

INTERPRETATION 001-21

REQUEST FOR INTERPRETATION FROM THE PRESIDENT OF US SAILING

Introductory Notes

The Committee notes the request for interpretation refers to Regulation 36 (instead of Regulation 35) in some instances. The Committee has assumed each question relates to Regulation 35.

The Committee also notes that a number of amendments were made to Regulation 35 in November 2020, including some of the Regulations referred to below. The Committee has interpreted the Regulations as they are drafted on the date of this Interpretation.

Question 1(a)

Please confirm that the [MNA] has as stated in Regulation 35.6.5 three months in which to act?

Answer 1

Yes, Regulation 35.6.5 provides that an MNA must issue a written decision within three months from receipt of a complaint. However, that deadline may be extended by the Judicial Board:

- (a) upon receipt of a written application by the MNA in accordance with Regulation 35.6.8;
or
- (b) upon receipt of a request from any person with sufficient connection to the subject matter of the complaint in accordance with Regulation 35.6.9 and 35.6.10.

Question 1(b)

Please confirm that anytime with the three-month period stated within Regulation 35.6.5 that the misconduct complaint may be transferred to World Sailing under Regulation [35.6.4]?

Answer 1(b)

Yes, an MNA may request to transfer the complaint to World Sailing at any time within the three-month period (or if an extension is granted by the Judicial Board, within the extended period of time).

Question 1(c)

The Policy of the National Authority's Policies, Procedures and Regulations are the controlling doctrine in regards to its ability to hear / process of the complaints it receives?

Answer 1(c)

If a complaint or report is made to an MNA, yes the policies, procedures and regulations of the MNA will apply to that complaint. Regulation 35.1.9 provides that 'each MNA will have its own procedures by which such decisions are to be made and it is the responsibility of each MNA to ensure that such processes are fair and compliant with due process.'

However, if a complaint is made directly to World Sailing, or a complaint is transferred to World Sailing by the Judicial Board in accordance with Regulation 35.6.4, Regulation 35 will apply.

Question 2

During the course of an investigation by the Disciplinary Investigative Officer ("DIO") any party giving false and / or misleading information or untruthful responses to the [DIO] questions /requests for information is subject separate charges that the DIO may lay or a separate Misconduct Complaint?

Answer 2

Regulation 35.2.2 provides that 'in this Code "Misconduct" means a breach of Regulation 35.2.3, 35.2.4 and/or 35.3.9'.

Regulation 35.3.9 goes on to state that 'all Participants must take all reasonable measures to assist the [DIO] in the collection of evidence ...'.

Giving false and / or misleading information, or untruthful responses to the DIO's questions / requests for information could be considered a failure to 'take all reasonable measures to assist a DIO' and therefore 'Misconduct' under Regulation 35.2.2.

In respect of Part E ('All Other Disciplinary Complaints') complaints, Regulation 35.6.13(c) provides that a DIO may, in his absolute discretion (against which there is no appeal) 'charge any Participant with any act(s) of Misconduct which, in the opinion of the [DIO], may warrant disciplinary action within the jurisdiction of World Sailing'.

**Constitution Committee
World Sailing**

22 February 2021