

DECISION

Request No.: 06

Protest and Request for Redress

Event: 2023 Formula Kite European Championships Race Number: 9
Hearing Schedule: 2023-09-23 18:00

PARTIES AND WITNESSES

Request No.: 06: POL 39 - Michal Wojciechowski

ESP 20 - Carlos Espi

Interpreters: Enric Noguera coach of ESP
20

VALIDITY

Objection to Jury: No

Within Time Limit: Within Time Limit

Incident Identified: Yes

Proper Hail: N/A

Red Flag Displayed: N/A

Decision: Request Invalid

PROCEDURAL MATTERS

Procedural Matters of the reopened hearing:

1. The International Jury decided that new evidence became available within a reasonable time and reopened the hearing on 23/09/2023 in accordance with RRS 66.1. The parties were present.
2. Enric Noguera, coach of ESP 20 attended the hearing as an interpreter for ESP 20.
3. The panel of the International Jury was composed in accordance with RRS N1.4(b). (Jacob, Finn, Enrica)

--> see Case 5

Procedural Matter of the Original Hearing

Enric Noguera, coach of ESP 20 attended the hearing as an interpreter for ESP 20.
Panel members original hearing: Finn, Rosie, Pauline, Marios, Enrica

FACTS FOUND

Facts Found after Reopening:

1. The conditions at the time of the incident were 15-20 knots of wind and choppy seastate.
2. On the second upwind of race F4, POL and ESP were approaching mark 2 on starboard tack with POL being clear ahead and 3m to leeward of ESP who was sailing lower and faster.
3. POL rounded mark 2 three m to leeward of ESP and was sailing deeper than her and had her kite still up.
4. At this time, contact occurred between POL's lines (3m from the kite) and the tip of ESP's kite.
5. Because of the contact, ESP's kite collapsed and fell into the water in front of POL, making contact with POL's competitor and foil. No tangle occurred between POL's and ESP's kites.
6. POL's competitor fell into the water and her kite went up to 12o'clock.
7. While being in the water, POL released her kite.
8. ESP's bridles were broken while the competitor of POL suffered cuts in his wetsuit and bruises caused by ESP's lines.
9. Both kiteboards retired from race F4 and were rescued.

Original Facts Found

There was no description of the incident or the reasons for asking redress on the hearing request form.

Diagram: Diagram not endorsed

CONCLUSIONS AND RULES THAT APPLY

Rules: RRS 14, 12, F4.44.1(b), F2.16.1, RRS 62.1(b)

After Reopening:

1. Since there was reasonable doubt that POL and ESP were overlapped, it is presumed that they were not, in accordance with RRS F Definition Clear Astern and Clear Ahead; Overlap.
2. ESP clear astern failed to keep clear of POL clear ahead, and broke RRS 12.
3. ESP did not avoid contact when it was reasonably possible, and broke RRS 14.
4. Since ESP caused injury by her breach, her penalty was to retire as required by RRS F4.44.1(b).
5. When changing course and the position of her kite, POL, the right-of-way kiteboard, gave ESP room to continue keeping clear, and as required by RRS F2.16.1.
6. It was not reasonably possible for POL, the right-of-way kiteboard, to avoid contact with ESP when it was clear that ESP was not keeping clear. POL did not break RRS 14.
7. POL's score in race F4 was made significantly worse by the actions of ESP that was breaking RRS 12 and 14 but not by injury or physical damage. Therefore, the requirements for redress in RRS 62.1(b) are not met.

Original Hearing:

1. The protest did not identify the incident, as required by RRS 61.2(b).
2. The request for redress did not identify the reasons for making it, as required by RRS 62.2.

DECISION

Date & Time: 2023-09-23 19:00 BST

Decision after reopening:

1. The protest is upheld. Since ESP took an applicable penalty, she is not further penalized under RRS 64.2(a).
2. Redress is not given.

Original Decision

The protest and the request for redress are invalid, the hearing is closed under RRS 63.5.

PROTEST COMMITTEE

Committee Type: Protest Committee

Chaired By: Jacob Andersen (DEN)

Committee Members: Finn Mrugalla (GER), Enrica Mameli (ITA)

Printed: 24 Sep 19:18