

DECISION

Request No.: 05

Protest and Request for Redress

Event: 2023 Formula Kite European Championships Race Number: 9
Hearing Schedule: 2023-09-22 16:15

PARTIES AND WITNESSES

Request No.: 05: Formula Kite Woman - Gold Fleet - 21 - Gisela Pulido

Formula Kite Woman - Gold - 10 - Maya Ashkenasi

VALIDITY

Objection to Jury: No

Within Time Limit: Within Time Limit

Incident Identified: Yes

Proper Hail: Protest hailed

Red Flag Displayed: N/A

Decision: Request Valid

PROCEDURAL MATTERS

1. Antonio Minguez, coach of ESP 21 attended the hearing and reopened hearing as an observer.
2. The hearing was reopened at 10:00 on 23/9/2023 as decided in hearing No. 9.
3. The panel members of the original hearing were Pauline den Burger, Marios Zisimatos, Rosemary Collins, Jacob Mossin Andersen and Enrica Mameli. The panel was changed with Enrica Mameli being substituted by Finn Mrugalla. A majority of panel members in the reopened hearing were members of the original panel in accordance with RRS 66.3(a).

Facts on Validity after Reopening:

1. ESP 21 submitted hearing request no 5 at 16:00 on 22/9/2023 using the iPhone application, including a description in the field 'Identify the Incident', prior to the 16:15 protest time limit.
2. The hearing request received did not include any content in that field.
3. During the night of 23/9/2023, it was proven there was an issue with the RRoS mobile application, where data submitted in the 'Identify the Incident' field is lost.
4. At 22:00 on 22/9/2023 Notice to Competitors No. 8 was issued, informing competitors about the issue and stating they should submit requests using the web browser.
5. The only location in the mobile application where ESP 21 can view a copy of the protest received by the International Jury is in the 'Protest Decisions' section.
6. ESP 21 resubmitted the written description of the incident at 09:48 on 23/9/2023, 3 minutes after the conclusion of hearing 9.

Conclusions on Validity after Reopening:

ESP 21 initially failed to deliver the protest with a written description of the incident within the protest time limit on 22/9/23, as required by RRS 61.3 and 62.2. However, there was good reason for the International Jury to extend the time limit under RRS 61.3 and 62.2 to 10:50 on 23/9/2023.

Reopened Decision on Validity:

Case 5 is valid.

FACTS FOUND

Facts Found after Reopening:

1. The windspeed was 14-15 knots with flat water.
2. ESP 21 and ISR 10 were sailing on port on the first upwind leg, with ESP 21 slightly clear ahead and 20m to leeward

- of ISR 10. The kiteboards were approximately placed in 5th position.
3. ESP 21 and ISR 10 simultaneously tacked onto starboard on the starboard layline.
 4. ESP 21 was now 3-4m clear astern and 10m to windward of ISR 10.
 5. ISR 10 fell off the foil and the competitor fell into the water. Her kite moved to the 12 o'clock position.
 6. Under a second later, ESP 21 attempted to raise her kite.
 7. Approximately 1 second after ISR 10 fell into the water, there was contact between ESP 21's A kite line and ISR's kite lines.
 8. ESP 21's A kite line was broken in the incident so that she could not effectively sail upwind. ESP 21 initially attempted to continue sailing the course, but retired on the second upwind leg.
 9. There was no tangle and no injury.
 10. ISR 20 retired from the race.

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, F2.22.2, F4.44.1(b), 61.2(b), 62.1(b), 62.2, 63.5, 64.2(a) and 66.3(a)

Conclusions after Reopening:

1. While recovering, ISR 10 failed to keep clear of ESP 21, who was not recovering, and broke RRS F2.22.2.
2. ISR 10 did not avoid contact when it was reasonably possible, and broke RRS 14.
3. Since ISR 10 caused serious damage, her penalty was to retire as required by RRS F4.44.1(b).
4. It was not reasonably possible for ESP 21, the right-of-way kiteboard, to avoid contact with ISR 10 when it was clear that ISR 10 was not keeping clear. ESP 21 did not break RRS 14.
5. ESP 21's place in race F4 was made significantly worse through no fault of her own by physical damage because of the action of ISR 10 that was breaking RRS F2.22.2 and 14, and took an appropriate penalty. Therefore, the requirements for redress in RRS 62.1(b) are met.

Original Conclusions:

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 10:48 BST

Decision after Reopening:

The protest is upheld. Since ISR 10 took an applicable penalty, she is not further penalized under RRS 64.2(a). Redress is given to ESP 21. ESP 21 is to be scored in race F4 points equal to the average, rounded to the nearest tenth of a point (0.05 to be rounded upward), of her points in races F1, F2 and F3. No other kiteboard's score shall change.

Original Decision:

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

PROTEST COMMITTEE

Committee Type: International Jury

Chaired By: Jacob Andersen (DEN)

Committee Members: Pauline den Burger (NED), Finn Mrugalla (GER), Marios Zisimatos (GRE), Rosemary Collins (AUS)