

DECISION

1. In November 2022 the Appellant lodged an Appeal with regard to the Respondent's rejection of his Application for his 4-year renewal appointment as an International Measurer ("IM") for the Platu 25 Class.

Background

2. The Appellant was an IM for Platu 25 Class for the Period 2018-2021.
3. In August 2022 the Appellant submitted an Application for reappointment, which contained the Platu 25 World Championships (24/09/2022-02/10/2022) as Chief Measurer Assistant.
4. The Platu 25 World Championships 2022 were cancelled in the short term.
5. The Appellant took part as Chief Measurer to the Golden Cup in Anzio, an event that "replaced" these World Championships.
6. Therefore the Appellant's (Re-)Application did not contain an event for the Platu 25 Class that the Appellant was able to attend.
7. The Respondent rejected the Appellant's first time appointment as an IM for the Platu 25 Class on October 27th 2022, citing the application did not contain an event for the Platu 25 class and therefore the Appellant had not met requirement 5.3. (b) of the Race Officials Roles, Qualifications and Competences document (RQC).

The Legal Framework

8. For a person to be considered for Renewal Appointment as an International Measurer, the application must be lodged within 12 months of his/her appointment ending under Regulation 31.15 of the World Sailing Regulations ("the Regulations"):

"A World Sailing Race Official whose appointment has ended within the last 12 months may re-apply and be considered as a candidate for re-appointment (that is having to meet the requirements for re-appointment and not first appointment). After 12 months, the Race Official must apply as a candidate for first appointment."

9. The Respondent's position is that the Appellant's appointment as an IM expired at 01/01/2022 and that the Appellant did not have any principal event(s) as Chief or deputy equipment Inspector for Platu 25 Class as required by the Race Officials Roles, Qualifications and Competences document (RQC) 5.3. (b):

"5.3. Specific Qualifications for Reappointment"

A candidate for reappointment as IM shall have complied during the Designated Period with the following requirements:

...

(b) acted as an Equipment Inspector in two principal events; at least one of these events shall be with the candidate acting as Technical Committee Chief or Deputy. One of the events shall be of the class he is applying for. As an alternative, one of the events may be substituted by one hull prototype measurement of the class he is applying for; ..."

10. Considering the Coronavirus pandemic the RQC Appendix A – ROC Coronavirus Guidelines has been issued. Under REAPPOINTMENT section, EVENTS paragraph provides:

"Existing WS Race Officials applying for reappointment may also lack the number or level of events due to lockdown, travel restrictions or event cancellations. The ROC may deviate from the number and level of events. In addition, if the special circumstance brought in play by the COVID-19 pandemic apply to a reappointment application, WS Regulation 31.14.2 gives the ROC latitude to reappoint the candidate for a full four-year term or extend the existing appointment for 12 months. This 12 month extension may be granted more than once. Regulation 31 gives the ROC the task of setting the number and levels of events for qualification as a WS Race Official. The ROC will adjust the event requirements to accommodate circumstances stemming from the COVID-19 pandemic. Applicants for reappointment will be considered to have fulfilled the event requirement provided they have officiated in at least 75% of the required number of principal events during the Designated Period. In addition, and for particular cases or disciplines, the ROC may apply a lower percentage or consider events beyond the Designated Period stated in 1.1(g)."

Considerations

11. Regulation 31.14.2 and 31.15 combined with RQC Appendix A – ROC Coronavirus Guidelines provides ROC flexibility to give one year extension or a full four year period, if an applicant fulfills at least 75% of the required number of principal events.

In Appendix A, in the Reappointment section, after referring to the 75% the document also states: *"In addition, and for particular cases or disciplines, the ROC may apply a lower percentage or consider events beyond the Designated Period stated in [RQC] 1.1(g)."* The second part of this rule gives the ROC a discretion to be considered.

Paragraph 1.1(i) RQC makes it clear, that such requirements can be waived, if affected by the fallout of the Coronavirus pandemic. *“Candidates for first appointment or reappointment who have been adversely affected by the fallout of the Coronavirus pandemic should see the latest ROC Coronavirus Guidelines (Appendix A), which may take precedence particularly in extenuating circumstance.”*

12. The “appeal” does not appear to be an appeal against the original decision of the ROC, but rather a request for the ROC to consider the matter next year on a particular basis. That would require a new application being made to the ROC for it to consider when next dealing with applications.

Decision

13. The rejection letter of the 27th October 2022 refers to a 4 year first time appointment, however it is clear the ROC considered and dealt with the application as applied – namely as a renewal.
14. Notwithstanding the comments made in paragraphs 11 and 12 above, the Panel accepts the submissions of the Respondent that the application of the Appellant did not contain an event for the Platu 25 Class, and therefore did not meet the specific requirements.
15. The ROC have applied the relevant regulations and associated guidelines in reaching its decision. The exercise of any discretion is a matter of the ROC, and such discretion can only be interfered with or changed on appeal in limited circumstances which are not alleged or apply here. The appeal seeks a remedy by way of request which is a matter for the Race Officials Committee and not within the jurisdiction of the Appeal Body.

The Appellant’s appeal is therefore dismissed.

Ute Reisinger
(Chairperson)



David Tillett
(Panel Member)

Ana J. Gamulin
(Panel Member)

Independent Panel

January 19th 2023

