*

151. Clause 5 of the 2018 MoU provides as follows:

"*The Parties will consult with each other in good faith prior to taking or acting upon any decision that materially effects the other Party. Any issues raised by either Party to the other shall be dealt with respectfully and without unnecessary delay. The FEI shall make its best efforts to provide the IEOC with sufficient time and opportunity to be heard on matters generally affecting Eventing officials as the IEOC is an important sounding board for the FEI Eventing Committee.*

The IEOC may provide the FEI Nominations Committee their recommendations on the candidacies received concerning Eventing Officials representative in the Technical Committee for the Nominations Committee's consideration.

The IEOC will receive access to the same documents at the same time as National Federations if such documents pertain to issues affecting the IEOC.

Such consultation shall also mean that the parties will not publicly communicate any dispute prior to attempting to resolve it amicably and in good faith and, in the event a resolution cannot be reached, the Parties shall follow the procedures set forth in Article 12 below".

152. The Panel notes that the Respondent was under no obligation to conclude the MoUs and recognise the Stakeholders, including the Appellant. However, once the Respondent opted to do so, it was bound by the agreed arrangement with the Appellant.

153. It follows that the Respondent specifically agreed to "*consult* […] *in good faith prior to taking or acting upon any decision that materially affects* [the Appellant]" and to "*make its best efforts to provide the* [Appellant] *with sufficient time and opportunity to be heard on matters generally affecting Eventing officials as the* [Appellant] *is an important sounding board for the FEI Eventing Committee*".

154. Accordingly, the Panel finds that the Respondent unequivocally agreed to consult the Appellant on material matters. The Panel is mindful that *consultation* is a soft obligation without prejudice to the Respondent's ultimate decision-making authority. However, even in its soft form, the *essence* of consultation is having a meaningful discussion *prior* to taking a decision. This applies *a fortiori* where the Respondent committed to proceed in *good faith* and to make *best efforts* in this regard.

155. The Panel finds that the introduction of an Eventing Education System falls within the scope of Clause 5 as a decision materially affecting the Appellant, as it directly concerned the status, training, and qualification framework of Eventing Officials. Such matter was thus subject to a prior consultation with the Appellant. The key issue therefore is whether such consultation took place. The Respondent raises the following arguments in this regard:

- The Respondent claims that the Appellant was adequately consulted through the participation of Mr Andrew Bennie, an experienced Eventing Judge, in the FEI Eventing Committee and the Education Working Group responsible for the development of the FEI Eventing Education System. However, the Panel notes that Mr Bennie testified that he was not appointed by the Appellant to act on its behalf, but was only endorsed by the Appellant's Board. His participation therefore reflected his personal expertise and individual perspective, not a mandate to convey the Appellant's collective position. Moreover, as further confirmed during his testimony, Mr Bennie was bound by confidentiality obligations governing the proceedings of the Committees in which he participated and was therefore unable to relay all information or developments from those meetings to the Appellant's representatives.

- The Respondent also claims that it afforded the Appellant multiple consultation opportunities, including through explanatory webinars on 12 October 2022, and an in-person meeting on 21 June 2023. The Panel notes, however, that both of these events occurred *after*, and not prior to, the introduction of the Eventing Education System (publicly announced on 26 August 2022, and subsequently implemented on 1 January 2023). Moreover, neither of these initiatives represented a genuine, adequate consultation:

- **Webinars.** The Panel notes that on 7 October 2022, the Appellant submitted to the Respondent an extensive set of questions reflecting its members' concerns regarding the Eventing Education System. This extensive document – approximately fifteen pages in length – was expressly prepared to enable the Respondent to address the issues raised by Eventing Officials. While the Respondent conducted two explanatory webinars on 12 October 2022 and later published a Q&A document, these materials did not provide direct, written answers to the Appellant's consolidated queries. Subsequent Appellant requests for written clarification on 8 November and 2 December 2022 were met with further invitations to, first, review existing materials rather than substantive responses, and second, attend an in-person meeting in the Respondent's headquarters. On this basis, the Panel finds that although the Respondent's efforts to make general information publicly available were useful, they did not amount to a tailored, bilateral consultation with the Appellant as envisaged by the 2018 MoU.

- **In-person meeting at the Respondent's Headquarters.** The in-person meeting of 21 June 2023 included participation from senior FEI officials across multiple departments. During that meeting, the Appellant reiterated its detailed, fifteen-page compilation of questions and concerns – many of which had been expressly flagged as "unanswered" or "insufficiently answered" following the explanatory webinars and Q&A document. It follows from the meeting notes that while the Respondent provided clarifications during the meeting for some topics, several issues remained unresolved, such as the environmental and cost-impact implications of the new system, the absence of horsemanship, and practical skills-based criteria in the Level 4 pathway, and the lack of clarity regarding review and appeal processes for officials adversely affected by the new requirements.

  Moreover, the Respondent itself explained that "*The FEI has always been very clear: As the FEI Eventing Education System is applicable as of 1 January 2023 and while it's a new system, the FEI would need to proceed on the basis of the applicable FEI Eventing Education System* […] *and that adjustments could be made in the future, taking into account the feedback and comments*

> *of everyone, including the IEOC*". [7] This acknowledgement underscores that the meeting functioned primarily as an explanatory session rather than a genuine *prior* consultation.
>
> This conclusion is further reinforced by two additional factors:
>
> The Respondent's own admission when referring to the Appellant's questionnaire that "*many of the IEOC's questions, most of them are actually not questions on the FEI Eventing Education System itself, but attempts to amend the already approved FEI Eventing Education System and/or FEI Rules or criticism of the proposed system".*
>
> Only a few months following the in-person meeting, on 29 September 2023, the Respondent ended any communication channel with the Appellant on FEI Education System matters due to the Appeals lodged by FEI Eventing Officials, making in essence any future consultation process practically impossible.
>
> Accordingly, the Panel finds that the Respondent's ex-post attempt at consultation through webinars and the 21 June 2023 meeting was inadequate.

156. In light of the foregoing, the Panel finds that the Respondent failed to adequately consult the Appellant in relation to the Eventing Education System, in breach of Clause 5 of the 2018 MoU (which, as explained above, was tacitly renewed in the same format and nature).

157. Given the nature of the consultation obligation, the ongoing relevance of the matter to Eventing Officials, and the Respondent's confirmation that the new Eventing Education System is not set in stone and remains subject to potential changes, the Panel considers that the only appropriate remedy to address the Respondent's failure to adequately consult the Appellant is *specific performance*.

158. For the avoidance of doubt, the Panel considers it both necessary and proportionate to order a narrowly tailored measure of specific performance *after* termination of the MoU to cure a breach that occurred *while* the MoU was still in force. Indeed, the finding that the MoU terminated on 29 August 2024 brings the Parties' primary, forward-looking

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[7] Exhibit E49. FEI's First Answer to the IEOC's Claim dated on 29 February 2024, para. 3.40 and also para. 3.39: "*Yet again, [following the meeting] the IEOC sent several "new" questions/concerns after said meeting, while actually nothing is really new, except that they have concerns with the new FEI Eventing Education System".*

contractual obligations to an end; however, it does not erase the Respondent's failure, prior to that date, to discharge its contractual duty of meaningful consultation on the Eventing Education System. Where a breach arises pre-termination but remains susceptible to a practical, time-limited cure that does not revive or extend the underlying agreement, specific performance may be ordered as a remedial consequence of that breach, as a specific form of compensation pursuant to Article 43 para. 1 SCO, by reference of Article 99 para. 3 SCO.

159. The Panel therefore orders the Respondent to engage with the Appellant within a reasonable period (but no later than six months) from the entry into force of this Award in good faith consultation on the Eventing Education System in accordance with Clause 5 of the 2018 MoU, ensuring that the Appellant is provided a genuine opportunity to be heard on matters related to the Eventing Education System, which have been raised prior to 29 August 2024. By way of an example, such consultation shall include, *inter alia*, specific, detailed, and reasoned responses to the Appellant's comments to the Eventing Education System prior to the termination of the 2018 MoU and which have not yet been addressed by the Respondent. For the avoidance of doubt, the consultation is without prejudice to the Respondent's ultimate decision-making prerogative in relation to the Eventing Education System.

ii. *Did the Respondent commit any of the other alleged breaches?*

160. In addition, the Appellant allege the following breaches: (a) the Respondent's failure to routinely provide the Appellant with agendas for Eventing Committee meetings, and minutes or other formal records of these meetings, in breach of Clause 8 of the 2018 MoU; (b) the Respondent's disregard for the spirit of the MoU; and (c) the Respondent's failure to mediate the Parties' dispute in breach of Clause 12 of the 2018 MoU.

161. **Alleged breach of Clause 8**. The Panel notes that Clause 8 of the 2018 MoU does not explicitly impose upon the Respondent an obligation to share the agendas of the FEI Eventing Committee meetings. Instead, Clause 8 provides that the Appellant "*will be granted an opportunity to provide feedback on issues affecting Eventing Officials*". In any event, on 24 June 2022, the Respondent provided the Appellant access to all the agendas from meetings held since 5 June 2018, rendering the Appellant's request on this point moot.

162. In addition, regarding the minutes or any other formal record of the Eventing Committee meetings, the Respondent confirmed that all minutes from Eventing Committee meetings were made available, rendering the Appellant's request on this point moot.

163. **Alleged disregard of the spirit of the 2018 MoU**. The Appellant contends that the Respondent demonstrated a general disregard for the spirit of the 2018 MoU, particularly through the publication of the following announcement on 1 March 2024, titled "*IEOC no longer recognised as FEI Official Stakeholder*":

"*We would like to inform you that the FEI has decided to no longer recognise the International Eventing Officials Club (IEOC) as an official FEI Stakeholder and consequently has terminated its Memorandum of Understanding (MOU) with the IEOC, effective immediately.*

The MOU was based on trust and the mutual commitment to foster the growth of equestrian sport together in a respectful and harmonious manner. Unfortunately, in the past months it has become evident that there is a breach of trust and a general breakdown of the relationship with the IEOC management. Seeing that no further dialogue and collaboration is possible, the FEI has decided to formally terminate the relationship with the IEOC, and thus terminate the MOU.

Consequently, the IOEC will no longer benefit of the conditions offered to MOUs, and the FEI will no longer recognise the IEOC as the international organisation representing the collective views of the FEI Eventing Officials. We would like to stress however, that this decision does not impact the relationship of the FEI with its Eventing Officials in any way, with whom we wish to maintain a positive collaboration. In addition, we would like to remind NFs that the interests of the Eventing Officials are currently represented on the FEI Eventing Committee by an Eventing Official. A version of this communication is also being shared with all Eventing Officials, and we have organised a dedicated Q&A session for them on Tuesday 5 March at 15h00 CET in order to answer any questions they may have.

In the meantime, should NFs have any questions, please don't hesitate to contact officials@fei.org".

164. Clause 5 of the 2018 MoU provides as follows:

"*The parties will not publicly communicate any dispute prior to attempting to resolve it amicably and in good faith*".

165. The Panel notes that the Parties attempted to resolve their disputes, but to no avail. There is, therefore, no obvious breach of Clause 5. Moreover, the announcement at issue is factual and explanatory, and contains positive remarks in relation to Eventing Officials without *prima facie* disparaging statements. Further, the record does not reveal any other instance evidencing a general disregard for the 2018 MoU or its cooperative spirit. On the contrary, until the relationship between the Parties deteriorated, the Respondent continued to respond to the Appellant's correspondence and provided

explanations to its inquiries (except in relation to the consultation discussed above). The evidence further shows that most interactions between the Parties only ceased after the Appellant announced its intention to support and finance legal proceedings initiated by certain Eventing Officials against the Respondent. The Panel therefore finds that the Appellant did not submit credible evidence demonstrating disregard for the spirit of the 2018 MoU.

166. **Alleged breach of Clause 12**. Finally, the Appellant argued that the Respondent breached the MoU by failing to engage in mediation prior to termination. The Panel notes that the 2018 MoU does not impose a mandatory mediation requirement. Instead, Clause 12 includes a soft mediation clause stipulating that "*the parties should attempt in good faith to mediate any dispute*" (emphasis added). The Panel notes that the record shows that the Respondent did initially engage with the Appellant to resolve their disagreements (including through an in-person meeting), though their relationship subsequently deteriorated. The Panel considers this to be sufficient to satisfy the soft requirements of Clause 12.

167. In light of the foregoing, the Panel dismisses the Appellant's allegations of additional breaches of the 2018 MoU.

iii. *Is there a basis for astreinte?*

168. The Appellant also requested the imposition of a daily penalty ("*astreinte*") of CHF 5,000 per day in the event of non-compliance with the orders of specific performance.

169. The Panel finds, however, that the present case does not justify the imposition of such a coercive measure. The Respondent has consistently participated in these proceedings in good faith. There is no indication of a risk of deliberate non-compliance that would warrant the application of a penalty of this nature. Moreover, the Panel considers that the specific performance ordered herein – requiring genuine consultation with the Appellant under Clause 5 of the 2018 MoU – constitutes an adequate and proportionate remedy. Accordingly, the Panel dismisses the Appellant's request to impose an *astreinte* in the present case.

IX. COSTS

(…)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the International Eventing Officials Club on 10 September 2024 against the Fédération Équestre Internationale with respect to the Decision of the FEI Tribunal issued on 20 August 2024 in the matter of proceedings ref. no. C24-0007 IEOC v. FEI, is partially upheld.

2. The Decision of the FEI Tribunal dated 20 August 2024 in case ref. no. C24-0007 IEOC v. FEI is partially set aside insofar as it found that the Fédération Équestre Internationale did not breach Clause 5 of the 2018 Memorandum of Understanding. The other elements of the Decision of the FEI Tribunal are confirmed.

3. The Fédération Équestre Internationale breached Clause 5 of the 2018 Memorandum of Understanding concluded between the International Eventing Officials Club and the Fédération Équestre Internationale, and its tacitly renewed successive Memorandum of Understanding, due to a failure to adequately consult the International Eventing Officials Club in relation to the Eventing Education System.

4. The Fédération Équestre Internationale is ordered to remedy the breach by way of specific performance, by engaging with the International Eventing Officials Club within a reasonable period, but no later than six months, from the entry into force of this Award in good faith consultation on the Eventing Education System in accordance with Clause 5 of the 2018 Memorandum of Understanding, ensuring that the International Eventing Officials Club is provided a genuine opportunity to be heard on matters related to the Eventing Education System and raised prior to the termination of the 2018 Memorandum of Understanding, without prejudice to ultimate decision-making power of the Fédération Équestre Internationale.

5. (…).

6. (…).

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

Seat of arbitration: Lausanne, Switzerland

2 March 2026

THE COURT OF ARBITRATION FOR SPORT

Vladimir **Novak**
President of the Panel

Prof. Dr Pascal **Pichonnaz**
Arbitrator

Benoît **Pasquier**
Arbitrator