

**BEFORE THE INDEPENDENT PANEL**

**IN THE MATTER OF:**

**HEIKO THÖLMANN**

*Appellant*

**V**

**RACE OFFICIALS COMMITTEE**

*Respondent*



## **DECISION**

1. The Appellant has filed two separate Notices of Appeal to the Judicial Board which the Independent Panel has considered separately.

### **First Appeal**

2. On 15 October 2018 the Appellant appealed against the decision by World Sailing (WS) that he had not passed the IU Test that he took in Neusiedl, Austria on 27 September 2018. His official result letter from WS was dated 2 October 2018. The appeal was made under regulation 31.19.
3. Regulation 31.19 permits a candidate for appointment as a WS Race Official to appeal against a decision of the Race Officials Committee, and regulation 31.20 states that any such appeal shall be decided by the Judicial Board under its rules of procedure.
4. The instruction and evaluation of candidates to become International Umpires, including the formulation of examinations which applicants must pass to qualify as International Umpires, is the responsibility of the International Umpires Sub-committee under its Terms of Reference (regulation 6.10.9.3).

5. The appeal is against the scoring of the IU Test the Appellant took on 27 September 2018. This scoring is an element of the evaluation of candidates and, as stated in paragraph 4 above, is the responsibility of the International Umpires Sub-committee. It is not a decision of the Race Officials Committee, so Regulation 31.19 does not apply to it.
6. In addition there is no regulation that expressly permits the scoring of an IU Test to be appealed to the Judicial Board. Therefore, under its Rules of Procedure 2.1, the Judicial Board cannot consider such a matter.
7. The Appellant's first appeal is therefore dismissed

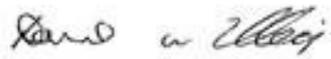
## **Second Appeal**

8. On 19 November 2018 the Appellant appealed against the Race Officials Committee's decision not to appoint him as an International Umpire. The reason for non-appointment given by WS in its email dated 31 October was that, as the application did not include a successful IU Test, it did not meet regulation 31.12. The appeal was received within the time advised by WS.
9. The Appellant states that this appeal is based on his claim that he had already passed the IU Test in Lindau 2017 and Neusiedl 2018, for the reasons given in his letter accompanying his first appeal. The Appellant also states that, as World Sailing had taken no action under regulation 35.8.3 (appointment of an Independent Panel to hear his first appeal), he considered his first appeal as being successful and the IU Test as passed.
10. However as determined above, the scoring of an IU Test cannot be appealed to the Judicial Board. Even if it could, a failure to appoint an Independent Panel within the timescales of 35.8.3 would not lead to a change of the score on an IU Test.
11. The Race Officials Committee acted correctly, as the Appellant's application for first appointment as an International Umpire did not include the successful IU Test result required by regulation 31.12 and WS Race Official Roles, Qualifications and Competencies paragraph 8.2(b). The Race Officials Committee has no authority to

appoint a candidate for first appointment who has not passed a required examination by the time stated in regulation 31.12.1.

12. The Appellant's second appeal is therefore dismissed.

13. The Panel also notes that the scoring of the Applicant's IU Test taken on 27 September 2018 was reviewed by the International Umpires Sub-committee, and the review agreed with the initial decision that the test had not been passed.



**David Tillett (Chairman)**



**Josje Hofland**



**Chris Atkins**

**Independent Panel**

**12 March 2019**