

BEFORE A PANEL APPOINTED UNDER REGULATION 32.5 AND 32.7

IN THE MATTER OF AN INVESTIGATION BASED ON A REPORT UNDER REGULATION 32 CONCERNING A PENALTY TO A BOAT T AN EVENT BY AN INTERNATIONAL JUDGE AND UMPIRE, AND THE EXPLANATION GIVEN TO THE COMPETITOR OF THE PENALTY.

INTERNATIONAL RACE OFFICIAL INVOLVED

Mr. Manuel Santos e Silva (MSS), IJ/IU from Portugal

INITIAL ALLEGATION

1. Mr. Pedro Rebelo de Andrade was a competitor in SGP (bow 49) in the SB20 Worlds, 2021 in Cascais Portugal. IRL comes on port tack and tacks to leeward of us, acquiring right of way. At this moment all that we can do is go head to wind as she cannot tack due to BRA to windward of us. At the same time, another boat POR to windward of us overlapped sheets in the jib and starts drifting causing a collision with us and the Irish boat. Both SGP and IRL shout protest and show protest flag. International Jury Mr. Manuel Santos Silva shows us a flag for us to exonerate ourselves.
2. Later ashore, I have tried to ask him and International Jury Mr. Andres Perez what rule did we SGP break, but the answer was that they are International Juries and that their decision is final.

ACCEPTING THE ALLEGATION OR REQUIRING AN INVESTIGATION

1. Mr. Manuel e Santos Silva acknowledged receipt of the allegation and required an investigation.
2. Since Mr. Manuel e Santos Silva required an investigation, formal action by World Sailing was taken and a panel of three was appointed as required by Regulation 32.5 and 32.7.

MEMBERS OF THE PANEL

Lynne Beal, Canada, Chairman
Alan Baser, Great Britain
Arnaud Mante, France

INVESTIGATION CONDUCTED BY THE PANEL

3. Under World Sailing Regulation 32.3, this report was placed in Category B: A significant report which is considered to allege a level of competence or conduct clearly below the level required for appointment as a World Sailing Race Official in the relevant discipline.

4. After going through the documents provided, the panel decided that further information was needed. They contacted the International SB20 Class to obtain the Notice of Race and Sailing Instructions for the event. They also contacted Mr. Manuel Santos e Silva, and Mr. Andres Perez who was Chairman of the International Jury for the SB20 Worlds 2021 to answer questions by the panel and give a statement on the case.
5. The panel considered the answers and documents received.
6. The panel, after careful examination of all information provided, decided that:
 - There is not enough evidence to determine that the penalty given to SGP was correct or not.
 - The response given to Mr. Pedro Rebelo de Andrade when he inquired about the penalty does not show a level of competence or conduct by Mr. Manuel Santos e Silva clearly below the level required for an International Umpire.
 - There is no evidence of a pattern of inadequate conduct or incompetence by Mr. Manuel Santos e Silva with respect to the penalty given or to the response to the competitor's question about the penalty.
 - The allegations have not been found to be true.
 - We recommend that no further action will be taken.

Reasons

7. The SB20 Worlds 2021 was held in Cascais Portugal from 28th August to 3rd September, 2021.
8. The Notice of Race for provided for an International Jury. The Organizing Authority appointed Mr. Andres Perez as Chairman and Mr. Manuel Santos e Silva as a member.
9. On 29th August 2021 prior to the first schedule race of the championship, the Organizing Authority published Notice to Competitors # 4. It added paragraph 1.7 to the Notice of Race, "Appendix UF will apply".
10. Mr. Manuel Santos e Silva an IU and IJ, was the Chief Umpire and participated in the on-the-water fleet umpiring of the races at the championship.
11. Mr. Pedro Rebelo de Andrade was a competitor in SGP 3570 (bow 49) in the SB20 Worlds, 2021. He described an incident in race 7 about one minute before the start in which his boat was signalled a penalty by Mr. Manuel Santos e Silva: "SGP was on starboard and sailing slowly with sails flapping. IRL comes on port tack and tacks to leeward of us, acquiring right of way. At this moment all that we can do is go head to wind as she cannot tack due to BRA to windward of us. At the same time, another boat POR 3652 to windward of us overlapped sheets in the jib and starts drifting causing a collision with us and the Irish boat. Both SGP and IRL shout protest and show protest flag. International Jury Mr. Manuel Santos Silva shows us a flag for us to exonerate ourselves."

12. Mr. Pedro Rebelo de Andrade provided a written statement from a member of the crew of the Irish boat: "We (bow 66 IRL) started at the committee boat end of the line to leeward of bow 49 (SGP) beside them was bow 15 (POR), beside them was a gap to the committee boat that bow 7 (BRA) sailed into. At approximately 10 seconds to go bow 15 (POR) realizing they were too early bore off and made contact with bow 49 (SGP) and bow 66 (IRL). At this point I was shocked to hear the Jury penalizing bow 49 (SGP) who in my option were the victim of bow 15 (POR), it was a clear infringement of rule 11 by bow 15 (POR) Bow 15 (POR) then continued to sail on not acknowledging any of the complaints from the boats behind, We bow 66 (IRL) pulled our protest flag at the time only to be told by the jury boat to put it away 300 meters up the course."
13. Mr. Pedro Rebelo de Andrade provided a video recording of the incident from the Brazilian boat (BRA).
14. When asked about the incident, Mr. Andres Perez responded that he does not remember any call from that event, it was August 2021. He does not remember sail numbers or any other details about the incident. It was a busy week for the jury, we umpired on the water, then we dealt with protests of unseen incidents on the water and we had also three RRS 69 Cases.
15. When asked about this incident, Mr. Manuel Santos e Silva replied that he has absolutely no recollection of the incident, even after seeing the video. He could not confirm the position of his umpire boat. There were two umpire boats rotating sides. He notes that POR is clear ahead at the last point of certainty. From the video, it is very difficult because of the angle from which the video is made, to understand if an overlap was then established between SGP and POR, and if so, was it established by a POR bear away or by SGP coming from clear astern, what means, was RRS 15 applying to SGP or not?
16. The investigation panel does not know the location of the umpire boat. The video evidence is subject to distortion of distances. This situation involved three boats, IRL, SGP and POR, each with rights and obligations. There is no evidence from POR. The umpire does not recall the rule or reason for the penalty. The video and witness statements are not clear as to when the penalty was given to determine whether the penalty was correct.
17. World Sailing International Umpire Performance Assessment Criteria 3.2 sets as the standard for rules application and decisions, that an International Umpire "identifies right-of-way boat and basic obligations and opportunities 95% of the time." This allows for decisions to be wrong sometimes.
18. In the event that the penalty given by Mr. Manuel Santos e Silva was in error, it is within the 95% accuracy criteria set by World Sailing for International Umpires applying rules and making decisions.

19. No evidence has been provided to indicate that Mr. Manuel Santos e Silva's penalty was unfair if it was incorrect. The allegation regarding one penalty that Mr. Manuel Santos e Silva gave does not establish a pattern of decisions by him below the standard of 95% accuracy.
20. Mr. Pedro Rebelo de Andrade further alleged that, later ashore I have tried to ask him and International Jury Mr. Andres Perez what rule did we SGP break, but the answer was that they are International Juries and that their decision is final.
21. The panel asked Mr. Andres Perez whether the officials held an organized debrief for competitors to discuss the penalties with the umpires at the end of the day of race 7. Mr. Perez responded that "every morning we had a Skippers meeting (OA, PRO, Jury and TC), but there was no evening debrief as we had protests. Any questions would be asked next day but some days, we also replied questions in the evening, depending of how busy we were".
22. Mr. Andres Perez remembered the conversation, "only because Petro Rebelo de Andrade addressed to Manuel Santos Silva in an aggressive manner, and seemed not to understand/accept that what was decided on the water by the umpires could not be heard after in a hearing."
23. When asked about Mr. Pedro Rebelo de Andrade's question about the penalty in Race 7, Mr. Manuel Santos e Silva responded, "I don't remember at all this situation and I find it very strange".
24. Mr. Manuel Santos e Silva explained that he always discusses with the sailors the calls when they ask for it and in this particular situation when an error could have been made, one more reason to discuss it to try to understand if an error was really made and if so, to try to understand why it happened to avoid to repeat.
25. Mr. Manuel Santos e Silva noted that Mr. Pedro Rebelo de Andrade stated that it was both he and Mr. Andres Perez that said "the decisions are final", what makes him feel that, his report looks a bit more as a personal issue with me, instead of an eventual improper action from the race officials.
26. With regard to debriefs, the World Sailing Fleet & Medal Racing Umpire Manual v 2.0 July 2021 section 2.7 advises: "Umpires should be available to discuss calls with competitors ashore after racing, and some events organise formal umpire and competitor debriefings after racing". "Unlike conversations at the finish line, the main purposes of a discussion ashore are to help sailors understand the rules better, and to explore an incident from their point of view." Competitors had the opportunity to ask about penalties at the daily meeting the next morning.
27. Mr. Pedro Rebelo de Andrade did not indicate whether he asked his question in a debrief or individually with the umpires. At a debrief, the umpires should have answered what rule SGP broke, if they recalled the incident. There is insufficient

evidence about this conversation to determine whether there was more said at the time. Inadequate conduct cannot be established.

28. Appendix UF Umpired Fleet Racing 2021 SB20 World Championship Edition [Version August 28th 2021] provides in UF3.3(b) that a boat that protests another boat under a rule of Part 2 is not entitled to a hearing, unless an umpire has displayed a yellow flag indicating that they do not have the facts required to make a decision. An umpire may penalize any boat that broke a rule and was not exonerated, unless the boat took a penalty voluntarily.
29. The umpires did not display a yellow flag at the time of the incident. Nonetheless, Mr. Pedro Rebelo de Andrade's boat SGP3570 filed a request for hearing. They protested POR 3652 in this incident and requested redress alleging that their result was harmed by the actions of the jury. The international Jury found the protest to be invalid since the umpires did not signal a yellow flag, so SGP was not entitled to a hearing. They did not give redress since Appendix UF 5.1 provides that no proceedings of any kind may be taken in relation to any action or non-action by an umpire.
30. The response given to the question, "what rule did we break?" does not address the reason for the penalty. The competitor's expectation to review the incident on the water could not be met in the protest hearing. The response "the decisions are final," is appropriate following the decision of the International Jury at the hearing, consistent with Mr. Andres Perez's recollection of the conversation. The jury's response brought closure to the hearing.
31. Mr. Pedro Rebelo de Andrade brought forward his allegation under Regulation 32 about the penalty in August 2021 approximately 15 months later, in December 2022. World Sailing does not require umpires to make records of penalties given on the water under Appendix UF, or to retain any such records that are made, for any period of time. By waiting for 15 months to make this report, Mr. Pedro Rebelo de Andrade put Mr. Manuel Santos e Silva in an unfair position, since he had no requirement to recall the incident so long after the incident.

Decision

27. The panel recommends that
 - The matter be closed, and no further action be taken.

Lynne Beal
February 18, 2023