

**Case Details**

As of 2 AUG 2018 At 17:52

<b>PROTEST - DECISION</b>	
<b>CASE No. 1</b>	
<b>Event:</b> 49er	<b>Race:</b>
<b>Initiator:</b> Int. Jury	<b>Respondent:</b> 49er ESP 97, 49er ESP 317
<b>Witness:</b> Thomas Jorgensen DEN - OA	
<p><b>Procedural Matters:</b></p> <p>Heard together with Case 2            Photos provided by RC were attached to the Protest.</p> <p>Names were taken from the accreditation cards.</p> <p>Jose Lis, ESP and Gary Manual member of international jury attended as observers.</p>	
<p><b>Facts found:</b></p> <ol style="list-style-type: none"> <li>1. On 01.08.2018 at 17:00, while passing the Fairway seamarks, the captain of the commercial ferry 'Exrpress 3' reported by VHF 12 to Traffic Control that he saw three 49ers and a support boat crossing the traffic channel just in front of his ferry.</li> <li>2. A photo, taken from the bridge of the Express 3 shows three 49ers and a RIB in front of the ferry, in the restricted area, as well as the GPS coordinates, compass bearing (288,9) and speed (36.7 kts) of the ferry.</li> <li>3. Express 3 switched from the autopilot to the manual steering to avoid the three 49ers and their support boat.</li> <li>4. ESP 46, ESP 97 and ESP 317 were speed testing accompanied by their coach Mr. Noble and they did not know where they were sailing in regard to the traffic channel. They altered course when they saw the ferry approaching.</li> <li>5. Mr. Noble did not know where the restricted areas are located, and he did not monitor VHF channel 12.</li> <li>6. ESP 46, ESP 97 and ESP 317 and Mr. Noble appologized during the hearing.</li> </ol>	
<p><b>Conclusion:</b></p> <p>By entering the restricted area ESP 46, ESP 97 and ESP 317 and their support person Mr. Noble broke NOR/SI 11.6 and CAR 4.3(a).</p>	
<p><b>Rule(s) applicable:</b></p> <p>NOR/SI 1.9.2, RRS 64.1, 64.4(a)(2), WS DP Policy</p>	

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**Decision:**

According to NOR/SI 1.9.2 a discretionary penalty applies to ESP 46, ESP 97 and ESP 317 under the WS Discretionary Penalty Policy. The starting penalty was Band 4. Mitigating factors that could decrease the penalty were that the breach was careless. Aggravating factors that could increase the penalty were that the competitors and support person did not report the breach, and the breach inconvenienced the ferry and the Organizing Authority. The penalty applied is that ESP 46, ESP 97 and ESP 317 are to be scored DSQ in race 1, the race sailed nearest in time to the incident, under RRS 64.1, even if the race is restarted or resailed.

The penalty to Mr. Noble the support person of ESP is that he is prohibited from going on the water from today until the end of the second day in which 49ers have completed their races.

ESP 46, ESP 97 and ESP 317 are warned under RRS 64.4(b)(2) that, any further breach of a rule by this support person may result in a penalty to them.

**Decision - short:**

ESP 46, ESP 97 and ESP 317 DSQ in Race 1; Mr. Noble is prohibited from going on the water until the end of the second day in which 49ers have completed their races.

**Jury:**

Lynne Beal (CAN), Andrus Poksi (EST), Jan Stage (DEN), Adrian Bauder (SUI), Yoann Peronneau (FRA)

**Signed:** \_\_\_\_\_ Date: 2 AUG 2018 Time: 15:20

Lynne Beal (CAN)