

REPORT AND DECISIONS
APPEALS FROM THE AEROCLUB OF ITALY
4th WORLD GLIDING CHAMPIONSHIPS 13,5m CLASS
JULY 2022

The document hereafter contains the FAI International Appeals Tribunal report and decisions following the Appeals filed by the AeroClub of Italy concerning the penalties imposed on Mr. Thomas Gostner and Mr. Stefano Ghiorzo during the 4th World Gliding Championships 13,5m Class held from 2 July to 16 July 2022 in Pociunai, Lithuania.

A handwritten signature in black ink, appearing to be 'G. Rayner', with a horizontal line underneath.

Gillian Rayner
Chairperson and Secretary, on behalf of the International Appeals Tribunal

Dated: 25 June 2023

FAI REFERENCE DOCUMENTS

1. Sporting rules documents applicable to the WGC

- FAI Sporting Code Annex A to Section 3 - Gliding (Rules for World and Continental Gliding Championships) 2021 Edition valid from 23 November 2021.
- FAI Sporting Code Section 3 - Gliding 2021 Edition

2. Other governing documents

- FAI Sporting Code General Section 2022 edition
- FAI Code of Ethics Version 1.0 October 2003 (approved by the 96th FAI General Conference held on 10 and 11 October 2003).
- FAI Sporting Code General Section 2020 Edition effective 1 January 2020 (approved by the CASI on 6 December 2019).
- FAI Jury Guidelines Edition 2020 effective 1 January 2020.
- FAI International Appeals Tribunal Manual (issued by the CASI) 2014 Edition effective 16 October 2014.
- Remote Jury Communications Guide - dated 9 July 2021
- IGC Steward Handbook effective 1 April 2004
- IGC Internal Regulations - dated 8 March 2017

ABBREVIATIONS

AeCI	AeroClub of Italy
CASI	FAI General Airsport Commission
CD	Competition Director
CS	Chief Steward
FAI	Fédération Aéronautique Internationale (World Air Sports Federation)
GT	Thomas Gostner (<i>GT is the registration of Mr. Gostner's aircraft and is used for continuity across the Appeal and the Statement of Facts documents</i>)
IAT	FAI International Appeals Tribunal
IGC	FAI International Gliding Commission
IJ	International Jury
ITA	Italy
JP	Jury President
LIT	Lithuania
NAC	National Airsport Control
NED	Netherlands
RJM	Remote Jury Members
SC3a	FAI Sporting Code Section 3 Annex A
SCGS	FAI Sporting Code General Section
SoF	Statement of Facts document
VS	Stefano Ghiorzo (<i>VS is the registration of Mr. Ghiorzo's aircraft and is used for continuity across the Appeal and the Statement of Facts documents</i>)
WGC	FAI World Gliding Championships: in this document WGC refers specifically to the 4 th FAI World Gliding Championships 13,5m Class at Pociunai, Lithuania.

This International Appeals Tribunal (IAT) has been appointed by the FAI Air Sports General Commission (CASI) on 22 October 2022, in accordance with FAI Sporting Code General Section (SCGS) paragraph 6.6.2, to handle two appeals filed by the AeroClub of Italy (AeCI) against the decisions made by the Competition Director and the International Jury of the 4th FAI World Gliding Championships 13,5m Class held in, Pociunai, Lithuania (WGC) (2 to 16 July 2022):

- concerning the decision against Mr. Thomas Gostner, and
- concerning the decision against Mr. Stefano Ghiorzo.

Members of the International Appeals Tribunal:

- Gillian Rayner (France) - Chairperson
- Art Greenfield (USA)
- Bob Henderson (New Zealand)

APPEAL PROCESS

With their appointment, the members of the IAT received access to the Appeal documents and other information uploaded by the FAI Office to the FAI cloud. Further documentation was provided by different parties following the hearings. All documents were shared with all the parties directly concerned by this Appeal.

While separate Appeals were lodged on behalf of Mr. Gostner and Mr. Ghiorzo respectively, the IAT members considered that the substance of both Appeals was substantially the same, including the fact that both Appeals sought the same remedies. As a result, the tribunal members formally agreed to consider the two Appeals as a single entity.

The work of the IAT has been carried out in the following four phases.

1. Internal Communications

Throughout the whole process the IAT communicated internally in writing and by means of virtual meetings.

2. Hearing phase

An IAT online meeting was held on 30 November 2022 to define how to proceed for the oral hearings in compliance with the provisions stated in the FAI IAT Manual.

The IAT agreed on the following points regarding the oral hearings:

- Due to the different time zones in which the IAT members live, the meetings would take place from 21h CET.
- Separate hearings would be scheduled for each of parties cited in the two appeals with the exception of the Remote Jury Members (RJMs) who elected to respond to the questions of the IAT by email.
- The lawyer representing the two appellants would be permitted to be present at their respective hearings.

- All hearings would be Video-Audio hearings using Zoom, an application used by FAI since 2020 to hold several meetings including the FAI General Conference. The Zoom account used was that of the International Skydiving Commission.
- All hearings would be recorded (it is noted that an error caused the hearing of the Competition Director to be incomplete, the first 20 minutes are missing; notes taken by the participants have been added to the transcript).

a) Appeal Hearings

Following mutual agreement, the meetings took place as follows:

Robert Danewid – Chief Steward (CS) – 28 December 2022

Thomas Gostner – Appellant (GT) – 29 December 2022 (accompanied by his lawyer Peter Brunner)

Stefano Ghiorzo – Appellant (VS) – 9 January 2023 (accompanied by his lawyer Peter Brunner)

Bruno Ramseyer – Jury President (JP) - 12 January 2023

Vladas Motuza – Competition Director (CD) – 13 January 2023

b) Other exchanges

The IAT had email exchanges with several of the parties resulting in additional information being provided. These include:

from the JP:

- copies of all the emails exchanged between the Jury members during the WGC.
- copy of all the WhatsApp messages exchanged between the Jury members during the WGC (only text, photos/screenshots were erased by the App).
- a scan of the complaints from teams Lithuania (LIT) and Netherlands (NED), the two complaints from Italy (ITA), the response from the CD to the ITA complaints and the resulting two protests submitted by ITA.
- copy of an email from Frouwke Kuijpers confirming that the Jury Meeting on 8 July 2022 was neither recorded nor minuted.
- a document dated 3 January 2023 called Jury President's Full Report and .zip file called Attachments to full JP Report.

From the RJMs: Responses to the IAT questions.

To Peter Brunner: the scan document of the complaints from teams LTU and NED, the two complaints from ITA, the response from the CD to the ITA complaints and the resulting two protests submitted by ITA.

3. Summary of Facts document

In accordance with the FAI IAT Manual, the IAT produced a written summary of the facts, called Statement of Facts (SoF).

Based on the definition of "summary" as being a statement presenting the main points, the IAT has focused on the facts considered relevant for the appeals. This explains why some points, proposed by the appellants, have not been included in the SoF.

The IAT produced eight successive draft versions of the initial SoF. The final initial version was shared by email with the appellants and other parties on 11 April 2023 inviting them to suggest corrections within the time frame of one week, as stipulated by the FAI IAT Manual. This was accompanied by a document called Annex 1 listing all the attachments to the SoF. These attachments are all the relevant additional documents received by the IAT during the hearing process and were sent via WeTransfer.

Annex 1 comprises:

- A - All complaints & Protests
- B - Additional Jury Report
- C - All relevant Jury Emails
- D - Jury WhatsApp exchanges
- E - Transcription Zoom Meeting with VS
- F - Transcription Zoom Meeting with GT
- G - Notes Zoom Meeting with RD G - RD
- H - Transcription & Notes Zoom Meeting with VM
- I - Transcription & Notes Zoom Meeting with BR
- J - Flights resulting in warning on Day 1 (replaced file)
- K - Email exchange with Luka Žnidaršič
- L - Reply from Frouwke Kuijpers
- M - Reply from Peter Ryder
- N - Audio File VS
- O - Audio File GT
- P - Audio File RD
- Q - Audio File VM
- R - Audio File BR
- S - BR Notes from Zoom Mtg
- T - Analysis of Flights on Task 3
- U - Jury Doc sent to FAI by Jury President
- V - Email exchanges with Jury President (added to final version)

Responses to the final initial version of the SoF with questions, comments and suggestions for change or addition were received from:

- JP on 11 April 2023 with a question, answered by the IAT Chairperson and resulting in no change to the document.
- Frouwke Kuijpers on 14 April 2023 and again on 15 and 16 April, with questions and suggestions for addition and change. These resulted in a minor addition and change.

- Peter Brunner, lawyer to the two Italian appellants, highlighting an error in Attachment J, questioning the Full Jury Report and proposing some additions/changes. These were all adopted.

The final version of the SoF was sent to all parties by email on 28 April 2023 with a corrected Annex J and a new Annex V (as listed above).

The analysis of all the documentation available, fact-gathering and checking phase took almost 5½ months. Due to the technical and commercial limitations of Zoom and absence of reliable external language processing tools, the transcription of the recordings from the oral hearings alone, not counting the interviews, took about 20 hours of manual work.

The facts presented in the SoF Final are deemed to be complete and correct according to the FAI IAT Manual and form the basis for the deliberations and decisions of the Appeals Tribunal.

4. Deliberations

The IAT held a number of Zoom meetings on 26 April, 22 and 30 May, 5 and 11 June while deliberating and preparing this final report. The report was finalised on 25 June 2023.

APPEALS TRIBUNAL FINDINGS

The IAT has deliberated on the different matters claimed in the Appeals to CASI filed by the AeCI concerning the decisions issued by the International Jury (IJ) at the WGC on 11 July 2022 against Mr. Thomas Gostner and Mr. Stefano Ghiorzo. As noted, it was decided to consider both Appeals at the same time, given that the substance of each Appeal was essentially the same.

There were three discrete elements to the Appeals. Each is considered in the following sections.

1. Illegitimate application by the International Jury and the Championship Director of the penalty defined in FAI Sporting Code General Section 2022 6.1.4. and FAI Sporting Code Section 3 Annex A 2021 8.7. and 8.6.5.a. Cheating

The IAT has been provided with extensive information about the flights of both appellants on the day in question and has viewed their respective flight recordings several times including together with some of the interested parties. We have discussed the different arguments presented and looked at how the FAI rules could apply or be interpreted.

We will not, in this document, comment much on the actual flight details as we feel there is nothing more the IAT can add to determine with certitude whether offences were or were not committed.

Our deliberations have focused on the FAI Rules and how they should be interpreted and applied, the process that was followed to arrive at the decisions made and the behaviour of the different parties while managing the process.

Mr. Gostner was accused of Cheating in accordance with the FAI SCGS 2021 6.1.4. and the FAI Sporting Code Section 3 Annex A (SC3a) 2021 8.7 and 8.6.3.a and, therefore, for non-compliance with SC3a 5.3.2. and was disqualified from the event in accordance with SC3a 8.7. This disqualification also carried the requirement that Mr. Gostner surrender his FAI Sporting Licence in accordance with FAI SCGS 3.2.

Mr. Ghiorzo was accused of an Attempt to find external help for finding lift from a non-competing glider or airplane and was given a penalty of Day Disqualification in accordance with SC3a 8.7.

SCGS 6.1.4. Cheating

Cheating may be defined as an intentional breaking of rule(s) in order to obtain an advantage over other competitors or teams. Cheating is correlated to the deliberate violation of a rule.

SC3a 8.6.5. a. Cheating

- i. A premeditated and deliberate attempt by a pilot, crew, or team to circumvent the rules or Local Procedures in order to gain a competitive advantage is considered to be cheating.
- ii. Any pilot, team member, or team found to be cheating will be disqualified from the competition.

SC3a 5.3.2. Other Types of Aid

Leading, guiding, or help in finding lift by any noncompeting aircraft is prohibited. Competing sailplanes abandoning their task or still airborne after cancellation of their task must land or return to the competition site and land without delay and may not lead, guide or help in any way competitors in other classes still flying their assigned task."

SC3a 8.7

8.7 LIST OF APPROVED PENALTIES (extract)

Type of Offence	First Offence	Subsequent Offences	Max Penalty
Cheating (see para. 8.6.5a)	Disqualification	Disqualification	Disqualification
Attempt to obtain external help for finding lift from non-competing glider or airplane	Day disqualification	Disqualification	Disqualification

The Championship Director, in accordance with SC3a 8.6.1, is responsible for "imposing penalties for infringement of, or non-compliance with, any Rule or Local Procedure. The severity of the penalties ranges from a minimum of a warning to disqualification as appropriate for the offence. The penalties... shall be in accordance with the appropriate list of penalties stated in Section 8.7...."

The said SC3a 8.7. gives a list of thirty-six (36) offences and their resulting penalties. Thirty-four (34) of these are precise and measurable. Two (2), relating, respectively, to Cheating and Attempt to find external help, do not have any systematic and objective means of determining that the offence has been committed nor any instructions or guidance to assist officials with interpretation.

While to an outsider the wording of these penalties may, therefore, be open to interpretation, past experience at international competitions and discussions within the International Gliding Commission (IGC) have established precedents and it is likely that the intention of these penalties was commonly understood within the competitive international gliding community. This is suggested by the reported comments made by the CD at the pilot briefing on 4 July as indicated in the Statement of Facts.

The difficulty in clearly defining that GT intentionally delayed his return to the competition site after starting his engine and deliberately led, guided or helped another still competing aircraft is apparent from the different actions and statements made by various parties heard in this matter.

The same difficulty applies to defining if VS took advantage of the fact that GT was returning using both engine power and lift found in the areas where that was possible.

At the end of the task in question, the two Italian competitors were scored with no penalty applied. The officials initially saw nothing untoward in their respective performances that was worthy of investigation.

Subsequently two National Airsport Controls (NACs) filed separate complaints, the first being from LIT, which was only against GT, and then, later, the Netherlands filed a complaint against both Italian pilots. These complaints drew attention to the Italian flights.

The CD consequently looked at the flight recordings for GT and VS with other competition officials. They determined that, in their opinion, it was possible that both GT and VS had contravened the rules.

In his interview, when asked if the situation could have been coincidental, the CD stated that for an individual pilot maybe "but if we are talking about two pilots with the same radio frequency, the same language, the teammates, if you are doing something stupid or not right... another one can help for you to say 'okay my friend, go home'". In this, he infers that there was collusion between the two pilots and also presumes that they were communicating by radio, which is forbidden under SC3a 5.3.1. Communication by Radio. The use of radios was firmly denied by both Italian pilots. There is no evidence to prove this matter either way and this rule does not appear to have been taken into consideration in the determination of any penalty.

The CD then considered he had the option of either applying the penalties of cheating and of attempting to find help or applying penalties, under SC3a 8.6.3, which enabled him to determine, at his discretion, a penalty for Offences not covered by the list in SC3a 8.7.

He explained in his hearing with the IAT that he was aware of the serious consequences of accusing someone of cheating because that would result in the offender losing their FAI Sporting Licence. This was his reason for trying to find a compromise and he therefore worked with the appellants and the complainants with this aim.

The CD's initial suggestion was to give a 100-point penalty. This suggestion was considered by GT but immediately rejected by VS. However, the two NAC complainants, when advised of the proposed penalty, refused the proposal, suggesting instead that the penalty be 250 points for each of the Italian pilots.

The IAT considers that it was inappropriate for the CD to engage the NAC complainants to determine the application of penalties for their opponents as there was a clear conflict of interest for the complainants because their pilots could benefit from any penalty applied to the Italians.

The proposed 250-point penalty was finally rejected by both the Italian pilots, after consultation with their NAC. This left the CD with no alternative other than to apply the penalty for cheating to GT and the lesser penalty of one day's disqualification to VS for attempting to obtain help. Applying no penalty was not considered.

It should be noted that the CS, in his report, expressed his opinion "I do not think that the disqualified Italian pilot deliberately cheated. But, considering the actual facts and analysis, it is obvious what happened."

The IAT, in considering the information and evidence available to them, is of the opinion that the flight paths taken by GT and VS may, potentially, have been due to other factors. The explanation that GT gave of his flight home after having switched on his engine was very much based on the issues he believed that he encountered with the FES engine, as explained in both the Appeal documents and his hearing.

GT openly admitted that his knowledge and experience of using a FES engine was limited. He explained the situation clearly in the Appeal and the recordings from his flight show that he stopped and started the engine several times. He also seems to have potentially caused the engine controller to overheat due to what appears to be, at one point, a high-speed cruise.

This mode of flight would have required a prolonged high setting power and caused a significant drain on battery capacity as well as increasing the internal heat in the engine controller. He consequently sought to use thermals to help him on his path home.

This apparent lack of knowledge and experience was confirmed by the engine manufacturer, Mr. Luka Žnidaršič, who suggested in his evidence, that GT possibly suffered from what he termed "*range anxiety*", suggesting that GT was unaware of the full capabilities of his engine when using it to sustain a cruising flight path.

The IAT considered the question of whether GT was deliberately trying to lead and guide his fellow competitor or whether he was struggling to make it back to the airfield with the uncertainties explained by his lack of experience. The IAT also considered whether the time he took to get back to the airfield was inappropriate or if it was in keeping with the technique he used and his possible anxiety about the range achievable using the FES.

None of these questions can be answered with certitude and the IAT is mindful that the benefit of the doubt could have been granted to the appellant in this case, given the absence of direct proof that cheating did occur.

The case of VS is different as he is accused of attempting to obtain external help from a non-competing glider or airplane.

The paths of GT and VS are very similar as they had been flying closely together until the moment when GT started his engine. His decision to use the engine was because he had not been able to achieve a climb to an altitude that would have enabled him to continue using thermals as energy sources.

GT and VS were already flying farther to the south of the direct course to the next turn point than any of the other competitors, as they explained in the Appeal. They had started on the course earlier than the other competitors; were substantially ahead of their competitors in terms of distance on the course; and the track they chose was considered by them to be the best at that particular time.

From the moment that GT switched on his engine, there was always a difference in altitude between himself and VS and the horizontal distances between the two aircraft also differed.

Whether GT should have changed his track to proceed on a more direct route to the airfield, or whether he was seeking the best thermals on the track home to ensure he made it to the airfield without "*overheating*" his engine controller, can only be known to him.

Being as both were somewhat south of the direct track to the base airfield, there is a degree of inevitability that VS and GT would follow a similar path if both were seeking lift. VS had an advantage of being higher and making better use of the lift available.

To determine with certitude that VS attempted to obtain external help or benefited from external help can only be subjective. Both pilots have claimed that they had no radio contact. If that assertion is correct, then VS is unlikely to have known of the issues that GT encountered

with his engine. The IAT notes that there is no way of proving or disproving whether GT and VS communicated using their radios, or any other devices. In this case, VS could also have been granted the benefit of the doubt.

The CD however, after some hesitation, chose to apply certain penalties, but to say that the application of these penalties was illegitimate is not appropriate.

The IAT, however, is of the opinion that the CD failed in his duty on several counts.

- He failed to explain to the appellants a valid reason for applying the penalties in his response to their complaints.
- He also failed to respect SCGS 6.1.7. Penalties imposed during the event which confirms that, although penalties are imposed by the CD, a disqualification from an event may only be imposed after consultation with the FAI Jury. The Jury was not consulted before the disqualification was announced.

The JP, however, was aware of the situation. He informed the RJMs by email on 5 July, at 22h35, that: "The Organisation are obliged by strict adherence to the rules to disqualify GT for the rest of the competition and for VS to be disqualified for today. I am not yet **officially informed** but I am of course well aware of the detail and **believe the Organisation is correct with their penalties.** [*IAT emphasis*]" and then, on 6 July at 10h52 in a WhatsApp exchange, the JP stated: "No need for us to discuss this at this moment until they put in a protest".

- The CD failed in his duty to inform the AeCI of the disqualification and the resulting surrender of GT's FAI Sporting Licence in accordance with SCGS 3.2.4 and 6.1.6:
 - 3.2.4 Disqualification will be grounds for disciplinary action by the NAC concerned, and the Event Director shall send details of the surrendered licence to the disqualified competitor's NAC at the end of the event, together with a written summary of the circumstances. The NAC will be responsible for updating the Sporting License Database within seven days with any change resulting from such disciplinary action.
 - 6.1.6 As soon as possible after the event, the Jury President or the Event Director shall send to the President of the relevant ASC and to the President of the NAC concerned, a written summary of the facts justifying the disqualification from the event.

In spite of the above failures of duty, the IAT can only confirm that the CD, being convinced of offences supposedly committed, had every legitimate right to apply the rules and resulting penalties that he felt appropriate.

Following this decision by the CD and in accordance with SCGS 6.2.6 and 6.3.10, both GT and VS were within their rights to lodge a Protest and their dissatisfaction with the brief, undetailed response to their respective Complaints.

The lodgement of the Protest turns the focus of the IAT examination to the Jury Process in line with the Appeal.

2. The Appeals accuse the International Jury and, in particular, the Jury President, of lack of impartiality by violation of SC3a 2.2, 2.2.1 and 2.2.2 and SCGS 5.4.1.2

This section of the Appeal has been considered in two parts: firstly, the lack of impartiality of the JP; and secondly, the lack of impartiality of the IJ as a whole.

In the appeal document, the JP is accused of wilfully violating SCGS 5.4.1.2 and SC3a 2.2.2 and, by doing so, disrespecting his specific duties and the principles of impartiality and procedural fairness. The claimed violation relates to the assertion that the JP took on an operational position by acting as a Second Steward in the competition.

The IAT notes that the JP was never officially nominated as Second Steward. He was asked, by the CS, to provide assistance, following the unforeseen late absence of the nominated Second Steward, Milan Kmetovics.

The CS informed the IGC President and Bureau Member Kuijpers (who was also a RJM) of Milan Kmetovic's absence by email on 2 July and asked if it was acceptable for the JP to assist him when necessary. The CS never received a reply to this request.

The Jury Guidelines 4.1. General Observations do not prevent Jurors from being involved in the running of an event. The Guidelines state: Jurors may get involved in the running of the event in administrative or practical matters during the event as long as that assistance does not involve matters that could potentially be the subject of a protest or have influence on the results of the competition.

Precedent for such assistance from Jurors has been set in previous FAI IGC Championships. Both the CS and the JP present in Pocuinaï have been in identical situations in the past, the JP at the European Gliding Championship in 2013 in France and the CS at the European Gliding Championship in 2017 in the UK.

At no point, during all the different interviews, did anyone indicate an occasion where the assistance given to the CS by the JP conflicted with his role as Jury President. According to both the CS and the JP, the assistance was mostly the JP observing flying activities, particular the launch of the grid, when the CS was occupied elsewhere and calling the CS by phone if there were any problems that might need an intervention from a Steward.

The IAT therefore considers that there was neither wilful nor unintentional violation of SCGS 5.4.1.2. or SC3a 2.2.2. by the JP.

The challenge to the impartiality of the IJ is considered in the third element of the Appeal in combination with the question of an Incorrect Jury process - violation of the FAI Jury Guidelines 2020.

3. The Appeals accuse the Jury of Incorrect Jury process and violation of the FAI Jury Guidelines 2020

A register of persons approved to hold Jury President, Jury Member, Chief Steward and Steward positions is maintained by the IGC Bureau. Nominations for new persons to these positions are made by the NACs. The Jury President and the Jury Members for any specific championship are nominated by the IGC Bureau at the IGC annual Plenary Meeting in the calendar year preceding the relevant Championship. Plenum members have the opportunity to challenge any of the nominations. Subsequent changes to any of the nominated persons are handled, as required, by the IGC Bureau.

This leaves the respective members time to familiarise themselves with all the rules and regulations relevant to their role and to prepare for the event.

The Jury President appears to have not reviewed the rules and regulations prior to the WGC as demonstrated by this explanation during his hearing: "I am satisfied that we acted in accordance with the Jury rules but which, by the way, were published by the FAI but nobody was advised that there was a new Jury Handbook [sic: Guidelines]. I discovered when I got to Pociunai that there was an updated Jury Handbook [sic: Guidelines], and it took quite some reading and quite a few things changed and one is the Jury Report has to be published which in the old days had to be secret".

The current Jury Guidelines are, in fact, dated January 2020. The previous edition dated back to 2003 - 4th Edition. Although the format has changed, the content differs only slightly from the current edition and it is quite clear, that even in 2003, a protest hearing must be recorded (2.3.4. (a)) and the report should be made public by the CD (2.3.4.(11)).

Remote Jury member, Frouwke Kuijpers, when questioned about how she prepared for the competition, indicated that she did not prepare much, referring to her responsibility as IGC VP, Chair of the Stewards and Jury Working Group and her previous activity of Chief Steward and Remote Juror. However, in the IJ WhatsApp exchanges she questioned the hearing process, when she stated that: "she was quite new to this". The IAT considers this statement indicated a potential lack of knowledge on her part.

The IJ was informed of the unfolding situation at Pociunai in an email from the JP on 5 July at 22h35. The JP gave some details, but also offered the following opinion: "The organisation are by [sic] obliged by the strict adherence to the rules to disqualify GT for the rest of the competition and VS to be disqualified for today. I am of course not yet officially informed but I am of course well aware of the detail and believe the organisation is correct with their penalties".

Subsequently, there were a number of WhatsApp exchanges on a group chat that was set up by RJM Frouwke Kuijpers at 09h17 on 6 July. From these exchanges it is apparent that the IJ was expecting a protest, however the JP wrote at 10h52: "No need for us to discuss further at the moment until they put in a Protest."

The JP received the two protests by email from the CD at 21h21 on 7 July and forwarded them to the RJMs at 23h07 the same day.

From this point on the IJ was required to follow the instructions given in Chapter 6 of the FAI Jury Guidelines. This included a time limit of 24hrs (6.5) to set up a hearing to review the substance of the CD's decision and the subsequent protest(s).

The evidence of how the Jury handled the protests is only visible through the recorded WhatsApp exchanges and some emails.

Prior to the hearing, the RJMs raised a number of questions including whether the two Italian pilots and the CD should be given "the chance to present their case" highlighting that the CD had given a very weak response to the Italian complaint and that "he should take the trouble to give a detailed justification for his decision" and that "the Jury shall hear both sides on the matter of any Protest".

The JP however, decided that he would serve as an intermediary between the CD and the RJMs, providing the RJMs with "evidence" in the form of a presentation that: "has received the full support of the CD". Regarding input from the two pilots, he indicated that they had "presented their arguments in the protest" and that he "saw no point in involving either of them unless they have substantial new evidence".

Consequently, the CD did not attend the hearing, and although this is his right, his absence meant that the RJMs were unable to hear his point of view or question him directly. All the information they received was through the filter of the JP.

The JP finally agreed to hear the Italian Team Captain (VS), representing both pilots, with Mr. Gostner also in attendance, but the pilots believed that only VS would be permitted to speak and that no questions would be allowed. This situation is confirmed in the WhatsApp exchange by the JP: "if yes [to their attendance] 15 minutes max presentation only no discussion".

The IJ held a hearing on 8 July at 18h00.

The IAT has noted a number of inconsistencies between the requirements stated in the FAI Jury Guidelines for the conduct of the hearing and what actually occurred.

- There is no record of the hearing or the subsequent Jury deliberations (either audio or written minutes), despite this being a requirement stated in the FAI Jury Guidelines procedures.
- The Jury hearing is intended to be an examination of the evidence and an opportunity for the Jury to hear both sides of the protest. The procedure is detailed in the Jury Guidelines 6.6 Outline of the Procedures for Hearing a Protest.
- The IJ clearly did not follow the Jury Guidelines and the IAT, therefore, considers that the IJ in the conduct of this hearing, disrespected the principles of impartiality and procedural fairness intended by the Jury Guidelines 6.6 in that the IJ appears to have:
 - o not presented the incriminating evidence and the grounds for the application of the penalties to the protesting pilots. This is confirmed by the JP in his Zoom interview when he stated "why should we tell them, they know what they did". The protesting pilots were, therefore, denied the opportunity to challenge the evidence.

- already determined an opinion in the WhatsApp exchanges prior to the hearing even though, at one point, RJM Frouwke Kuijpers did suggest giving the "benefit of the doubt" and indicating that "sometimes a pilot cannot control the external help".
- not based their final decision on any exonerating facts offered by the protesting pilots, rather basing their decision only on the opinion of the Organisation and the CD; an opinion that the protesting pilots were unable to challenge because the CD was not present.
- favoured the complaints of two competitor teams by default, in accepting the CD's penalties, which, again, the protesting pilots were unable to challenge because the complaints were not provided to them.

The subsequent sequence of actions and events indicates a lack of transparency and due process on the behalf of the IJ. Specifically, the FAI Jury Guidelines require: *Jury decisions come into effect with the publication of the Jury protest report.*

The FAI Jury Guidelines are unclear as to whether publication must be in writing or whether it may be made by a verbal statement. However, the normal use of the word publication prescribes that the decision be made in writing, which did not occur until 11 July, three days after the protest hearing and two days after the verbal confirmation that the IJ had declined the protests from the Italian pilots.

The report provided was, in the opinion of the IAT, not a full report and was titled "Jury Decision" and addressed to "whom it may concern".

The report confirms that :

- The Jury examined the IGC flight recording files using the SeeYou V.10 flight analysis programme.
- Only the JP spoke with the Organisation of the Competition (CD).
- Only the JP spoke with the FES engine manufacturer who apparently agreed to make the engine data records available to the Jury. This information was consequently available on 8 July at the time of the Jury deliberation but there is no evidence that it was taken into consideration by them.
- All the available evidential data was correlated by the JP and provided to the RJMs.
- Both Italian pilots were invited to the Zoom meeting to make their points, which they did.
- The Jury considered that the evidence clearly proved the guilt of both pilots and unanimously agreed to uphold that the penalties that had been applied by the CD.
- All parties were notified immediately verbally by the JP and that the (*other*) Team Captains and pilots were also informed by the JP during the competition briefing on 9 July at 10am.

The report concludes that the document is a "short version for formality and a full comprehensive Report with very detailed data and explanations will be submitted by the JP in his report to the FAI after the Competition".

No full Report was submitted by the JP in his report to the FAI after the Competition. A document called "Jury President Full Report" was submitted on 3 January 2023, six months after the event and three months after the filing of the Protests. This document cannot be considered as a report from the competition as it was written so long after the event and was not signed or approved by the other Jury members. As this "Full Report" was submitted to the IAT, it was accepted as further evidence confirming the lack of compliance by the JP with the FAI Jury Guidelines.

The original short Report also contains statements, which the IAT considers to be both subjective and unconfirmed, including a quote supposedly made by Mr. Gostner to Mr. Žnidaršič, an interpretation of apparent emotions demonstrated by the two pilots and a personal opinion. The IAT considers that none of these statements have a place in an official report.

On review and after considering the evidence provided, the IAT concludes that:

- the IJ did not follow due process as required by the FAI Jury Guidelines.
- there is lack of clarity about the way the IJ reviewed and assessed the evidence presented, both before and during the hearing.
- there is a lack of transparency regarding the handling of the protest hearing.
- although there is no evidence that the IJ was influenced by the original complaints, there is evidence that the JP supported the decision of the CD prior to any protest being received.
- although there is no evidence that the IJ considered different interpretations of the situation during their deliberations, it is apparent from different statements, both written and expressed in the IAT hearings, the IJ did not question the Appellants to gain an understanding of their description of their flights, relying rather on the evidence and interpretation presented to them by the Organisation.

As a result, the IAT considers that the IJ can be criticised for not following the required processes in the FAI Jury Guidelines and this conclusion leads to a consideration of procedural irregularity, unfairness and lack of impartiality particularly on the part of the JP.

APPEALS TRIBUNAL DECISIONS

1. To the appeal of the illegitimate application by the International Jury and the Championship Director of the penalty defined in FAI Sporting Code General Section 2022 6.1.4. and FAI Sporting Code Section 3 Annex A 2021 8.7. and 8.6.5.a. Cheating

The International Appeals Tribunal decision is that the Competition Director was within his rights to impose penalties and therefore it was perfectly legitimate for him to apply the penalties for offences as he had determined had been committed.

The International Appeals Tribunal further considers it very difficult to determine whether the actions of the two Appellants were deliberate or not given the evidence provided and the IGC competition rules that apply to such a situation. Accordingly, the International Appeals Tribunal has made recommendations regarding the provisions and penalties contained in SC3a.

2. To the appeal that the International Jury and, in particular, the Jury President, lacked impartiality by violating of SC3a 2.2, 2.2.1 and 2.2.2 and SCGS 5.4.1.2

The International Appeals Tribunal decision is that the Jury President did neither wilfully nor unintentionally violate SCGS 5.4.1.2. and SC3a 2.2.2.

3. To the appeal of Incorrect Jury process and violation of the FAI Jury Guidelines 2020

The International Appeals Tribunal decisions are that:

- a. The procedures used by the International Jury, led by the Jury President, did not respect the procedures laid down in the FAI Jury Guidelines in that the hearing was not correctly conducted because it was neither recorded nor minuted and that the resulting protest report issued was incomplete and inappropriate, and
- b. As a result, the International Jury did not comply fully with the requirements by which it was bound, and, therefore, neither Mr. Thomas Gostner nor Mr. Stefano Ghiorzo received the benefit of a fair hearing. The International Appeals Tribunal therefore considers that the confirmation of the penalties by the International Jury could be argued as being unfair, and
- c. The penalties applied to each of the two Appellants, Mr. Thomas Gostner and Mr. Stefano Ghiorzo, be expunged from the results of the competition and from any relevant IGC records, and
- d. Mr. Gostner's FAI Sporting Licence be reinstated forthwith.

- 4. To the remedy sought by the Appeal that the classification of the results of 4th World Gliding Championships 13,5m class in Pociunai, Lithuania be cancelled, the classification of the Championships be invalidated and that all medals awarded by withdraw/reclaimed all the medals given at the 4th World Gliding Championships 13,5m class in Pociunai, Lithuania".**

The International Appeals Tribunal is mindful that: while the International Jury failed to demonstrate impartiality and did not follow the processes laid down in the FAI International Jury Guidelines, the Competition Director was entitled to apply the penalties given. In addition, and the Jury President did not violate the FAI Sporting Code General Section. 5.4.1.

The International Appeals Tribunal notes, therefore, in considering this requested remedy, that the Power of the Tribunal, stated in the FAI International Appeals Tribunal Manual 2014, does not permit a Tribunal to "order a competition to be run again nor may it assign any score or performance to a competitor or team that was not actually achieved or performed by that competitor or team during the course of the event".

The International Appeals Tribunal further notes that Mr. Ghiorzo, despite a single day disqualification, was in a position to continue in the competition and was entitled to continue to compete. However, he chose to withdraw on 9 July 2022 upon hearing the Jury decision but before receiving the publication of the Jury decision. Had he continued to participate, it is possible that a different outcome may have eventuated regarding the overall standings at the end of the WGC.

The International Appeals Tribunal, therefore, has determined that it cannot accept to cancel and invalidate the classification of the Championship, or withdraw/reclaim all the medals, because this would mean punishing other competitors who participated in the competition in good faith.

5. Administrative Fee of 3000CHF

In accordance with SCGS 6.5.5, the International Appeals Tribunal, having decided that the appeal was sufficiently well founded, has determined that the Administrative Fees be reimbursed in full.

The International Appeals Tribunal notes that SCGS 6.5.5 and the FAI Jury Guidelines 6.5 refer to the circumstances under which the Administration Fee should be refunded, however the FAI International Appeals Tribunal Manual is silent on the treatment of the Administration Fee. The International Appeals Tribunal considers that these various documents should be aligned and that any decision regarding the Administration Fee should be justified. The International Appeals Tribunal has, therefore, made a recommendation to this effect.

APPEALS TRIBUNAL RECOMMENDATIONS

The International Appeals Tribunal has a number of recommendations which it charges the FAI, CASI and IGC as appropriate to implement:

1. Regarding the lack of care taken by the International Jury

- a. The International Appeals Tribunal notes that the only sanction applicable to this situation is Statute 2.9.1.1.2. of the FAI Statutes 2022 version (*When an FAI Member organisation is notified, or otherwise becomes aware, of a possible violation of the FAI Statutes, By-Laws or Sporting Code by one or more of its individual members, the head of that organisation shall appoint one or more of its officers to investigate the allegation(s)*). The International Appeals Tribunal also noted that the provisions of Statute 2.9.1.1.2 have been overtaken by the new FAI Disciplinary Code, which was published subsequent to this WGC.
- b. Consequently, the International Appeals Tribunal recommends that the membership organisations of the three Jury Members be informed of the conclusion in this report to enable them to take the action they deem appropriate against their member.

2. The FAI International Gliding Commission (IGC)

The International Appeals Tribunal recommends that the FAI International Gliding Commission:

- a. takes remedial action to ensure that all potential Jury members contained in the register held by the IGC Bureau are aware of their responsibilities and fully understand the role they are committed to fulfil, and
- b. removes Mr. Bruno Ramsayer, Ms. Frouwke Kuijpers and Mr. Peter Ryder from Jury duties forthwith and to not reinstate them until they have, respectively, completed an appropriate course of training as determined by the FAI International Gliding Commission, and
- c. ensures that appropriate training is provided to persons nominated to serve as Stewards and that the process of appointment of persons to these roles be in the public domain and
- d. reviews and updates, as appropriate, the processes and protocols for replacing absent Jury members and Stewards prior to or during a sanctioned FAI World Gliding Championship, and
- e. reviews and updates the definitions and guidance provided in Annex A 5.3 and Annex A 8.6 and Annex A 8.7 concerning the penalties of Cheating and Other

Types of Aid as contained in Annex A to ensure clarity in the way that such offences are investigated and assessed, and

- f. reviews and updates Annex A 5.3.2 to ensure that the intended provisions of this article define the requirements expected of pilot flying a glider with an engine and the potential interactions with all other gliders airborne at that time.

3. The FAI

The International Appeals Tribunal recommends that the FAI reviews and updates FAI SCGS 3.2. regarding the requirements, processes and procedures for the surrender of an FAI Sporting Licence.

4. The FAI General Airsport Commission (CASI)

The International Appeals Tribunal recommends that the FAI General Airsport Commission:

- a. ensures that appropriate training is provided to persons nominated to serve as members of an FAI International Jury and that the process of appointment of persons to these roles be in the public domain, and
- b. reviews the provisions regarding the use of Remote Juries by FAI Air Sport Commissions and ensures that there is a common policy accompanied by guidelines to ensure that the processes stated in the FAI Jury Guidelines are rigorously adhered to when protests are considered by Remote Juries, and
- c. reviews the appropriateness of SCGS 6.1.7. which the requires for the Competition Director to consult with the FAI Jury before imposing a disqualification from an event as such an interaction could be seen as a potential conflict of interest and to negatively affect the impartiality of a Jury in the case of a subsequent protest against the disqualification, and
- d. reviews and aligns the requirements stated in the FAI Sporting Code General Section, the FAI Jury Guidelines and the FAI International Appeals Tribunal Manual regarding the treatment of the Administration Fee and the justification for a decision on the Fee.

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