



GLIDING AUSTRALIA

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15th December 2021

Mr Grahame Hill
President
Air Sport Australia Confederation
PO Box 337
Erindale Centre ACT 2903

Dear Grahame

I am writing on behalf of the Gliding Federation of Australia Board to request financial support from ASAC to assist the WWGC Australian team in funding their appeal to the International Court of Arbitration for Sport (ICAS).

I am sure that ASAC Board members are conversant with the circumstances and penalties applied against the Australian team during the WWGC held at Lake Keepit in January 2020. For the past twenty months the team has been working through an exhaustive process of appeal via ASAC to the FAI. After an extremely long-winded process the FAI has finally ruled against the Australian team and in fact has upgraded the original penalty to fully disqualify the team from the event.

Throughout the FAI appeal process there have been serious concerns from both the team and ASAC as to the way in which the appeal has been handled with the appeal processes being questioned in many regards. Please find an **ANNEXURE** to this letter that summarises some of the events relating to the penalty and to the poor conduct of the appeal.

In August this year the team approached the GFA Board and requested financial support, should the team lose its appeal, to mount a final appeal to the International Court of Arbitration for Sport. The GFA Board considered the matter and decided that it would not provide financial support to the team for defence of an applied penalty, however, the Board was satisfied that there were serious inadequacies in the appeal process. The GFA Board is strongly of the view that any GFA member has a right to be treated in a manner that ensures procedural fairness and should be supported in that quest, and hence made the following determination: *The GFA Board believes there is **prima facie** evidence that the FAI's handling of the Australian WWGC team appeal is flawed. Should the team fail to win their current appeal to the FAI, the GFA will provide \$5,000 to the team to assist with legal costs in mounting an appeal to the International Court of Arbitration for Sport to ensure the team has been treated according to the principles of procedural fairness.*

The GFA Board contends that any member of an ASAC affiliated organisation could be subject to similar unjust and unfair treatment by the FAI – it is time that the FAI got its backyard in order. The GFA Board has acted not to defend the charges against the team per se, but rather to defend the team’s right to have their appeal conducted in a manner that will ensure their appeal has been considered in a just and fair manner. I’m sure we would all support a person’s right “to have their day in court”. Giving our members and competing representatives a “fair go” is important, for something that affects their reputation and wellbeing.

The final avenue for appeal is to ICAS and it will be an expensive process. The team is committed to this path and needs all the financial support it can generate. The GFA Board requests that the ASAC Board considers our request favourably and joins the GFA in assisting the WWGC Australian team with funding to support their appeal.

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'Steve Pegler', with a stylized flourish at the end.

Steve Pegler
President.

ANNEXURE

Background

During the Womens World Gliding Championships, held at Lake Keepit NSW in Jan 2020, the competition organisation made a decision that “the use of the data gained illicitly is considered by us to be unsporting behaviour ..” and as a result the Australian Team was initially penalised by requiring the Team Captain to make a public apology and the pilots were not sanctioned. Later the penalty was increased to penalise the pilots a total of 250 points per pilot which was later reduced to 225 points. The penalty was imposed for alleged Unsporting Behaviour as per FAI Sporting Code General (Appendix 14) 6.2.2 and Annex A, 8.6.5 Unsporting Behaviour (Appendix 15).

During the competition the Australian Team had access to the G-Track Live system, which was developed for use in Australian competitions to enable display of glider locations on a map for public display and using a 15 minute time delay when the competition officially began. The Australian team coach discovered he was able to access the G-Track Live data as it had not been password protected.

The competition rules allowed for teams to use live tracking of gliders. The tracking could be obtained through the Lake Keepit Open Glider Network (OGN) without time delay within a range of approximately 30 nm, similar to VHF radio range. Beyond that range, the G-Track Live system, which used the mobile phone network, provided real time tracking which covered the task area but within the limitations of the mobile phone network which was patchy given the high terrain in the area. An alternate source of tracking also allowed under the rules is via a private OGN, whereby teams can position receivers around the task area and monitor the real time position of the gliders. All OGNs use the FLARM system mandatorily installed in gliders (FLARM is a glider-to-glider collision awareness system that transmits on the 1090Mhz radio frequency). Private OGNs are expensive and only teams with sufficient resources and funding are able to utilise this private system. None of the teams admitted to having a private OGN, although it is commonly known that they exist and are routinely used in major competitions. It is unlikely that the teams which shipped gliders to the comp did not bring their private OGN equipment which is not bulky and would not have been needed in the northern hemisphere during their winter. We know that the British and German gliding people have such systems.

The Australian Team penalty was given because of the allegation that live tracking data was gained illicitly. It was later suggested that this gave the Australian pilots an unfair advantage even though its use did not breach any rules as was admitted in the IAT decision. Following the penalty, the Australian Team formally protested. The Jury President (on-site) did not, as was required under the Jury Rules, convene an online meeting with the other two jury members (off-site) and did not interview the Australian team captain. The Jury Rules state that all Jury members are to be available on the final day of competition to hear any protests arising from the last day of competition and to take part in the final Jury Meeting to confirm the results. This did not happen. Further, the NZ Jury member only had an hour to consider the matter and he was not given the opportunity to speak or hear from any of the protesting parties – he sent his dissenting decision to the other jury members via email but agreed to go with a majority decision. He was never interviewed in the IAT appeal process.

Appeal

On 8 Apr 2020 - ASAC on behalf of the Australian team, submitted an appeal to FAI to be heard by the IAT (International Appeals Tribunal). Of note:

- The IAT, appointed by the FAI to hear the appeal, consisted of three members comprising two from gliding, both of whom were IGC members. All three were of European background (Note - a counter appeal was lodged by the UK and Germany requesting full disqualification of the team). ASAC strongly protested the makeup of the IAT, citing that it was not sufficiently independent and that it favoured the European block and included two people closely aligned with those who imposed the penalty. Action on this objection was refused.
- In December 2020, oral hearings with each of the teams were held by video conference. The Australian team objected to the fact that the Jury President was present as an observer and that the Australian team had been denied the right to have any of its own observers. Those objections were overruled.
- The Australian team was provided with transcripts of interviews from the GBR/GER hearing only when it insisted in August 2021 that the IAT tell them where and from whom it had obtained evidence and asked for a transcript. It emerged from viewing the other transcript that the GRR/GER teams had been provided with the Australian transcript immediately after it was completed by the IAT, without request from the other teams. It also became apparent that the other oral interview was conducted with joviality, cooperation and kindness; the Australian team hearing was frankly hostile.
- Overall, the appeal process demonstrated extreme bias, lack of procedural fairness and stretched for 20 months. Some examples are:
 - The matter of use of private OGN by the wealthier nations was dismissed as irrelevant or nonexistent.
 - No investigation of any private OGN that may have been used was made; in fact, the IAT noted that there has NEVER been any evidence of private OGN but it is widely known in international competition circles that it is and has been used for some years.
 - Australia was often given less than a week to review documents and provide a response by a deadline set by the IAT.
 - Australia was accused of hiding information from the IAT (The Australian team could not have been more open in providing information).
 - The Australian team was accused of being dishonest in describing the quite ground breaking visualisation system used by the Australian team in the comp. The developer had received international recognition for some of his concepts and had openly shared some aspects of the system with the international gliding community.
 - Almost all the Australian responses to documents were continually rejected.
 - The numerous Statement of Facts (SoF – document by which the IAT would base a decision) contained multiple examples of opinion and not fact despite numerous objections raised by the Australians.
 - Australia asked that only determined facts were listed in the Statement of Facts and this comment was rejected in a hostile fashion.

On 2 Dec 2021 – the IAT released their finding - to disqualify the Australian team.

The Team, via ASAC, intends to appeal the decision to the International Court of Arbitration of Sport (ICAS). The thrust of the appeal is in regard to the penalties imposed, but most importantly the procedural unfairness of the competition Jury and the IAT process.