

DECISION

Protest and Request for Redress

Request No.: 10

Heard Jointly With Number(s): 11

Event: 2022 Formula Kite European Championships Race Number: 2
Hearing Schedule: 2022-09-28 20:20

PARTIES AND WITNESSES

Request No.: 10: Formula Kite - Red - 78 - Mario Calbucci

Kite - Male Red - 59 - Benoit Gomez

Request No.: 11: Kitefoil - red - 24 - ReevesRacing - Nick Reeves

FK - Men - FRA 59 - Benoit Gomez

VALIDITY

Objection to Jury: No

Within Time Limit: Beyond with Good Reason

Incident Identified: Yes

Proper Hail: Protest hailed

Red Flag Displayed: N/A

Decision: Request Valid

PROCEDURAL MATTERS

Procedural matters of the original hearing:

Hearing No. 10 was heard together with Hearing No. 11 in accordance with RRS 63.2 since both hearings arose from the same incident.

Facts on validity:

1. The incident happened at the start of race 2 for the men's red fleet at 16:31.
2. The end of the protest time limit for the men's red fleet was at 17:31.
3. Hearing request No. 10 was filed via the online system at 17:32.
4. Hearing request No. 11 was filed via the online system at 17:36.
5. ITA 78 and USA 24 had been rescued on the water and thereafter had to walk from the harbour to the event venue before being able to deliver their hearing requests.

Conclusions on validity:

ITA 78 and USA 24 failed to deliver their protests within the protest time limit, as required by RRS 61.3. However, there was good reason for the International Jury to extend the time limits under RRS 61.3.

Date & Time of first decision: 2022-09-28 21:10 EEST

Procedural matters for the reopened hearing:

1. The hearing was reopened on 29th September at 16:20 as decided in case 16.
2. Prior to the reopened hearing, ITA 78 approached the International Jury after becoming aware of the new video evidence. She requested to retire again because in her opinion she was not entitled redress.

FACTS FOUND

Facts found in the original hearing:

1. The conditions at the time of the incident were 6 to 14 knots, gusting up to 25 knots.
2. At the start of race 1, ITA 78 was sailing on starboard tack approximately 10m to windward and 5m ahead of USA 24.
3. FRA 59 on port tack was on a collision course with ITA 78 and USA 24.
4. At a distance of around 70m from ITA 78 and USA 24, FRA 59 tacked to starboard tack.
5. While tacking, FRA 59's kite front stalled and collapsed.

6. ITA 78's kite collapsed.
7. There was a contact between ITA 78's kite, FRA 59's kite and the head of the competitor of USA 24.
8. Few seconds later, there was also contact between ITA 78's and USA 24's kites.
9. ITA 78's kite was completely destroyed in the incident.
10. Damage occurred to the bridles of USA 24's kite.
11. No injury occurred.
12. FRA 59, ITA 78 and USA 24 retired from race 2.

Facts found after reopening:

All facts of the original hearing are substituted with the below:

1. The conditions at the time of the incident were 6 to 14 knots, gusting up to 25 knots.
2. At the start of race 1, ITA 78 was sailing on starboard tack approximately 10m to windward and 5m ahead of USA 24.
3. FRA 59 on port tack was on a collision course with ITA 78 and USA 24.
4. At a distance of around 70m from ITA 78 and USA 24, FRA 59 moved his kite up to tack to starboard tack.
5. While tacking, FRA 59's kite front stalled, collapsed and fell into the water.
6. ITA 78's kite collapsed immediately after FRA 59's kite collapsed without being directly affected by each other.
7. Approximately 1 second later, there was a contact between ITA 78's kite and the head of the competitor of USA 24.
8. One second later, the kite of ITA 78 was in the water.
9. As a result, 3 to 4 seconds later USA 24's kite also fell into the water crossing the lines of FRA 59.
10. ITA 78's kite was completely destroyed in the incident.
11. Damage occurred to the bridles of USA 24's kite.
12. No injury occurred and there were no tangles.
13. It took USA 24 about 1.5 minutes to get ready to relaunch.
14. USA 24 could not relaunch because of the broken bridles.
15. In race 2, the last kiteboard finished 6 minutes after the first kiteboard.
16. FRA 59, ITA 78 and USA 24 retired from race 2.

Diagram: Diagram not endorsed

CONCLUSIONS AND RULES THAT APPLY

Rules: RRS 14, F2.22.1, F2.22.2, 43.1(a), F4.44.1(b), 62.1(b) and 64.2(a)

Conclusions of the original hearing:

1. While recovering, FRA 59 failed to keep clear of ITA 78 and USA 24 who were not recovering, and broke RRS F2.22.2.
2. FRA 59 did not avoid contact when it was reasonably possible, and broke RRS 14.
3. By retiring, FRA 59 took the appropriate penalty for her breach under RRS F4.44.1(b).
4. While recovering, ITA 78 failed to keep clear of USA 24 who was not recovering, and broke RRS F2.22.2.
5. Since ITA 78 was compelled to break RRS F2.22.2 as a consequence of FRA 59 breaking RRS F2.22.2, she is exonerated under RRS 43.1(a) for this breach.
6. It was not reasonably possible for ITA 78, the right-of-way kiteboard, to avoid contact with FRA 59 when it was clear that FRA 59 was not keeping clear. It was not reasonably possible for ITA 78 to avoid contact with USA 24. ITA 78 did not break RRS 14.
7. It was not reasonably possible for USA 24 to avoid contact with ITA 78 and FRA 59. USA 24 did not break RRS 14.
8. ITA 78's and USA 24's scores in race 2 were made significantly worse through no fault of their own by physical damage because of the action of FRA 59 that was breaking RRS F2.22.2 and took an appropriate penalty. Therefore, the requirements for redress in RRS 62.1(b) are met.

Conclusions of the reopened hearing:

All conclusions of the original hearing are substituted with the below:

1. While recovering, ITA 78 failed to keep clear of USA 24 who was not recovering, and broke RRS F2.22.2.
2. It was not reasonably possible for ITA 78 to avoid contact with USA 24. ITA 78 did not break RRS 14.
3. By retiring, ITA 78 took the appropriate penalty for her breach under RRS F4.44.1(b).
4. It was not possible for USA 24 to avoid FRA 59 who was capsized. Therefore, USA 24 did not break F2.22.1.
5. It was not reasonably possible for USA 24 to avoid contact with ITA 78 and FRA 59. USA 24 did not break RRS 14.
6. It was not reasonably possible for FRA 59 to avoid contact with USA 24. FRA 59 did not break RRS 14.
7. ITA 78's score in race 2 was made significantly worse through her own fault. Therefore, the requirements for redress in RRS 62.1 are not met.
8. USA 24's score in race 2 was made significantly worse through no fault of her own by physical damage because of the action of ITA 78 that was breaking RRS F2.22.2 and took an appropriate penalty. Therefore, the requirements for redress in RRS 62.1(b) are met.

DECISION**Date & Time:** 2022-09-29 19:32 EEST

The protest against ITA 78 is upheld. Since ITA 78 took an applicable penalty, she is not further penalized under RRS 64.2(a).

The protest against FRA 59 is dismissed.

Redress is not given to ITA 78.

Redress is given to USA 24. USA 24 is to be scored in race 2, points equal to the average, rounded to the nearest tenth of a point (0.05 to be rounded upward), of her points in all races sailed in phases Q1 and Q2, except race 2.

PROTEST COMMITTEE

Chaired By: Finn Mrugalla (GER)

Committee Members: Marios Zisimatos (GRE), Yoann Peronneau (FRA), Stavros Kouris (GRE), Pauline Den Burger (NED)

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