Arbitration CAS 2008/A/1569 Jessica Kürten v. Fédération Equestre Internationale (FEI), award of 2 February 2009 (operative part of 12 December 2008)

Panel: Prof. Michael Geistlinger (Austria), President; Mr Michele Bernasconi (Switzerland); Mr Quentin Byrne-Sutton (Switzerland)

Equestrian (jumping)
Doping (etoricoxib)
Relationship between the WADA Code and the provisions of an international federation governing sports that include animals in competition
Responsibility of an international federation in the field of the fight against doping
Witnessing of the analysis of a sample and right to be heard
Proportionality of the imposed sanction

1. **The discretion of an international federation governing sports that include animals in competition is limited with regard to general consistency with certain articles in the WADA Code, but it is not limited in such a manner with regard to establishing anti-doping rules which must include a list of prohibited substances, appropriate testing procedures and a list of approved laboratories for sample analysis. Thus, the WADA Code is not to be applied directly, but by means of the applicable rules of the international federations which implement the WADC.**

2. **An international federation, by issuing rules and standards, by approving laboratories, and by surveillance of their implementation is bound to ensure that its anti-doping system pays due respect to the rights and the health of athletes affected, and to the general legal requirements under Swiss Constitution, law and order public.**

3. **No violation of the athlete's right to be heard can be reasonably argued in case of an appellant been informed well in advance that his/her (external) expert, not member of the required association of official professionals, would be allowed only to witness the opening of the sample, but not to be present during the analysis. This is so because in such cases the appellant has been given an early warning of the laboratory requirements, thereby giving the appellant the opportunity to choose another expert, member of said association, to follow the whole analysis.**

4. **In relation to the proportionality of a sanction, CAS's jurisprudence makes it clear that the sanction imposed must not be evidently and grossly disproportionate to the offence. The type of substance involved, the athlete's professional status and the level of the event are legitimate and reasonable factors to take into consideration when determining the period of ineligibility.**

The Appellant, Mrs Jessica Kürten, an Irish show jumping rider, took part, with her horse Castle Forbes Maike, in the CSIO 5* in La Baule, France, from 10-13 May 2007. This event was an international Show Jumping Event carried out under the Fédération Equestre Internationale (FEI) Rules.

The Respondent, the Fédération Equestre Internationale (FEI), is the IOC-recognized international federation for the equestrian sport. The FEI has the mission to promote, regulate and administer humane and sportsmanlike competition in the traditional equestrian discipline.

On 13 May 2007, the Horse was submitted to a Target Testing under art. 5.4.2 FEI Equine Anti-Doping and Medication Control Rules ("EADMC-Rules"). An analysis of the sample taken from the Horse conducted by the Laboratoire des Courses Hippiques (LCH) in Verrières le Buisson/France revealed the presence of Etoricoxib. Etoricoxib is a Non-Steroidal Anti-Inflammatory Drug having an analgesic and anti-inflammatory effect. It is a "Medication Class A" Prohibited Substance classified in the second section of the Equine Prohibited List (FEI EADMC Rules, attachment to art. 4).

On 8 August 2007, the Appellant requested a B-analysis to be done not in the same laboratory, but in one of the WADA-accredited European Laboratories, e.g. the Sporthochschule in Cologne/Germany, and to be done in the presence of the Appellant's Witnessing Analyst Dr. Laurent Bigler.

On 15 August 2007, the Respondent informed the Appellant that only four laboratories are accredited by the FEI, whereas all WADA accredited laboratories do not test equine samples. Apart from the LCH, all three other FEI approved laboratories are situated outside Europe. The Respondent offered to the Appellant to have the B sample analysis done in one of these three other laboratories.

The Appellant insisted on 24 August 2007 to have the B sample analysis done in Cologne/Germany or Newmarket/England referring to previous such FEI practice in earlier cases, or alternately at the laboratory Ithaca/USA. In addition, the Appellant criticised the fact that the two urine samples and four blood samples, that had been taken, were sent under the same seal-number to the laboratory. She requested the Respondent to instruct the laboratory to show all five unopened samples and to destroy all the four blood samples in the presence of the witnessing analyst.

Since the laboratory Ithaca/USA was not disposed to carry out this analysis, the B sample analysis took place at the LCH/France on 25 September 2007. Upon request of the Appellant the fact of not having been disposed to make such analysis in August 2007 was confirmed in writing by the laboratory Ithaca/USA on 28 November 2007. At the same time, the laboratory confirmed having been prepared on 23 October 2007 to then accept any Etoricoxib referee sample.

The opening of the B sample in the presence of Dr Bigler and the analysis of the sample by the LCH/France confirmed the presence of Etoricoxib on 26 September 2007.

On the basis of the results of the A sample, the Respondent wrote to the Irish Equestrian Federation on 28 June 2007 to offer Mrs Kürten the possibility of accepting the following administrative sanctions:

(i) disqualification from the Event and forfeiture of all prizes and prize money won at the Event with the Horse;

(ii) fine of CHF 750.- and

(iii) costs of CHF 500.-

This offer was reiterated by the Respondent on 8 October 2007, but finally refused by the Appellant on 12 November 2007.

On the same day the Appellant submitted a brief together with three expert reports and other annexes to the FEI.

The Respondent answered on 17 January 2008 with a brief and three witness statements and the complete case file.

The Appellant replied on 21 February 2008 with a new brief and three new expert reports to which the Respondent sent a rejoinder on 11 March 2008. On that day the case was forwarded to the FEI Tribunal.

On 11 April 2008, the Appellant submitted further arguments and a new expert report. Requests of the Appellant for revoking her waiver of a hearing and for receiving a further extension of the deadline were objected by the Respondent and also not accepted by the FEI Tribunal, since the exchange of arguments in writing was intended to replace a hearing.

The Appellant based her submissions on the arguments that her request concerning the laboratory doing the B sample analysis was not fulfilled, that the doping-kit used for the Horse was not tamper-resistant, that the chain of custody had not been documented and, last but not least, that the analysing procedure was incorrect, unfair and that the presence of the substance was not evidenced. The FEI Tribunal was convinced by none of the arguments.

The FEI Tribunal issued a decision on 7 May 2008 as follows:

(i) The Horse was disqualified from the Event and all medals, points and prize money won at the Event must be forfeited.

(ii) *"The PR"* (Mrs Kürten) *"shall be suspended for a period of two (2) months to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing or on behalf of the PR".*

(iii) *"The PR is fined CHF 1,000.-".*

(iv) *"The PR shall contribute CHF 2,000.- towards the legal costs of the judicial procedure and CHF 750.- towards the cost of the confirmatory analysis".*

The Appellant filed a Statement of Appeal together with a Request for a Stay to the CAS on 5 June 2008. Part I of the submission was entitled "Statement of Appeal", part II "Appeal Brief". The submission took place within the 30-day deadline laid down by article 170 FEI General Regulations.

In her Appeal Brief, the Appellant holds that the AORC (Association of Official Racing Chemists) criteria, to be applied by and actually referred to by the analysing laboratory (LCH) for establishing the presence of Etoricoxib were not fulfilled, either in relation to the A or the B Sample analysis, since the examination of the Horse's urine sample showed only two (m/z 357 and m/z 278) and not the required minimum three characteristic ions, which would also include the third ion m/z 243, in order to consider the sample positive for Etoricoxib.

Moreover, the Appellant argues that her defence rights were violated by the fact that the witnessing analyst Dr Laurent Bigler was only admitted to the opening of the B Sample and seals verification, but was not allowed to witness the analysis itself as he was no fellow of the Association of Official Racing Chemists. The Respondent, in its Rejoinder dated 11 March 2008 filed with the FEI Tribunal, explained that it had no influence on this fact, since *"it is left to the discretion of FEI accredited laboratories to set down requirements for the witnessing of their analyses in light of what is necessary to preserve the integrity of the process"*.

Furthermore, the Appellant submits that the FEI used an *"unknown in-house method"*, which, as a new method, *"according to CAS, imposed the burden of proof to Respondent to show that the LCH conducted its testing in accordance with the scientific community's practices and procedures, and that it satisfied itself as to the validity of the method before using it"*. The Tyler Hamilton decision of the CAS (CAS 2005/A/884 of 10 February 2006), referred to by the Respondent, does not fit in the present context, since *"in the current matter, there are neither any studies, especially not on equine administration, nor any validated methods by other laboratories nor is there a publication of the method or any scientific evaluation"*.

The Respondent underlines that according to CAS jurisprudence under the World Anti-Doping Code for doping cases of human athletes *"an accredited laboratory benefits from the presumption that it acted in compliance with the applicable standards, and it is then the athlete to rebut that presumption"*. It underlines that the EDAMCR follow the same rule in article 3.2.1. It considers the arguments of the Appellant as unsubstantiated and refers to the FEI submissions before the FEI Tribunal in this regard.

The Respondent underlines the obligation of the PR to rebut her presumption of fault and to establish how the Prohibited Substance entered the Horse's system, and given the Appellant's failure to rebut the presumption and explain the reasons, there is no need for the appointment of an independent expert.

On 10 June 2008, the Deputy President of the CAS Appeals Arbitration Division dismissed the request of the Appellant to stay the execution of the decision of the FEI Tribunal dated 7 May 2008 because of lack of any concrete elements related to a possible damage, of any arguments related to the urgency of the case, and of any specification of any risk of irreparable harm.

On 20 June 2008, the CAS Panel dismissed a second request of the Appellant to stay the suspension imposed by the FEI Tribunal on 7 May 2008 and to lift the suspension on an ex-parte basis, after having raised fundamental concerns with regard to the admissibility of this request and because of lack of likelihood of success of the appeal, and because of the Appellant not having established the urgency and existence of an irreparable harm. The CAS Panel found further that the Appellant's interest has been outweighed by general interests.

On 10 July 2008, the CAS Panel issued an Order provisionally lifting the Appellant's suspension from 15 July 2008 until the date of the hearing. The Panel found, that its own expectation to have a hearing held before the end of the suspension period, lying at the very basis of the Order of Stay dated 20 June 2008, could not be fulfilled by the parties. The Panel accepted the reasons given by the Respondent as legitimate for postponing the hearing and deemed the interests of both parties well balanced only if a new hearing date could be found. At the same time, the Panel found it legitimate under the extraordinary circumstances given by the unavailability of the Respondent for a considerable period of time that the suspension shall be lifted for the period from 15 July 2008 until a new hearing date. Both parties were requested to contribute to having a new hearing date set as soon as possible.

An Order of Procedure submitted to the parties on 5 November 2008 was signed by both of them.

The hearing took place on 9 December 2008 in Lausanne at the CAS premises.

After the hearing, the Panel decided to have the stay of the suspension of the FEI Decision, pronounced by the Panel on 10 July 2008, extended until 15 December 2008 at midnight.

LAW

CAS Jurisdiction

1. None of the parties dispute the jurisdiction of the CAS in the present case.

2. The Panel holds that the requirements set forth in article 35.1 FEI Statutes 2007, article 170 para 1.3 FEI General Regulations and article 12 FEI Equine Anti-Doping and Medication Control Rules have been met. Article 35.1 FEI Statutes 22nd edition as in effect of 15 April 2007 reads as follows:

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

3. Article 170 para 1.3 FEI General Regulations reads 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 paragraph 2 below)

… 1.3 With the CAS through the Secretary General against Decision by the FEI Tribunal.

…".

4. Article 12 FEI Equine Anti-Doping and Medication Control Rules reads as follows:

"Article 12 Appeals

12.1 Decisions Subject to Appeal

Decisions made under these Rules may be appealed as set forth below in Article 12.2 through 12.3. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise.

12.2 Appeals from Decisions Regarding Anti-Doping and Medication Control Rule Violations, Consequences, and Provisional Suspensions

A decision that (a) a rule violation was committed;(b) a decision imposing consequences for a rule violation; (c) a decision that no rule violation was committed; (d) a decision that the FEI or its National Federation lacks jurisdiction to rule on an alleged rule violation or its consequences; and (e) a decision to impose a Provisional Suspension in violation of Article 7.2 may be appealed exclusively as provided in this Article 12.2. Notwithstanding any other provision herein, the only Person that may appeal from a Provisional Suspension is the Person Responsible upon whom the Provisional Suspension is imposed.

12.2.1 In cases arising from competition in an International Event the decision may be appealed exclusively to the Court of Arbitration for Sport ("CAS") in accordance with the provisions applicable before such court. Subject to these provisions, evidence that should have been readily available at the hearing held before the FEI Hearing Body and had not been presented to such Hearing Body shall be inadmissible on appeal.

12.2.2 In cases under Article 12.2.1, the following parties shall have the right to appeal to CAS: (a) the Person Responsible who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the FEI; (d) the Person Responsible's National Federation and (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games.

12.3 Time for Filing Appeals

The time to file an appeal to CAS shall be thirty (30) days from the date of dispatch of the decision to the appealing party. …".

The Applicable Law

5. Pursuant to article R58 of the Code, the Panel shall decide the dispute according to the applicable rules and regulations.

6. The applicable rules and regulations in the present case are the FEI Statutes, the FEI General and the FEI Equine Anti-Doping and Medication Control Rules. According to article 34.3 FEI Statutes, Swiss law is applicable in the absence of other rules.

The Merits

A) The Relationship between the World Anti-Doping Codes 2003/2009 and WADA Bylaws with FEI Anti-Doping Rules and FEI Bylaws

7. The Panel considers that, whereas all provisions of the World Anti-Doping Code (WADC) 2003 and 2009 as well as the respective WADA Bylaws are to be applied on athletes in horse sports, by means of article 16 WADC 2003 (which fully corresponds to article 16 WADC 2009) the competence for rule-setting and implementation of the rules for horse doping has been partially delegated to the international federations dealing with such sport including animals.

8. The FEI, being such an international federation governing sports that include animals in competition, is bound by article 16.1 WADC, when establishing anti-doping rules for horses *"to include a list of Prohibited Substances, appropriate Testing procedures and a list of approved laboratories for Sample analysis"*. With respect to determining anti-doping rule violations, results management, fair hearings, consequences, and appeals for horses involved in sport, the FEI *"shall establish and implement rules that are generally consistent with Articles 1, 2, 3, 9, 10, 11, 13 and 17 of the Code"*.

9. Article 1 WADC 2003/2009 regulates the definition of doping, article 2 the definition of anti-doping rule violations, article 3 the proof of doping, article 9 the automatic disqualification of individual results, article 10 sanctions on individuals, article 11 consequences to teams, article 13 appeals, and article 17 statute of limitations.

10. Thus, the FEI's discretion is limited with regard to general consistency with certain articles in the WADC in the matters enumerated by article 16.2 WADC, but it is not limited in such a manner with regard to establishing anti-doping rules which must include a list of Prohibited Substances, appropriate Testing procedures and a list of approved laboratories for Sample analysis.

11. The Panel considers that the WADC is not to be applied directly, but by means of the applicable rules of the international federations which implement the WADC. The FEI has adopted the EADMCR (1st edition, effective as of 1 June 2006), the FEI Veterinary Regulations (10th edition, effective as of 1 June 2006) and the FEI Standard for Laboratories (as adopted on 13 October 2006) in order to implement the WADC in general and its article 16 for horses.

12. The FEI, thus, has a responsibility in the field of the fight against doping of horses. The Appellant is correct in holding that FEI, by issuing rules and standards, by approving laboratories, and by surveillance of their implementation is bound to ensure that its anti-doping system pays due respect to the rights of athletes affected, to the health of horses, and to the general legal requirements under Swiss Constitution, law and order public.

13. Generally speaking, the Panel finds, that the FEI has fulfilled all these commitments in the case at hand, either by its rules and standards, as well as their implementation, or by offering the Appellant special remedies in order to fulfil her requests as to access to Sample analysis and documents beyond mere application of the FEI rules and standards in force.

14. With regard to the main issues raised by the Appellant, the Panel holds the following:

B) Analysis of the B Sample by the Same Laboratory as the A Sample

15. Irrespective of the fact that the FEI chose to follow the WADA policy to have the B Sample analysis done by the same laboratory as the A Sample analysis, the FEI took significant measures in order to allow the Appellant to have the B Sample analysis done by another laboratory and to partake in the choice of the laboratory to perform the B Sample analysis. The Panel finds it reasonable to have this choice limited to FEI-accredited laboratories, since all such laboratories had to pass the procedure under the International Laboratory Accreditation Cooperation (ILAC) Accreditation Requirements and Operating Criteria for Horseracing Laboratories (ILAC Document G-7:1996) and the Association of Official Racing Chemists' (AORC) Guidelines for the Minimum Criteria for Identification by Chromatography and Mass Spectrometry dated 17 March 2003, which are referred to by the FEI Standard for Laboratories. The Appellant did not question the scientific reliability of these accreditation proceedings and the criteria applied in these proceedings.

16. The Panel is satisfied by the explanation given by Mr Thomas Lomangino, director of the FEI accredited laboratory of Ithaca, New York, USA (EDTRL: United States Equestrian Federation Equine Drug testing and Research Laboratory), that there was no *"ready for use"* analytical standard of the drug Etoricoxib at the EDTRL at the time in question and that it did not possess samples from a horse having been deliberately administered this drug, which could have been used to extract an analytical standard of any metabolite. As a consequence of such substantiated refusal of the B-Sample analysis, the Panel finds it reasonable that the Respondent finally decided to have the Laboratoire des Courses Hippiques (LCH) in Verrières-Le-Buisson, Paris, undertake also the analysis of the B Sample, since there were no feasible alternatives and since the Appellant did not provide overriding objections to the WADA/FEI policy under their new standards to have the B Sample analysis done by the same laboratory as the A Sample analysis. The Respondent notably justified its policy on the reasonable basis that the system chosen corresponds to the needs of the science, helps to reduce the risks in transport of the Samples and to avoid the danger of Sample degradation as well as to minimize problems regarding customs and border transfer.

C) Non-Admission of Dr Bigler as Expert to the B-Sample Analysis

17. During the hearing the Appellant conceded that she had been informed by the Respondent well in advance that the Appellant's expert Dr Bigler, not being a member of the AORC, would be allowed only to witness the opening of the B Sample, but not to be present during the analysis. Thus, in the present case the Panel need not address the question of whether it is generally justifiable for the FEI and its accredited laboratories to only allow experts access to the full analysis, that belong to a certain expert organisation. In the case at hand, the FEI gave an early warning of the laboratory requirements, thereby giving the Appellant the opportunity to choose

another expert, being a member of the AORC, to follow the whole analysis. The Appellant did not use this opportunity, and did not submit any convincing arguments to the Panel that would allow it to deem unjustified the limitation of access for experts who do not belong to the AORC. Thus, no violation of the athlete's right to be heard can be reasonably argued under the given circumstances.

D) Access to Documentation

18. Similarly, the hearing confirmed that the Respondent had offered to the Appellant access to all the documents it was requesting, in particular, also to the documentation on the Standard Operating Procedure (SOP), subject only to the execution of a confidentiality agreement. According to the evidence adduced, the Appellant and her experts did not even ask for the text of such confidentiality agreement, but refused to sign any agreement, without providing convincing explanations for the refusal. The Panel finds it reasonable to link access to information concerning the internal standard in a laboratory to the obligation of assuring confidentiality. Thus, no violation of the athlete's right to be heard has been found by the Panel in the present case.

E) No In-House Method and No Violations of Procedural Requirements for the Establishment of Prohibited Substance

19. The Appellant in her submissions in writing and orally at the hearing did not dispute that the Prohibited Substance Etoricoxib might have been found by the laboratory analysis of the A and B Samples as applied by the LCH. The witness conference led the Panel to conclude that the method used to detect Etoricoxib (Methode AINS Urines LCH-12, M08/105 working protocol) was a standard method, sufficiently validated, not only used by the LCH and not used for the first time. The fact that there might be other methods to detect Etoricoxib and that any such method might have one or another scientific advantage, does not detract from the fact that the Respondent and its experts convincingly established beyond reasonable doubt that the method used was sound and properly applied in the case at hand.

20. The Appellant did not contest that Etoricoxib was a Prohibited Substance under FEI Rules and did not adduce any evidence that there were any irregularities or tampering or other violations of the internal chains of custody at the laboratory. The Appellant just argued that the creation of a *"false positive"* was possible and that *"such procedure is open for manipulations"* in theory, without providing any factual proof of any such occurrences within the LCH.

21. Respondent's witnesses and representatives explained to the satisfaction of the Panel why and which material was chosen as reference material in order to establish the existence of Etoricoxib and convincingly explained the difference in identification and reporting of three diagnostic ions. The Panel took note of a different method of measuring of the thresholds recommended by the AORC Guidelines used by the Appellant and by the Respondent and finds the method of measuring the distance from peak to peak on a graphic scale applied by the LCH as

reasonable in order to establish whether the respective ratio has been met. The Panel finds, in particular, that the S/N ratio for the ion m/z 243 *"well above 3 to 1"* has been met. The Panel was satisfied also with Dr. Bonnaire's explanation of the reason for which the detection of a metabolite of Etoricoxib was not reported until the FEI's rejoinder dated 11 March 2008, and why in any event it could happen due to time factor that a given metabolite might not be found despite the tendency of horse urine to contain a number of metabolites. In light of the testimony heard from the witnesses, the Panel considers it unnecessary for any additional neutral expert opinion to be sought in relation to the test method and the test procedure.

22. Since the Respondent has sufficiently proven the existence of a Prohibited Substance, it was the Appellant's obligation to rebut the presumption of her having committed an anti-doping rule violation and of explaining how the Prohibited Substance could enter the Horse's system. Because endogenous production of Etoricoxib is excluded, the Horse must have ingested the prohibited substance. Given the fact that the Appellant's Horse's Sample was the only one tested positive at the Event and that no other convincing evidence of any other possible source of accidental ingestion was offered, the Panel finds it highly improbable that an unknown contamination in the substitute-stable in La Baule or any other form of contamination could have been the reason for the adverse analytical finding. Thus, the Appellant was unable to rebut the presumption constituted by the analytical finding.

F) No Justified Claim for Reimbursement of Damage

23. Given the result of its findings with respect to the doping offence, the Panel does not see any legal ground for considering the Respondent responsible for any damage.

G) Adequacy of Imposed Sanctions

24. The Panel finds the sanctions of disqualification of the Horse from the Event and forfeiture of all medals, points and prize money won at the Event, as well as of a suspension of two (2) months together with a fine of one thousand (1'000) CHF and contribution of two thousand seven hundred fifty (2'750) CHF to the legal and analysis costs imposed by the FEI Tribunal as adequate and within the frame defined by article 174 FEI General Regulations and articles 9 and 10.2 EADMCR.

25. In particular, with regard to the period of suspension, article 174 para 5 FEI General Regulations rules that *"a suspension, on such terms and subject to conditions as the Judicial Committee may impose, is appropriate in cases of intentional or very negligent violations or contravention. In certain cases suspension may be automatic under the Statutes, Regulations or Rules"*. Since Etoricoxib is a Medication Class A Prohibited Substance, according to article 10.2 EADMCR ineligibility of up to one (1) year shall be imposed for the first violation, unless the Person Responsible establishes the basis for eliminating or reducing this sanction. In the case at hand, no basis for such a reduction or elimination of the sanctions has been established. In particular the Appellant was responsible

for the supervision of her Horse at all times and, thus, also for eventually moving her Horse to a permanent box without the prior cleaning of this box.

26. In relation to proportionality, CAS's jurisprudence makes it clear that the sanction imposed must not be evidently and grossly disproportionate to the offence (see CAS 2007/A/1217 para. 12.4; CAS 2004/A/690 para. 86; CAS 2005/A/830 para. 10.26; CAS 2005/C/976 & 986, para. 143).

27. The Panel is satisfied that the FEI Tribunal, when determining a period of ineligibility of two (2) months considered the type of substance involved, the Appellant's professional status and the level of the Event. The factors taken into consideration by the FEI Tribunal are legitimate and reasonable. Moreover, the FEI Tribunal stayed fairly at a low limit of the applicable suspension period. The Panel, thus, holds the arguments provided by the FEI Tribunal as convincing and the sanctions imposed, therefore, as adequate and proportionate to the offence committed, taking into consideration all elements of the case at stake.

28. For these reasons, the decision appealed shall be confirmed.

29. This conclusion makes it unnecessary for the Panel to consider the other requests submitted by the parties to the Panel. Furthermore, all other prayers for relief are rejected.

The Court of Arbitration for Sport rules:

1. The appeal filed by Mrs Jessica Kürten on 5 June 2008 against the decision rendered by the FEI Tribunal on 5 May 2008 is dismissed.
2. The decision, issued by the FEI Tribunal dated 7 May 2008, is confirmed.
3. The request of Mrs Jessica Kürten to discontinue the matter is dismissed.
4. The request of Mrs Jessica Kürten to have the sanction reduced to a warning is dismissed.
5. The stay of the suspension of the FEI Decision, pronounced by this Panel on 10 July 2008, and extended by this Panel on 9 December 2008, shall come to an end on 15 December 2008 at midnight.
6. The request of Mrs Jessica Kürten that a neutral and scientifically reliable expert opinion on the test method and the test procedure shall be obtained is dismissed.
7. The claim of Mrs Jessica Kürten for the payment of damages is dismissed.

(…)

10. Any and all other prayers for relief are dismissed.