

BEFORE THE INDEPENDENT PANEL

IN THE MATTER OF:

PATRICE CLERC

Appellant

V

RACE OFFICIALS' COMMITTEE

Respondent



DECISION

1. The Appellant has asked that an appeal be considered with regard to the Respondent's rejection of his Application to be appointed as a First Appointment International Judge ("IJ").
2. The Appellant has previously appealed the Respondent's rejection of his application with regard to a different ground being that he did not complete an examination within regulated timeframes. (First Decision). This appeal was upheld. The Respondent then rejected the Appellant's application on different grounds being the Appellant did not complete the required seminar within regulated timeframes (Second Decision). These are the grounds upon which his current appeal relates.
3. In 2019 the Appellant lodged his application to World Sailing to be appointed as an IJ.
4. The Respondent rejected the Appellant's application finding that the Appellant had not complied with his obligations under the Race Officials' Roles, Qualifications and Competencies (RORQC), namely, attending a World Sailing International Judges' Seminar (the Seminar) within the 4 years prior to 14 October 2019.
5. World Sailing Regulation 31 provides that a candidate must "*meet the general qualifications for appointment as a World Sailing Race Official and the discipline-specific qualifications as published by World Sailing*".
6. The RORQC sets out the qualifications referred to in Regulation 31 and, pursuant to RORQC subsection 4.2, requires that a candidate must have "*complied in the 4 years prior to 14 October in the year of application with the following requirements: (a) attend a WS International Judges Seminar, with good participation and positive references from the IJ Instructors.*"
7. The seminar attended by the Appellant was held between 9 October- 11 October 2015.
8. The Appellant lodged his application in 2019, consequently the relevant end date for the Appellant's compliance with his obligations was 14 October 2019.
9. The Appellant's case is that the wording of RORQC subsection 4.2 with regard to the timeframe for 'Qualifying Period' should be interpreted as a 4-year period inclusive of the full calendar year, which would allow the Seminar to be completed from a period beginning 1 January 2015.
10. The Respondent's case is that the wording of RORQC subsection 4.2, refers to 14 October specifically, and therefore should be interpreted as 4 years prior to 14 October of the year the Application is lodged. The timeframe for the Appellant therefore being 14 October 2015 – 13 October 2019 inclusive.

11. The Appellant puts forward a further argument, should the Respondent's interpretation of the Qualifying Period be adopted, that although the Seminar was attended by the Appellant between 9-11 October 2015, the "*positive references from the IJ Instructors*" with regard to the Appellant's participation were not provided until 30 October 2015, and therefore fall within the Respondent's proposed interpretation anyway.
12. The Panel rejects the suggestion that the "*positive references from the IJ Instructors*" received on 30 October 2015 should have any bearing on the determination of whether the Appellant's attendance at the Seminar falls into the Qualifying Period. The Regulations refer to no explicit or inherent consideration to the date "positive references" about an Applicant are received. Therefore, the Panel will not consider this issue further.
13. The pivotal issue for the Panel's determination in this appeal is the appropriate interpretation of the Qualifying Period, set out in subsection 4.2 of the RORQC.
14. After significant consideration of the wording of the Regulation, the Panel has determined that the appropriate interpretation of the Qualifying Period is a narrow interpretation, being that it is the period 4 years immediately prior to 14 October of the year that an application is lodged.
15. The Panel has determined a narrow interpretation of the Qualifying Period because the inclusion of a specific date within the Regulations prompts precise consideration to that date.
16. Given the Appellant lodged his application in 2019, the relevant period for the Appellant's compliance with his obligations was 14 October 2015 – 13 October 2019.
17. Should World Sailing have sought to include the entire calendar year, the wording of the Regulation would stipulate either a different date or indeed no date whatsoever.
18. Given the Panel's interpretation of the Qualifying Period, the Panel has determined that the Appellant's application for appointment as an IJ does not meet the requirements set out by World Sailing, because the Appellant's attendance at the Seminar did not fall within the Qualifying Period.

The Appellant's appeal is therefore dismissed.



Georgia Briggs

(Chairman)

Independent Panel

11 June 2020