

The question is whether Regulation 19.21 affords a right of appeal against a decision of the Board not to exercise its discretion under Regulation 19.15.

1. A decision was made by the Board under Regulation 19.15 of the Regulations.

Regulation 19.15 Provides:

“A competitor who has represented one country and who has another nationality, has changed his nationality, or has acquired a new nationality shall not represent his new country unless:

(a) he has not represented his old country within the last three years; and

(b) at least three years has passed since such change or acquisition.

The World Sailing Board may, after taking into account the circumstances of each case and with the agreement of the Member National Authorities concerned, reduce or cancel the three-year periods referred to in (a) and (b) above.”

2. Regulation 19.21 Provides:

“The procedures for reviewing and appealing decisions of a National Authority or World Sailing under this Regulation are set out in Regulation 35.”

3. Regulation 35.8.1 which relates to appeals of decisions made by or within World Sailing provides:

“The provisions of this Part of this Code apply to any appeal or review of any decision made within or by World Sailing where the World Sailing Constitution or Regulations expressly permit any such appeal or review.”

Answer

4. Regulation 19.21 and Regulation 19.22 refer to subsequent review and appeals in relation to the disciplinary regulations which deal with the power of World Sailing and MNAs to suspend or revoke Competitor/World Sailing Eligibility.
5. Regulation 19.21 read in the context of 19.19 and 19.20, signpost the reader to Regulation 35 where you find the rights of appeal against decisions relating to suspending or revoking Competitor/World Sailing Eligibility.

6. This is further evidenced by the fact that “*Suspension or revocation of Competitor Eligibility or World Sailing Eligibility*” is shown as a sub heading before Regulation 19.19 in bold and this clearly indicates that these clauses are intended to be read together.

7. Regulation 35.8.1 clearly states that the Regulations must “expressly permit such appeal or review”

8. This is also contained in Article 79.1 of World Sailing Constitution which provides:

The Judicial Board will decide on cases brought by any person or organization where these Articles or the Regulations specifically authorize that person or organization to bring such a case before the Board.

9. There is a limited right of appeal to the Court of Arbitration for Sport under Regulation 35.9.1 (b) which may or may not apply to a matter of Competitor Eligibility/World Sailing Eligibility if it relates to intended participation in the Olympic Games. Regulation 35.9.1 provides:

No appeal from a decision of World Sailing lies to the Court of Arbitration for Sport except:

(a) in accordance with this Regulation 35.9; or

(b) under Rule 61(2) of the Olympic Charter for disputes arising on the occasion of, or in connection with, the Olympic Games.

10. In the absence of an express appeal provision within Regulation 19.15 the conclusion must be that there is no right of appeal except as otherwise provided in Regulation 35.9.1, against a decision of the World Sailing Board not to exercise its discretion under that Regulation.

Constitution Committee

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