

VOLVO OCEAN RACE 2008-9

Request for Redress by Telefonica Azul ESP 12
claiming an improper action or omission of the Race Committee

Case VOR 09

JURY NOTICE JN12
Jury Decision

2nd April 2009

To: Teams, Volvo Event Management, Measurer, VOR Media Centre
From: International Jury

1. A Request for Redress was received on 29th March 2009:
'Telefonica Azul claims that the Race Committee and/or Organising Authority made an improper action or omission by locating the start line and 2nd passing mark of the course (mark d) in an area where at least 1 uncharted shallow area existed. Telefonica Azul hit one such uncharted shallows that was 0.23 nm from the start mark (and 2nd passing mark) of the course, prior to the start of Leg 5. Furthermore, the Race Committee and/or Organising Authority failed to supply a port with adequate depth to allow Telefonica Azul back into the harbour. This resulted in a 3 hour delay in getting back to the marina to begin repairs resulting from the grounding. Delays due to the grounding and the delay in returning to port resulted in Telefonica Azul starting leg 5 approximately 19 hours after the start signal. This delay had direct impact on Telefonica Azul's position at the New Zealand scoring gate and at the finish. Signed: Bouwe Bekking 29 March 2009.'
2. Telefonica Azul requested a 'papers only' hearing, but agreed to participate in an oral hearing scheduled for 14h00 on 2nd April 2009.
3. Leg Sailing Instruction 25(c) and Racing Rule 62.2¹ require that a Request for Redress be lodged within 24 hours of the boat finishing. Telefonica Azul finished at 00.55.00 local time on 29th March. The Request was received by the Race Committee at 23:10 local time on 29th March. The Jury is satisfied that the Request was received within the time limit.

DECISION ON VALIDITY

4. The Request for Redress is valid.

EVIDENCE

5. Bouwe Bekking gave evidence on behalf of Telefonica Azul. Jack Lloyd, the Race Director gave evidence on behalf of the Race Committee/Organising Authority.
6. Bill O'Hara and Polly Gough were called as witnesses by the Jury.

FACTS FOUND

7. Shortly before the start and in the vicinity of the starting line of leg 5, Telefonica Azul hit an uncharted underwater object.

¹ RRS Rule 62.2: 'The request shall be in writing and be delivered to the race office no later than the protest time limit or two hours after the incident, whichever is later...'
Leg SI 25(c)(i): 'A protest by a Boat shall be emailed or delivered to the local race office within 24 hours of ... the protesting Boat finishing...'

8. The object was in an area charted as greater than 10m depth.
9. Telefonica Azul was stopped for only 2-3 seconds.
10. Telefonica Azul inspected the keel, observed some damage and decided to suspend racing.
11. Telefonica Azul informed the Race Committee by radio approximately 3 minutes before the starting signal of her decision to suspend racing.
12. Telefonica Azul did not at that time inform the Race Committee of the reason for the suspension.
13. Telefonica Azul returned to port to make repairs but was delayed for 3 hours due to a lack of water depth in the port.
14. Telefonica Azul completed the repairs and resumed racing 19 hours later.
15. The Race Committee had taken soundings prior to the day of the start but had not found any significant differences between the soundings and the chart data.
16. Telefonica Azul had sailed in the area during the previous 2 weeks without finding any significant differences from chart depths.

GROUNDS FOR DECISION

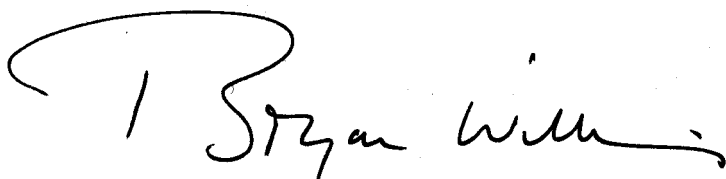
17. The Race Committee made reasonable efforts to ensure the start was set in a safe area.
18. Whilst there was no obligation on the Race Committee to postpone or abandon the race had they known the reason why Telefonica Azul had suspended racing, there was no possibility for it to do so as it had no information on which to base such a decision.
19. There is no obligation on the Race Committee or the Organising Authority to provide constant access to a port.

CONCLUSION

20. There was no error or omission by the Organising Authority or the Race Committee.

DECISION

21. The Request for Redress is denied.

A handwritten signature in black ink, appearing to read 'Bryan Willis', with a large, stylized flourish above the first name.

Bryan Willis
Chairman

International Jury: Miguel Allen (POR), John Doerr (GBR), Nelson Horn Ilha (BRA), Ricardo Lobato (BRA), Flavio Naveira (ARG), Bryan Willis (GBR)