



UIM Appeal Board

Decision

Concerning the appeal of
Driver Stefano Acanfora, team Baia Attolini boat no. 38

- the appellant -

against

the Race Jury decision dated 09. August 2009 taken at Göteborg to uphold the Race Jury decision to give boat 43 in the Supersport race of 8th August 2009 the third position together with boat 38

The UIM Appeal Board decided in a telephone conference on 10th September 2009

Those present:

Kimon Papachristopoulos, Chairman

Luis Calvario, Member

Dieter Komm, Member

the appellant

Stefano Acanfora and Driver Renato Guidi

On the basis of the documents received, of the telephone conference the UIM Appeal Board decided:

The appeal is upheld.

***The respective Jury decision is annulled.
Boat No. 43 "Seagull Chaudron" achieved 4th
position in heat no. 7 of the P1 Supersport
World Championship, 8th August 2009 and
shall receive points accordingly.***

The appeal fee shall be reimbursed to the appellant.

Grounds

During the start of the P1 Supersport race held in Göteborg on 8th August 2009 a police boat entered into the race course. This forced boat no. 43 to slow considerably down in order to avoid a collision with other boats which drew aside in order to avoid a collision with the police boat.

Boat 43 crossed the finishing line on fourth position approximately 0,7 s after boat 38.

The drivers of boat 43 "Seagull Chaudron" protested against the results due to the said interference of the police boat. The Race Jury

decided to give boat 43 third position together with boat 38 and to allocate points accordingly in order to compensate the disadvantage suffered by boat 43 when she had to slow down. These facts are undisputed.

The Appellant and the Drivers of boat 43 had the opportunity to give their statement on the views of the Appeal board.

The Appeal had to be upheld.

Boat 38 competes against boat 43 in the World Championship and has a legitimate interest to prevent competitors from receiving unjustified World Championship points.

The UIM Pleasure Navigation P1 rules do not justify the contested decision to award a time bonus to boat 43.

The rules foresee the allocation of the race results and world championship points according to the order in which the boats cross the finishing line (rules S.18 and S 20). The only exceptions from this rule result from penalties (time penalties or disqualification). On the other hand the rules do not foresee a time bonus for a specific competitor for any reason even not in order to compensate irregular interference.

An amendatory interpretation of the rules with the aim to facilitate a time bonus as it obviously carried out by the Race Jury is not indicated. Such amendatory interpretation can be necessary in cases when the rules did not foresee a specific extraordinary case and the missing of the relevant rule is due to an editorial error of the rule making body; i.e. in cases, when the rule giving body would have implemented the missing rule by all means if he would only have considered the unforeseen case.

This is not the case in the present case. It is the nature of racing that competitors through no fault of their own are forced to slow down or to take a longer way. Such hindering can be caused by normal racing traffic. But also unusual obstacles that interfere with course and speed of the competing boats are commonly known: Crossing traffic of not participating vehicles is not unknown in offshore racing even on racetracks located in restricted areas. Flotsam or accidents of other boats may produce similar disadvantage for specific drivers. Yellow Flag situations may be of advantage for the one and of disadvantage for the other competitor. And it is not unpredictable that a start procedure will not be interrupted by red flag in cases where sudden obstacles force the competitors to draw aside or to slow down. Anyhow the red flag is primarily a device to abandon a dangerous situation and not to compensate unintended disadvantages for individual competitors through unforeseen obstacles.

Thus there is no reason to assume that the rule giving body (the UIM) did by error not foresee such situations and would have implemented a compensation rule in case it would have foreseen such situations. The missing of such compensation rules indicates much more that the rule giving body decided in general not to implement such a rule of compensation.

Furthermore the possibility of granting a time bonus to a competitor and thereby giving to an official or even to the Race Jury the power to alter the race result would be against the spirit of racing and would include the danger of abuse.

Therefore the Appeal Board could not find a basis for the contested decision of the Race Jury in the UIM Pleasure Navigation Rules.

Thus the Race Jury decision had to be annulled.

The appeal fee is to be reimbursed to the Appellant according to rule 405.10.

Signatures of the Appeal Board Members