

## INTERPRETATION 010-21

### REQUEST FROM THE JUDICIAL BOARD

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#### Question 1

Regulation 35.3.2(k)(i) provides that: “*The Judicial Board is responsible and has authority for determining whether a complaint or report received by World Sailing is, or may be, within the jurisdiction of World Sailing and the provisions of the [Disciplinary, Appeals and Review] Code*”.

Does the Constitution Committee agree with the Judicial Board’s view that, when the Judicial Board receives a Notice of Appeal from the Chief Executive of World Sailing in accordance with the Judicial Board Rules of Procedure (Part G), rule 3.3(a)), the Judicial Board has responsibility/authority under Regulation 35.3.2(k)(i) (and/or under any other authority) to determine whether such Notice of Appeal is, or may be, within the jurisdiction of World Sailing and the Provisions of Regulation 35?

#### Answer 1

Yes. It is clear on a purposive reading of Regulation 35.3.2(k)(i) that the effect of that Regulation is to grant to the Judicial Board the responsibility and authority to determine whether any Notice of Appeal falls within the jurisdiction of World Sailing and the provisions of the Disciplinary, Appeals and Review Code. The Committee also notes such power has not been conferred upon any other body.

Accordingly, it follows that it is for the Judicial Board to determine whether a Notice of Appeal is, or may be, within the jurisdiction of World Sailing and the Provisions of Regulation 35.

#### Question 2

Regulation 36.18 provides that: “*The Ethics Officer or a Party hereby agree to respect and be bound by the decision of the Ethics Commission, subject only to the right of appeal set out below.*” Regulation 36.19 then provides for such right of appeal, such that a decision of the Ethics Commission may be appealed to the Judicial Board and then heard under Part G of Regulation 35.

Whilst “*Parties*” (for the purposes of Regulation 36) is defined extremely broadly at Regulation 36.2, the Judicial Board notes that at Regulations 36.11 and 36.12 a distinction is drawn between a “*Party*” (which in the context of Regulations 36.11 and 36.12 refers to the individual(s) against whom charges have been laid by an Ethics Officer) and a “*complainant*” (which refers to the individual(s) who presented a complaint under Regulation 36). Thus, the Judicial Board considers that a logical reading of Regulations 36.13, 36.14, 36.15 and 36.18 is accordingly that, for the purposes of those Regulations, the term “*Party*” refers solely to the individual(s) against whom charges have been laid by an Ethics Officer, and not to the much broader definition of “*Parties*”

provided for in Regulation 36.2. In this regard, the Judicial Board considers that the logical application/purpose of the Regulation 36.2 definition of “*Parties*” is solely to determine which persons fall within the jurisdiction of the Code of Ethics, and not to permit all persons who fall within that definition to be permitted to submit an appeal against a decision of the Ethics Commission under Regulation 36.18.

Accordingly, does the Constitution Committee agree that, for the purposes of Regulation 36.18, no persons besides the Ethics Officer and the individual(s) against whom charges have been laid by the Ethics Officer under the Code of Ethics/Regulation 36 have standing to appeal the decision of the Ethics Commission in relation to such charges?

## **Answer 2**

Yes. The definition of “*Parties*” set out at Regulation 36.2 defines a broad-based jurisdiction to establish which persons may be the subject of a complaint under the Code of Ethics.

Regulations 36.11 and 36.12 clearly, by their different wording, indicate that there is a distinction between a “*complainant*” and the “*Party*” to a complaint, with the effect that, for the purposes of Regulations 36.13, 36.14, 36.15 and 36.18, the term “*Party*” refers specifically to the subject of a complaint (in other words, the individual(s) against whom charges have been laid by an Ethics Officer) and not to the broader definition of “*Parties*” provided for in Regulation 36.2.

In this respect, there is therefore no provision made to allow everybody falling within the broader Regulation 36.2 definition of “*Parties*” to be permitted to submit an appeal against a decision of the Ethics Commission.

Accordingly, only the relevant Ethics Officer and/or the subject of the relevant complaint may validly issue an appeal against a decision of the Ethics Commission pursuant to Regulation 36.18.

**Constitution Committee  
World Sailing**



**21 December 2021**