

FEI Process for EADCMR procedures - FAQs

What Happens if a Horse Tests Positive for a Prohibited Substance?

If a horse tests positive for a Prohibited Substance, the FEI will receive the sample information anonymously from the FEI Laboratory and conduct an investigation to ensure the integrity of the positive test. Specifically, the FEI will look into whether any Veterinary forms were filed requesting permission to treat that horse at the competition. Testing is conducted according to protocols laid out in the FEI Veterinary Regulations.

Will the Person Responsible be Provisionally Suspended?

The Person Responsible will be automatically provisionally suspended if the positive test is for a Banned Substance (as opposed to Controlled Medication). This Provisional Suspension is automatic and not at the discretion of the FEI, so all Athletes are treated the same. The Person Responsible will be informed immediately of his right to have a Preliminary Hearing to argue for the lifting of the Provisional Suspension.

The FEI may also provisionally suspend a Person Responsible in other circumstances, such as for example if his horse tests positive for a Controlled Medication Substance arising from a sample taken at the Olympic Games or FEI World Equestrian Games™. The Person Responsible has the right to a Preliminary Hearing in these cases too.

The Preliminary Hearing will be before one (1) FEI Tribunal member and the decision will be issued quickly. If the Provisional Suspension is not lifted and some time afterwards the Person Responsible collects new evidence that he feels would justify a lifting of the Provisional Suspension, he may ask the FEI Legal Department for a second Preliminary Hearing to present that new evidence. Provided that the terms of the Provisional Suspension are adhered to, the time period of Provisional Suspension will be credited against the final suspension ordered after the Final Hearing.

During the period of Provisional Suspension, may the Person Responsible coach?

No, during the period of Provisional Suspension (this is also true for a Final suspension), the Person Responsible cannot engage in any official activities related to equestrian sport, whether on a national or on an international level, except anti-doping education. During a Provisional Suspension, presence at an Event as a spectator (restricted to the publically accessible areas) is not prohibited. Generally, presence at an event as a spectator is also not prohibited under a Final Suspension, however, the Tribunal, in its Final Decision, may ban a Person Responsible or Support Personnel from FEI venues.

Will the Horse be Provisionally Suspended?

Currently the Horse will only be provisionally suspended in cases involving Banned Substances. The FEI currently imposes a two (2) months period of Provisional Suspension on the Horse, and the owner of the horse is given the right to challenge the Provisional Suspension in front of the FEI Tribunal.

What is an "Administrative Procedure" case?

If a horse's sample is positive for a Controlled Medication Substance that was not taken at the Olympic Games or FEI World Equestrian Games™, and it is the first violation for both the Person Responsible and the horse, the Person Responsible will be offered the opportunity to take advantage of the Administrative Procedure (sometimes referred to as "Fast Track"). This means that he may accept to pay a fine of CHF 1,500 and costs of CHF 1,000 (the costs may be increased to CHF 2,000 if a B Sample analysis is requested) and, at the same time, waive his right to a Final Hearing before the FEI Tribunal. Both the Person Responsible and the horse will be disqualified from the entire Event at which the sample was taken, which includes forfeiting any prize money or medals, but no ineligibility period (i.e. suspension) is imposed. The Administrative Procedure is offered as a benefit for first-time minor offences. The Person Responsible has no obligation to accept it and may always insist that his case be heard by the FEI Tribunal. If the Person Responsible does not choose the Administrative Procedure, the matter will be referred to the FEI Tribunal, which will apply the sanctions provided for in the EADCMR (this means that the Person Responsible may be suspended and/or fined).

What is a B Sample analysis?

A "B sample" analysis is the laboratory analysis of the second part of the sample (urine or blood) taken from the horse, the B sample. This is done to ensure that the Prohibited Substance detected in the A sample is unquestionably present. If the B sample is negative, the case will be dropped and no further action taken. Under the current EADCM Regulations, the Person Responsible may request to have the B sample tested at a different FEI Laboratory than the A sample. It is however up to the FEI to select the second Laboratory, and it will select a laboratory from among the FEI approved laboratories based on geographic proximity, the turnover time the second laboratory can commit to, and any other factors that might enhance the fair and quick evaluation of the B sample. Also, the Person Responsible has the opportunity to be present, or send a representative, to witness the entire B sample analysis. If the Person Responsible is found to have violated the EADCM Regulations by the FEI Tribunal, he will be responsible for the costs of the B sample analysis.

If Both the A and B Samples are positive, what happens next?

If the B sample confirms the A sample, the Person Responsible will be offered the opportunity to submit explanations, witness statements, and expert opinions, in his defence. Upon receipt of the Person Responsible's explanations, the FEI will have the opportunity to submit its response, including documents, witness statements, and other evidence in support of the prosecution of the case. Following the FEI's response, the Person Responsible will be given the right to address the matters raised by the FEI in its response.

The PR will also be given the opportunity for a Final Hearing before the FEI Tribunal (by telephone or in-person). If the PR does not want a Final Hearing, he may simply submit all of the documents in the case to the FEI Tribunal to render a decision.

Apart from the cases that result from positive A and B Sample are there other violations that can lead to an EADCM case before the FEI Tribunal?

Yes. While the large majority of anti-doping and controlled medication violation cases arise from laboratory testing on a horse's sample, there are other actions that are prohibited and could lead to a case. Those additional potential violations are:

- (1) Use or attempted use of a Prohibited Substance. This means that if a Person Responsible is caught using or trying to use something prohibited, a case may be brought against him even if his horse's sample is not tested or comes back negative for any Prohibited Substances.
- (2) Refusing or failing without compelling justification to submit to Sample Collection after Notification or to comply with all Sampling procedure requirements including signing the Sampling form or otherwise Evading Sample Collection. If a Person Responsible refuses to have his horse sampled, does not present his horse for testing after notification, or hides from the testing representatives, a case may be brought against him.
- (3) Tampering. If a Person Responsible tampers with his horse's bodily sample, such as trying to replace it with another horse's sample or interfering with clean collection, then a case may be brought against him.
- (4) Administration or Attempted Administration of a Prohibited Substance.
- (5) Possession. If a Person Responsible has Banned Substances in his possession, a case may be brought against him. There is no Possession violation for Controlled Medication Substances.
- (6) Assisting, encouraging, aiding, abetting, or covering up or any other type of complicity in violating the EADCM regulations could result in a case being brought against the Person Responsible.

What is the FEI Tribunal?

The FEI Tribunal consists of seven (7) volunteer lawyers from all over the world who are elected by the General Assembly. Currently, FEI Tribunal members come from Finland, France, Serbia, the US, the UK and Norway (2). The FEI Tribunal considers evidence presented to it in cases brought under the EADCM Regulations and other types of cases as well and renders decisions. Usually, cases brought under the EAD section of the Regulations are heard and decided by three (3) Tribunal members, while ECM violations are decided by one (1) Tribunal member.

Is there an obligation to be represented by a Lawyer if a case goes before the FEI Tribunal?

There is no requirement to have a lawyer if the Person Responsible presents his case before the FEI Tribunal. However, the Person Responsible is encouraged to consult with advisors to determine the best course of action, as legal representation can generally be very helpful in this process.

What is a Final Hearing?

If the Person Responsible requests a Final Hearing before the FEI Tribunal, he will have the opportunity to present his case in full, either in person or by telephone, directly to the FEI Tribunal Member(s) selected for the case. The FEI Legal Department will present the case from its perspective. Final Hearings are usually conducted in a conference room at the FEI headquarters or a meeting room elsewhere, depending on the location chosen for the Hearing. The Tribunal member designated to chair the hearing will manage the evidence presented by each side and ensure a smooth and fair process.

What are the Person Responsible's Rights at a Final Hearing?

At a Final Hearing, the Person Responsible has the right: (1) to a fair and impartial Hearing Panel; (2) to be represented by counsel of his choosing (at his own expense); (3) to respond as he wishes to the alleged violation; (4) to present evidence as he wishes, including calling and questioning witnesses; and (5) to have an interpreter if he is not comfortable in the English language.

What are the possible Consequences in the case of a violation of the EADCM Regulations?

There are four (4) levels of consequences if the EADCM Regulations are violated.

1. Disqualification: The combination of the horse and athlete will be automatically disqualified from the competition concerned and any resulting forfeiture of medals, prizes, money etc must be returned to the Organising Committee. Further, the FEI Tribunal will have the discretion to disqualify the Person Responsible and/or horse from other competitions separately entered into at the same Event (i.e. that the Athlete or horse participated in with a different horse or Athlete) or from Events following the one in which the sample was taken. This discretionary disqualification will be determined by the FEI Tribunal based on the facts presented during the case.
2. Ineligibility: For Banned Substances, the ineligibility period (more generally known as suspension) shall be an entry point of two (2) years. This is consistent with the World Anti-Doping Agency's Code for human athletes. This two (2) year suspension can be reduced only if the PR can show that he was not at fault or did not demonstrate significant fault or negligence.

For Controlled Medication Substances, the ineligibility period shall be commensurate with the seriousness of the offence, taking into account the underlying objectives and rationale of the ECM Rules and the FEI Medication Code, as well as principles of fair play. Therefore the period of Ineligibility imposed on the Person Responsible shall be six (6) months, subject to any elimination or reduction as provided in Article 10.4 ECM Rules or increase as provided in Article 10.5 ECM Rules.

3. Fine: For Banned Substances violations, the fine is CHF 15,000 unless fairness dictates otherwise. For Controlled Medication violations, the fine is up to CHF 15,000.

4. Costs: The FEI Tribunal may also require the Person Responsible to assume some of the legal costs for the case.

The above consequences will be imposed by the FEI Tribunal (not the FEI) at the end of the legal proceedings only. No return of prize money, points, prize money, medals etc will take place prior to the Final Decision being issued by the FEI Tribunal.

What is the "Strict Liability" Principle?

Under the EADCM Regulations, the Person Responsible is strictly liable whenever a Prohibited Substance is found in a horse's sample. This means that it is a violation whether or not the Person Responsible intentionally or unintentionally, knowingly or unknowingly, used a Prohibited Substance or was negligent or otherwise at fault. It is also irrelevant whether the Prohibited Substance actually had a performance-enhancing effect. It is very important therefore for the Person Responsible to understand not only what is prohibited, but also what might potentially cause an inadvertent violation. Even though this strict liability principle exists, the Person Responsible will always have the opportunity to explain why he or she is not at fault and the circumstances surrounding what happened will always be taken into consideration when determining sanction (suspension and/or fine). However, the strict liability principle means that disqualification of the horse/rider combination for the Event in which the horse tested positive is automatic even if the Person Responsible can prove, and everyone agrees, that he was not at fault.

How long does it usually take from the moment a case is initially notified until the FEI Tribunal Final Decision?

The answer to this question depends entirely on the particularities of the case, which may be

- Whether or not a B Sample analysis takes place, and whether it is performed in the same laboratory as the A Sample analysis.
- The complexity of the matter at hand, including the explanations provided by the Person Responsible for the rule violation.
- The availability of necessary witnesses, experts etc.

If the Person Responsible or the FEI are unhappy with the FEI Tribunal's decision, can he appeal it?

Yes, the FEI Tribunal's decision is appealable by the Parties of the proceedings to the Court of Arbitration for Sport in Lausanne (SUI) within thirty (30) days of the notification of the decision.

What is the Court of Arbitration for Sport ("CAS")?

The Court of Arbitration for Sport (CAS) is an institution independent of any sports organisation which provides for services in order to facilitate the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs of the sports world. The CAS was created in 1984 and is placed under the administrative and financial authority of the International Council of Arbitration for Sport (ICAS). The CAS has nearly 300 arbitrators from 87 countries, chosen for their specialist knowledge of arbitration and sports law. Around 200 cases are registered by the CAS every year.

The above Q&A document has been drafted exclusively to reflect the situation of the Person Responsible in case of a rule violation. Please take note that members of the Support Personnel may also be held responsible for certain rule violations under certain circumstances.

PLEASE BE ADVISED THAT THIS GENERAL INFORMATION IS PROVIDED FOR THE BENEFIT AND EASE OF THE ATHLETE AND OTHER PERSONS, BUT DOES NOT PURPORT TO GIVE LEGAL OR VETERINARY ADVICE IN THE EVENT AN EADCM REGULATION CASE IS BROUGHT AGAINST THE PERSON RESPONSIBLE. IN SUCH SITUATIONS, THE PERSON RESPONSIBLE SHOULD CONSULT WITH HIS REPRESENTATIVES REGARDING THE BEST WAY FORWARD IN THE PARTICULAR CASE. FURTHER, THIS INFORMATION IS SUBJECT TO CHANGE AT ANY TIME AND IN THE CASE OF ANY DISCREPANCY BETWEEN THIS INFORMATION AND THE EADCM REGULATIONS OR ANY OTHER RULES OR REGULATIONS OF THE FEI, THOSE REGULATIONS OR RULES PREVAIL OVER THIS INFORMATION.