

Racing Rules of Sailing

RRS M1, M2, M3, M4, M6 and M7

A submission from the Croatian Sailing Federation

Purpose or Objective

Change Appendix M format as below by replacing bullets with letters.

Proposal

M1 PRELIMINARIES (may be performed by race office staff)

- Receive the protest or request for redress.
- Note on the form the time the protest or request is delivered and the protest time limit.
- Inform each party, and the race committee when necessary, when and where the hearing will be held.

M2 BEFORE THE HEARING

M2.1 Make sure that

- each party has a copy of or the opportunity to read the protest, request for redress or allegation and has had reasonable time to prepare for the hearing.
- only one person from each boat (or party) is present unless an interpreter is needed.
- all boats and people involved are represented. If they are not, however, the committee may proceed under rule 63.3(b).
- boats' representatives were on board when required (rule 63.3(a)). When the parties were in different events, both organizing authorities must accept the composition of the protest committee (rule 63.8). In a protest concerning class rules, obtain the current class rules and identify the authority responsible for interpreting them (rule 64.4(b)).

M2.2 Determine if any members of the protest committee saw the incident. If so, require each of them to state that fact in the presence of the parties (rule 63.6(b)).

M2.3 Assess conflicts of interest.

- Ensure that all protest committee members declare any possible conflicts of interest. At major events this will often be a formal written declaration made before the event starts that will be kept with the protest committee records.
 - At the start of any hearing, ensure that the parties are aware of any conflicts of interest of protest committee members. Ask the parties if they consent to the members. If a party
-

does not object as soon as possible after a conflict of interest has been declared, the protest committee may take this as consent to proceed and should record it.

- If a party objects to a member, the remainder of the protest committee members need to assess whether the conflict of interest is significant. The assessment will consider the level of the event, the level of the conflict and the perception of fairness. It may be acceptable to balance conflicts between protest committee members. Guidance may be found on the World Sailing website. Record the decision and the grounds for that decision.
- In cases of doubt it may be preferable to proceed with a smaller protest committee. Except for hearings under rule 69, there is no minimum number of protest committee members required.
- When a request for redress is made under rule 62.1(a) and is based on an improper action or omission of a body other than the protest committee, a member of that body should not be a member of the protest committee.

M3 THE HEARING

M3.1 Check the validity of the protest or request for redress.

- Are the contents adequate (rule 61.2 or 62)?
- Was it delivered in time? If not, is there good reason to extend the time limit (rule 61.3 or 62.2)?
- When required, was the protestor involved in or a witness to the incident (rule 60.1(a))?
- When necessary, was 'Protest' hailed and, if required, a red flag displayed correctly (rule 61.1(a))?
- When the flag or hail was not necessary, was the protestee informed?
- Decide whether the protest or request for redress is valid (rule 63.5).
- Once the validity of the protest or request has been determined, do not let the subject be introduced again unless truly new evidence is available.

M3.2 Take the evidence (rule 63.6).

- Ask the protestor and then the protestee to tell their stories. Then allow them to question one another. In a redress matter, ask the party to state the request.
 - Make sure you know what facts each party is alleging before calling any witnesses. Their stories may be different.
 - Allow anyone, including a boat's crew, to give evidence. It is the party who normally decides which witnesses to call, although the protest committee may also call witnesses (rule 63.6(a)). The question asked by a party 'Would you like to hear N?' is best answered by 'It is your choice.'
-

- Call each party's witnesses (and the protest committee's if any) one by one. Limit parties to questioning the witness(es). (They may wander into general statements.)
- Invite the protestee to question the protestor's witness first (and vice versa). This prevents the protestor from leading his witness from the beginning.
- Allow members of the protest committee who saw the incident to give evidence (rule 63.6(b)), but only while the parties are present. Members who give evidence may be questioned, should take care to relate all they know about the incident that could affect the decision, and may remain on the protest committee (rule 63.3(a)).
- Try to prevent leading questions, but if that is impossible discount the evidence so obtained.
- The protest committee chairman should advise a party or a witness giving hearsay, repetitive or irrelevant evidence that the protest committee must give such evidence appropriate weight, which may be little or no weight at all.
- Accept written evidence from a witness who is not available to be questioned only if all parties agree. In doing so they forego their rights to question that witness (rule 63.6(c)).
- Ask one member of the committee to note down evidence, particularly times, distances, speeds, etc.
- Invite questions from protest committee members.
- Invite first the protestor and then the protestee to make a final statement of her case, particularly on any application or interpretation of the rules.

M3.3 Find the facts (rule 63.6(d)).

- Write down the facts; resolve doubts one way or the other.
- Call back parties for more questions if necessary.
- When appropriate, draw a diagram of the incident using the facts you have found.

M3.4 Decide the case (rule 64).

- Base the decision on the facts found. (If you cannot, find some more facts.)
- In redress cases, make sure that no further evidence is needed from boats that will be affected by the decision.

M3.5 Inform the parties (rule 65).

- Recall the parties and read them the facts found, conclusions and rules that apply, and the decision. When time presses it is permissible to read the decision and give the details later.
 - Give any party a copy of the decision on request. File the
-

protest or request for redress with the committee records. M4 REOPENING A HEARING (rule 66)

M4.1 When a party, within the time limit, has asked for a hearing to be reopened, hear the party making the request, look at any video, etc., and decide whether there is any significant new evidence that might lead you to change your decision. Decide whether your interpretation of the rules may have been wrong; be open-minded as to whether you have made a mistake. If none of these applies refuse to reopen; otherwise schedule a hearing.

M4.2 Evidence is 'new'

- if it was not reasonably possible for the party asking for the reopening to have discovered the evidence before the original hearing,
- if the protest committee is satisfied that before the original hearing the evidence was diligently but unsuccessfully sought by the party asking for the reopening, or
- if the protest committee learns from any source that the evidence was not available to the parties at the time of the original hearing.

M5 MISCONDUCT (rule 69)

M5.1 An action under this rule is not a protest, but the protest committee gives its allegations in writing to the competitor before the hearing. The hearing is conducted under rules similar to those governing a protest hearing but the protest committee must have at least three members (rule 69.2(a)). Use the greatest care to protect the competitor's rights.

M5.2 A competitor or a boat cannot protest under rule 69, but the hearing request form of a competitor who tries to do so may be accepted as a report to the protest committee, which can then decide whether or not to call a hearing.

M5.3 Unless World Sailing has appointed a person for the role, the protest committee may appoint a person to present the allegation. This person might be a race official, the person making the allegation or other appropriate person. When no reasonable alternative person is available, a person who was appointed as a member of the protest committee may present the allegation.

M5.4 When it is desirable to call a hearing under rule 69 as a result of a Part 2 incident, it is important to hear any boat-vs.-boat protest in the normal way, deciding which boat, if any, broke which rule, before proceeding against the competitor under rule 69.

M5.5 Although action under rule 69 is taken against a competitor, boat owner or support person, and not a boat, a boat may also be penalized (rules 69.2(h)(2) and 64.5).

M5.6 When a protest committee upholds a rule 69 allegation it will need to consider if it is appropriate to report to either a national authority or World Sailing. Guidance on when to report may be found in the World Sailing Case Book. When the protest committee does make a report it may recommend whether or not further action should be taken.

M5.7 Unless the right of appeal is denied in accordance with rule 70.5, a party to a rule 69 hearing may appeal the decision of the protest committee.

M5.8 Further guidance for protest committees about misconduct may be found on the World Sailing website.

M6 APPEALS (rule 70 and Appendix R)

When decisions can be appealed,

- • retain the papers relevant to the hearing so that the information can easily be used for an appeal. Is there a diagram endorsed or prepared by the protest committee? Are the facts found sufficient? (Example: Was there an overlap? Yes or No. 'Perhaps' is not a fact found.) Are the names of the protest committee members and other important information on the form?
- • comments by the protest committee on any appeal should enable the appeals committee to picture the whole incident clearly; the appeals committee knows nothing about the situation.

M7 PHOTOGRAPHIC EVIDENCE

Photographs and videos can sometimes provide useful evidence but protest committees should recognize their limitations and note the following points:

- The party producing the photographic evidence is responsible for arranging the viewing.
- View the video several times to extract all the information from it.
- The depth perception of any single-lens camera is very poor; with a telephoto lens it is non-existent. When the camera views two overlapped boats at right angles to their course, it is impossible to assess the distance between them. When the camera views them head on, it is impossible to see whether an overlap exists unless it is substantial.
- Ask the following questions:
 - Where was the camera in relation to the boats?
 - Was the camera's platform moving? If so in what direction and how fast?
 - Is the angle changing as the boats approach the critical point? Fast panning causes radical change.
 - Did the camera have an unrestricted view throughout?

Current Position

The lists in Appendix M are displayed with bullets.

Example:

M3 THE HEARING

M3.1 Check the validity of the protest or request for redress.

- Are the contents adequate (rule 61.2 or 62)?
 - Was it delivered in time? If not, is there good reason to extend the time limit (rule 61.3 or 62.2)?
 - When required, was the protestor involved in or a witness to the
-

incident (rule 60.1(a))?

- When necessary, was 'Protest' hailed and, if required, a red flag displayed correctly (rule 61.1(a))?
- When the flag or hail was not necessary, was the protestee informed?
- Decide whether the protest or request for redress is valid (rule 63.5).
- Once the validity of the protest or request has been determined, do not let the subject be introduced again unless truly new evidence is available.

M3.2 Take the evidence (rule 63.6).

- Ask the protestor and then the protestee to tell their stories. Then allow them to question one another. In a redress matter, ask the party to state the request.

Reasons

1. When teaching judges the rules, it is awkward for the student and teacher to refer to an item in Appendix M as "M3.1 fifth bullet" instead of "M3.1(e)."
 2. For an example of the reason for the submission, see the Judges Manual, page F14: "It is the responsibility of the party to provide the equipment to display tracking data (see RRS M7, first point)."
-