

## **REPORT FOLLOWING CONCLUSION OF DISCIPLINARY PROCESS IKER MARTINEZ (ESP 70)**

*This report sets out the conclusion of the disciplinary process in relation to Mr Iker Martinez (ESP) following a report made to World Sailing after the 2018 Hempel Sailing World Championships (Aarhus, DEN).*

### **Summary of Event Decisions**

On 2 August, Martinez's boat, ESP 70, was inspected in accordance with ER 4.1. During the inspection, the maximum distance that the daggerboard bearing could move (between the back of the bearing and the front of the worm drive), was measured to be 79.5mm on both hulls.

The building specification is 75mm and the Technical Committee measured all other Nacra 17's at Aarhus between 74.5mm and 75mm.

Having concluded equipment inspection for all Nacra 17 boats, the Technical Committee lodged a protest on 3 August against ESP 70 and a hearing was held by the International Jury.

Following a review process, and having carried out checks against a reference sample of 45 boats, the Jury found that ESP 70 had revealed deviation significantly greater than permitted by the manufacturing tolerances under the class rules.

As ESP 70 did not comply with the Nacra 17 class rules, a DNE penalty for race 1 was applied because the breach was, in the Jury's opinion, deliberate.

ESP 70 did not complete equipment inspection and the subsequent registration so did not sail at the Championships.

The Jury reported the matter to the Event Disciplinary Investigating Officer (EDIO).

Following an investigation carried out by the EDIO at the event, the EDIO charged Martinez with misconduct under RRS 69 and a hearing took place before the International Jury.

Following the hearing, the International Jury found that it was comfortably satisfied that Martinez deliberately modified ESP 70 in breach of the class rules and concealed the modification and therefore had committed a breach of good sportsmanship. Further, the Jury found that Martinez did not tell the truth to the EDIO or the International Jury and was therefore in breach of good sportsmanship and had committed unethical behaviour.

The Jury deemed that a significant penalty was appropriate however given the limited range of penalties available to the Jury at the time, they excluded Martinez from the venue and revoked his accreditation.

The decision was reported to World Sailing under RRS 69.2 (j)(2) and World Sailing Regulation 35.4.7.

## **Summary of World Sailing Process**

Following the report received by World Sailing, an independent disciplinary investigating officer (DIO) was appointed by the World Sailing Judicial Board to undertake an investigation of the report. The DIO's responsibility is to decide whether to issue charges for misconduct which warrants further disciplinary action.

The DIO reviewed the report submitted by the International Jury (including the evidence and recording of the hearings). The DIO also received a submission and evidence from the Real Federacion Espanola de Vela (RFEV) which explained an investigation it had carried out. As part of this, the DIO has been presented with a statement from a third party, affirmed before a notary public, that they carried out the modifications to ESP 70 and not Mr Martinez.

Having considered this further evidence the DIO concluded that further action was not warranted because it was likely the Independent Panel appointed to consider further charges would not be comfortably satisfied that a case for further disciplinary action had been made out.

This decision is independent of the International Jury's decision, which considered the issues at the event and not the question of further disciplinary action.

Under World Sailing's Regulations, World Sailing must abide by and respect the independent disciplinary decisions made under Regulation 35, subject to any rights of appeal. Regulation 35.4.8 expressly states that there is no appeal against any decision of the DIO.

Any national disciplinary action is solely a matter for the RFEV. In its original submission to World Sailing the RFEV informed World Sailing that it was proposing a 9-month suspension under its own separate national procedures. World Sailing received an update from the RFEV on 25 February 2018 (which is attached to this report).

Following this decision, World Sailing's Board of Directors has requested the Executive Office to appoint a review group to examine improvements in the investigation and prosecution of equipment cheating, the use of discretionary penalties for equipment infringements, and the consequences for sailors who present boats at inspection which do not comply with the rules.

The Board of Directors has also affirmed its position that owners and persons in charge must be held responsible for the actions of those who work for them.

The review group will report to the Board of Directors by May 2019.



*Santander, 25th of February 2019*

*Dear Mr. Napier*

*Thank you for your email which I acknowledge receipt of.*

*First of all I send you my personal apologies for not having answered your letter before. This delay has no other justification than we have been waiting for the reply of the Spanish Superior Sports Council (CSD) and I would like to indicate that the CSD has understood (following the decision to archive the file against the sailor Mr. Iker Martinez by the instructor of the "World Sailing"), that in the absence of competition and once archived by the WS, the aforementioned CSD has nothing to manifest.*

*Having studied the case of Iker Martinez about what happened in the Aarhus 2018 World Championship in the Sports Discipline Commission of the RFEV (Royal Spanish Sailing Federation), carried out the relevant investigations and studied all the documentation presented by Mr. Martinez the RFEV agreed, in December, to wait for the outcome of the investigations of the "World Sailing" not to act beyond what "World Sailing" had already done penalizing Mr. Iker Martinez in the 2018 World Championship.*

*Finally, the RFEV did the same as the WS and did not open any sanctioning file in view of the non continuation of the WS file. The RFEV is not authorized to sanction in this case, as it has been closed by the WS Instructor, communicated to the competitor, and the WS is an organism superior to the RFEV.*

*On the other hand, I inform you that these facts were brought to the attention of the Spanish Superior Sports Council both in its opening and in its archive.*

*As for the proposed sanction of 9 months to which you refer, in no case was it imposed because as our communication of the month of (I think it was October or November) the RFEV proposed that the possible sanction would be a maximum of 9 months from August 1<sup>st</sup> always in the case that the sanction by Rule 69 was extended to the sailor Mr. Iker Martinez after his disqualification in the Aarhus 2018 World Championship. Finally, to inform you that the RFEV considered itself as not competent to prosecute a case against Iker because it was a case in procedure by a higher instance (in this case WS) and the file against the mentioned sailor had been closed by the WS.*



***We also inform the following to the appropriate effects for your file:***

***That the RFEV received information about the sailor Iker Martínez to say that he had not been sanctioned by the WS.***

***That the RFEV shared this information with the CSD before that.***

***That received the communication in January by the WS, the RFEV communicated to the CSD as Spanish State on the case/issue raised by the WS, the closing of the administrative file both in CSD and in the RFEV.***

***Best Regards,***



***Julia Casanueva***

***President of The Royal Spanish Federation***