



PROTESTS BOARD
(TERMS OF REFERENCE AND PROCEDURE)

13TH FEBRUARY 2017

PB01 PANEL OF MEMBERS

The Aquatic Sports Association of Malta (hereinafter referred to as 'ASA'), through the Council, shall from time to time approve a panel of persons to serve on the Protests Board (hereinafter referred to as "the Board").

PB02 COMPETENCE

- i. The Board shall be empowered to hear and decide upon protests lodged by clubs concerning events regardless of whether the protesting club was a participant in such an event or not.
- ii. The Board shall be competent to hear and decide upon protests regarding alleged breach of ASA rules and regulations during an event, such that this breach may have had an effect on the result of the said event. Protests concerning points of fact and/or technical errors shall not be brought before the Protest Board.

PB03 COMPOSITION

- i. The Board shall be composed of 3 members chosen by the General Secretary from the approved panel, as specified in PB01. If for any reason not enough members are found from such panel, any member of the Executive may sit in their stead.
- ii. The quorum of the Board shall be of 2 members.
- iii. The members of the Board are to elect a Chairman amongst themselves.
- iv. Each member shall have 1 vote, save for the Chairman, who apart from his vote shall also have the right to a casting vote in case of a tie.

PB04 SECRETARY TO THE BOARD

The Board shall be assisted by the General Secretary and/or by an assistant secretary or other person appointed for this purpose. Such person shall act as secretary to the Board and shall inform the Board of any records concerning the party/parties involved, as well as any past decisions that may be relevant to the case. The secretary shall not be entitled to vote.

PB05 PROCEDURE

- i. Protests shall be submitted to the General Secretary within 18 hours from the end of the event in question.
- ii. Protests shall
 - a. be in writing and be signed by the President or Secretary of the club submitting the protest;
 - b. include the grounds of the protest;
 - c. include a list of witnesses, if any;

- d. A deposit of €200 is to be submitted to the General Secretary or a member of the Executive Committee, or to the Adjudicating person/board, at the start of the hearing of the case in question. Clubs may choose to deposit an amount in the ASA Bank account and any deposits, fines or other amounts relevant to disciplinary matters will be deducted from such amount (*approved 13th February 2017*).
- iii. It shall be the sole responsibility of the General Secretary and/or the Executive Committee to ensure that the basic requirements set out in PB05(ii) for filing a protest are fulfilled, and, if in default, not to accept the protest.
- iv. The General Secretary shall
 - a. appoint a Board as specified in PB03 to hear the protest, and, in consultation with the appointed members, determine a date, time and place for the hearing;
 - b. send a copy of the protest to all parties directly involved in the event in question;
 - c. inform all parties who have the right to attend the hearing with the date, time and place of the hearing as specified in DC03.
- v. Only the persons listed below have the right to attend a hearing of the Protest Board, provided that the Chairman, may, after consultation with the rest of the Board, exclude or dismiss any person from the hearing.
 - a. The Board members and the appointed secretary.
 - b. All the parties directly involved in the event, including the delegate of the club that filed the report, accompanied by an advisor. The delegate and the advisor shall be entitled to call witnesses and produce evidence.
 - c. The delegates of clubs not directly involved in the event who may only act as observers.
 - d. The General Secretary and the ASA Registration Secretary if the protest concerns the eligibility or otherwise of an athlete. These shall have the duty to explain relevant rules and regulations as well as other details (date received, etc.) regarding an athlete's registration.
 - e. Members of the Executive Committee.
- vi. During the hearing the Board shall
 - a. regulate the procedure;
 - b. proceed with the hearing even in the absence of the protesting club;
 - c. hear the submissions of the protesting club and the clubs directly involved in the event in question;
 - d. hear other witnesses and consider other evidence at its sole discretion, provided that in considering such evidence the Board shall ensure that equity and fairness shall prevail;
 - e. admit video and audio evidence by all parties so authorized to produce evidence.

PB06 DECISIONS

- i. The Board shall deliberate and decide the protest during the same sitting, however, In exceptional circumstances the Board may postpone its deliberation and/or decision.
- ii. The Chairman may request the assistance of any member of the Executive during the deliberation stage.
- iii. The Board shall only decide upon the grounds included in the protest.
- iv. The Board shall either uphold or reject the protest. Should the Board uphold the protest, it

- shall provide a remedy to the protesting club, and
 - shall impose sanctions on any of the parties directly involved in the protest as per the Disciplinary Code without referring the case to the Disciplinary Commissioner.
- v. The provided remedy shall be as detailed below:
- In Water Polo, one of:
- If the match was in connection with a league competition, the protesting club shall be declared the winner of the match and it shall be awarded the points for a win as per ASA Water Polo Competition Rules.
 - If the match was in connection with a knock-out competition, the protesting club shall be declared the winner of the match and it shall proceed automatically to the next round of the competition, provided that, if the match was a “final”, the protesting club shall be declared the winner of the competition.
 - If the match was in connection with a league competition, none of the teams in the match shall be awarded any points.
 - If the match was in connection with a knock-out competition, both teams shall be removed from the competition.
 - The match shall be annulled and re-played.
 - Order that the result is to stand.
- In Swimming, one of:
- Disqualify the swimmer/s on whom the protest was based from the event in question and issue a new classification;
 - Re-hold the event without the swimmer/s on whom the protest was based.
 - Order that the result is to stand.
- vi. Besides the above mentioned remedies, the Board shall also impose sanctions on any of the parties directly involved in the protest as per the Disciplinary Code.
- vii. If, in the course of the hearing, it results to the Board that further action should be taken on any matter brought to its attention, it shall recommend to the ASA President and General Secretary to initiate disciplinary procedures.
- viii. In its decision, the Board may make any recommendations it may deem fit for the consideration of the Executive Committee.
- ix. In the event that the Board finds the protest to be frivolous or vexatious, the Board shall impose a fine of not less than €200 and not more than €500 on the protesting club.
- x. Unless prior notice of absence is given by the protesting club to the General Secretary, the Board may fine the protesting club up to €100.
- xi. In the case that the Board upholds the protest, the Board shall order the ASA to refund the deposit paid by the protesting club.
- xii. The decision shall be in writing and shall be signed by the Chairman.
- xiii. It shall be the duty of all parties concerned to enquire with the General Secretary as to the outcome of the protest, and in default they shall be deemed to have been notified with a copy of the decision.

PB07 APPEALS

All decisions of the Board shall be final and no appeal therefrom may be submitted to any organ of the ASA.

PB08 DEFINITIONS

Unless explicitly negated, the definitions given in DC-A2 also apply to these Terms of Reference and Procedure.

PB09 AMENDMENTS

These Terms of Reference and Procedure may be amended at any time by the Council of the ASA.