

World Sailing Regulation 32 Investigation

Report received on 5 x IJ and 1 x IRO at the 2019 Warnemuender Woche submitted by Mr M Menzner

Decision Summary

The ROC and sub-committee chairs decided in agreement with the Independent Panel that no action be taken.

Report Summary

World Sailing (WS), Race Officials Committee has received a complaint under WS Regulation 32 against 4 x IJ's and 1 x IRO:

Cosmin Andronic IRO (ROU)
Pinar Coskuner Genc IJ (TUR)
Rainer Kornfeld IJ (AUT)
Hans Vengberg (DEN)
Vic De Smedt (BEL)

The allegations were:

- PCG, CA, RK, HV and VS were members of the International Jury at the 2019 Warnemünder Woche. In deciding a protest from the event measurer, they ignored that the event measurer had not complied with the class rules.

Under World Sailing Regulation 32, the report received has been reviewed by the Chairman of the Race Officials Committee and the Vice President responsible for World Sailing Race Officials, and they have categorised it as Category B under WS Regulation 32.5.

This states:

"Where a report or complaint is categorized as Category B, the World Sailing Race Official concerned shall receive an allegation based on the report. The Race Official can either accept the allegation or request an investigation. If the Race Official accepts the allegation, the Chairmen of the Race Officials Committee and all its Sub-committees shall make a decision in accordance with Regulation 32.9. If the Race Official requests an investigation, formal action by World Sailing shall be taken."

All the involved International Officials acknowledged receiving the allegation, including the report and the attached documents, and the majority disputed the allegations and requested an investigation.

Therefore, formal action by World Sailing was required and an Independent Panel was appointed as required by Regulation 32

Investigation

The panel read all the documentation provided, which included:

- The original protest facts found, decision and conclusions;
- The report issued by Mr. Menzner, including:
 - a picture of NED1273 mastbase,
 - a picture of a reseller catalogue, including a mastbase,
 - comments to the facts found; decision and conclusions.

The panel carefully examined all the listed documents and decided that no further information is needed and recommends that no further action is taken since it is this panel's opinion that there was no inadequate conduct or competence by the up mentioned International Race Officials.

The panel notes that the report by Mr. Menzner is also directed against the event measurer. As this person is not an International Race Official nor bound by Regulation 32, no proceedings were initiated against this person.

Reasons

- According to RRS 92.2, the Technical Committee is neither controlled nor directed by the Jury: "The technical committee shall conduct equipment inspection and event measurement as directed by the organizing authority and as required by the rules."
- In a protest lodged by the Technical Committee, the Jury is not acting as a prosecuting body. The Jury shall infer facts from the evidence provided by the parties or their witnesses, and act accordingly.
- The facts found are not inadequate, given the information available at the moment of the hearing. In fact, a Jury shall apply the "balance of probabilities" when finding facts, and evidence shall be assessed based on whether a particular fact is more likely to have happened than not.

In detail:

- The jury had no reason to believe that the mast base has not been provided as it was, since nobody ever challenged this statement.
- The measurer himself confirmed that the different mast base was not providing any relevant advantage; although this fact was later challenged by the reporter, a Jury should rely on the official, unbiased and technical opinion of the measurer.

- The measurer decided not to check the distances mentioned in Class Rules 3.5.2; hence, there was no claim or evidence available to the Jury to prove that the distances were wrong.
- J/22 class rules 2.9.7 states that “Any alleged or suspected alteration(s) to the configuration or design of the hull, deck, keel, rudder, fittings or spars of a yacht for which specific descriptions are not stated in the Rules or Specifications or following a protest concerning the same shall be compared by a Measurer appointed by the ICJ22CA to a sample of ten other yachts. The disputed yacht shall be accepted if she does not show any evidence of having been altered and if she has dimensions equal to or between those of the maximum and minimum dimensions obtained from the sample of ten yachts [...]” and the Jury correctly reported as a fact that the 10 boats test has not been performed.
- The report is based on facts and allegations not available to the Jury at the moment of the hearing, which the reporter could have presented by lodging a valid protest and thus being a party to a hearing. The class itself deemed necessary to issue a clarification regarding this mast base in the weeks after the event.
- The conclusions are correct, based on the facts found by the Jury: there was no valid evidence available to prove that the equipment of NED 1273 have been altered.
- The decision to dismiss the protest is correct, since no rules have been proved to be broken.
- Neither the reporter himself nor Mr. Thomas Lösch, identified by the reporter as the “technical chairman of J22 class” that were both competing at the event have complained about the irregularities of which they claim to have been aware by lodging a protest on the first day of the event/during measurement which would have been the correct way to solve the case.

Decision

- The panel recommends that no action is taken.

Additional Note

This panel encourages further studies on the validity of the “10 boats test”:

- What would happen if the event has less than 10 boats available?
 - Imagine that a competitor is actually using an illegal equipment: what would happen if within the 10 boats sample another boat would be using the same illegal equipment?

- Statistically speaking, it is quite difficult to justify the number of 10 boats as sufficient; for example, for a fleet of 100 boats this number would lead to a confidence level of 80% and 20% margin of error, while on a fleet of 50 boats it would lead to a 17% margin of error.

The Race Officials and Sub Committee Chairs were in agreement that no action be taken as per World Sailing Regulation 32.

Maddie Dunn
WS Race Officials Manager
For and on behalf of the World Sailing Race Officials Committee