

Appeal SPL-FSF 2006/1
Protestor ESP 29698
Protestee ITA 29685
Snipe Class Open Nordic Championship 28–30 July 2006, BSF (Pori, FIN)
Appellant ITA 29685

Protests

On the second downwind leg in race 5, the protest committee protested ITA 29685 under rule P1. A list of rule 42 breaches was signed and posted by the protest committee chairman at 1605. The protest time limit was 1619. According to the list, ITA 29685 had acknowledged her breach as provided in rule P2.1.

ESP 29698 delivered at 1625 a filled protest form to the race office. Although the form was ticked as a request for redress, it stated ITA 29685 as the protestee and rule 42 as the rule alleged to have been broken by her. On page 2 the representatives of the boats were mistakenly interchanged. The facts found, conclusions and decision were written as for a protest by ESP 29698 against ITA 29685.

The protest committee found as fact that ITA 29685 had first completed one tack and one gybe and then after 30 seconds a second gybe but not a second tack. The committee concluded that this did not constitute a Two-Turns Penalty as required by rule P2.1 and disqualified ITA 29685. The committee also ticked the box 'Redress given as follows' but did not write anything after it.

The appeal

ITA 29685 appeals the protest committee's decision. She considers and calls the case a protest, although she notes that it was delivered as a request for redress. She alleges that it was delivered late. Referring to testimony by Stefano Longhi, she contests the facts found and asserts that the penalty turns were properly made. ITA 29685 requests that the protest be dismissed.

Comments by the protest committee

The protest committee asserts that the case was a request for redress; that it was on time; that the witness gave inaccurate evidence; that the committee had made a mistake by not following the turns to the end; and that the conditions of rule 62.1 were met.

Comments and decision by the FSF Racing Rules Committee

The protest committee was confused as to whether the case was a request for redress or a protest. In spite of the ticks for request, it considered and treated the two boats as the only parties and Mr Stefano Longhi as the only witness. The FSF Racing Rules Committee therefore concludes that the case was a boat-vs.-boat protest and not a request for redress for protest committee action.

Regardless of the use of Appendix P, a boat can protest a boat for breaking rule 42. Such a protest, however, must be initiated on the water and in compliance with rule 61.1(a). There is no indication that ESP 29698 complied with rule 61.1(a). Also, the protest was 6 minutes late.

Thus the protest was invalid, and the protest committee made an error by declaring it valid and continuing the hearing.

The protest committee's on-water protest was no longer in effect. A disqualification resulting from it under rule P2.1 should have been immediate, without a hearing. Its result should have been posted on the list of rule 42 breaches as DSQ. Since the protest by ESP 29698 was invalid, there was no protest against ITA 29685. According to rule 63.1, ITA 29685 could not be disqualified.

The decision of the FSF Racing Rules Committee is to declare the protest against ITA 29685 invalid and reinstate her in her finishing position in race 5.

Helsinki, 3 November 2006

Pertti Lipas, chairman.

Mats Björklund

Gustav Dahlberg

Timo Fleming

Per-Ole Holm

Leif Nybom

Lars Nyqvist

Tom Schubert

Muutoksenhaku SPL-FSF 2006/2

H-vene FIN 681 Ecstacyn hyvityspyyntö kilpailulautakunnan toiminnasta

Yöpurjehdus 25.–26.8.2006, KTPS

Muutoksenhakija Ecstacy

Protesti

Mitään kilpailusääntöjen tarkoittamaa (sääntö 61.2 ja määritelmä) protestia ei ollut. Kilpailupäällikkö ilmoitti suullisesti Ecstacylle kilpailun päätyttyä, että tämän purjehdus on hylätty lähtötilanteessa sattuneen, täsmentämättömän tapahtuman vuoksi.

Hyvityspyyntö

Ecstacy teki 26.8. hyvityspyynnön kilpailulautakunnan menettelystä, kun tämä oli hylännyt sen purjehduksen ilman protestia ja protestitutkintaa. Pyynnössä todetaan, että mikään vene ei myöskään tehnyt protestia Ecstacya vastaan. Siinä edelleen selostetaan lähtötilannetta ja kiistetään, että vene olisi rikkonut mitään sääntöä.

Kokoontuessaan 10.9. protestilautakunta käsitteli hyvityspyynnön. Se totesi, että Ecstacy ei ollut rikkonut sääntöä 28.1, mitä oli jossakin vaiheessa esitetty, mutta että se oli rikkonut sääntöä 10. Lautakunta päätti, että Ecstacyn purjehdus hylätään säännön 10 nojalla.

Muutoksenhaku

Muutoksenhakemuksessaan Ecstacy toistaa ja täydentää hyvityspyyntönsä sisältöä. Se myös viittaa menettelytapasääntöihin 61, 63 ja 64, joita se katsoo kilpailulautakunnan tai protestilautakunnan rikkoneen.

Kilpailusääntölautakunnan huomautukset ja päätös

Kilpailulautakunta voi protestoida venettä vastaan sääntöjen 60.2(a), 61.1(b), 61.2 ja 61.3 mukaisesti. Erityisesti kilpailusääntölautakunta korostaa, että protestin on oltava kirjallinen (sääntö 61.2) ja että sääntö 63.1 kieltää rankaisemasta venettä ilman protestitutkintaa (erinäisin poikkeuksin, jotka eivät tässä tule kysymykseen).

Koska Ecstacya vastaan ei ollut protestia, ei voinut olla protestitutkintaakaan, joten venettä ei voi rangaista. Protestiin perustumaton tapahtuman käsittely on vailla merkitystä.

Päätöksensä kilpailusääntölautakunta hyväksyy Ecstacyn muutoksenhakemuksen ja määrää sille annettavaksi sen maaliintuloaikaa vastaavan sijan kilpailutuloksissa.

Helsingissä 3.11.2006

Pertti Lipas puh.joht.
Mats Björklund
Gustav Dahlberg
Marianne Ericsson
Timo Fleming

Per-Ole Holm
Leif Nybom
Lars Nyqvist
Tom Schubert