

APPEAL 5/2013

TORM JDM & UDM 2013, AABENRAA SEJLKLUB, 14-15/9 2013

Summary:

In the start of race 1 Saturday morning 14/9 GER 13282 was recorded BFD by the RC.

After the race, GER 13282 observed her sail number together with 3 other numbers on a blackboard on the RC boat indicating BFD's from the 1st race.

The BFD's from race 1 were never announced at the official notice board during the event. The BFD scores from the 4 boats were not included or announced in preliminary or final results during the event.

15/9 Sunday evening Prize giving was held awarding an overall 7th place to GER 13282 incl. a 2nd place in race 1.

Monday 16/9 the organizers realised that the BFD list from race 1 was not included in the results. The final results were adjusted and made available on the internet Monday 16/9 at 20:51.

Thursday 19/9 14:48 the organizers received a Request for Redress from GER 13282 stating that she was convinced she was not BFD. That possibly a mix up of sail numbers had happened and that it was incorrect to change a result list one day after the event.

The PC decided that the request was invalid. They decided to use a time limit of 48 hours after announcing the changed results, which is normally applied by OptimistClassDenmark for requests for corrections to the ranking list. This time limit was exceeded by 17 hours and 57 min. The PC "evaluated the reasons for why the request was sent at the time it was. This has not given us reason to extend the time limit."

The PC also informed GER 13282 that the RC had confirmed that it was the correct sail number on the BFD list. The PC made some comments on the possible value of video evidence, and quoted RRS 90.3(c) that the Organizers not only can change results after the event – they must.

GER 13282 Appealed stating 3 reasons.

1 It was not clear if the decision to find the request for redress invalid was taken by the PC chairman alone or if the PC had come together or if there had been a hearing.

2 Applying the 48 hour time limit and deciding not to extend the limit under the circumstances was incorrect.

3 The request for redress was justified since the BFD was never posted on the official notice board and this and the change of the result list after the event had infringed her

right to be heard at a hearing, and compromised her possibility to find witnesses and possible evidence.

Comments by the PC to the Appeal:

The decision that the request for redress was invalid was taken by the whole PC but signed by the chairman.

The PC explains that during the event quite a lot of confusion around results had happened and when the BFD list had been recovered the results had been corrected according to RRS 90.3(c) since they were part of ranking lists.

Comments by the Appeal and Rules Committee:

The Organizers made a clear and unfortunate error by not posting the BFD list from race 1 during the event or including the BFD's in the results before the prize giving and the end of the event.

This error did not "make GER 13282's score significantly worse" (RRS 62.1). To the contrary she was scored 2nd instead of BFD and 7 overall. The error however denied her the possibility to ask redress and present her case at a hearing during the event that the observation of BFD by the RC could be an error.

Seeing her sail number on the BFD blackboard gave her a chance to prepare for a possible hearing, finding witnesses and evidence, but since the BFD was not posted after the race nor included in the results this possibility has thereafter been compromised.

The organizers correctly changed the results when they realised from their records that they were not correct and made them available to the competitors (RRS 90.3 (c)).

This rule does not require the organizers to try to inform the competitors directly but considering the circumstances in this case this would have been appropriate. The rule does not specify a time limit on how late after an event the rule can be applied, but day1 after the event is found by the A+R Committee still to be reasonable when the scores concerns ranking lists.

The A+R Committee does not find it reasonable to apply a time limit of 48 hours not specified in the SI, considering that an error by the organizers has denied GER 13232 the possibility of a hearing during the event. The committee finds it reasonable to extend the limit considering that the result was changed after the event, the age and the mother tongue of the competitor.

Decision by the Appeal and Rules Committee:

The decision of the Protest Committee, that the request for redress is invalid, is reversed.

The case is returned to the Protest Committee to arrange a hearing to investigate how the BFD was observed and recorded during the start and whether an error could have been made. GER 13282 has the right to be present at the hearing and present her case, possible witnesses and evidence.

The decision (but NOT the facts found) from this hearing is open to appeal (RRS 70.1(a)).

DANISH SAILING ASSOCIATION
Appeal and Rules Committee
8th November 2013

Hans-Kurt Andersen	Bjørn Anker-Møller
Børge Dammand	Henrik Dorph-Jensen
Paw Hagen	Søren Krause
Torben Precht-Jensen	Jan Stage