



Refusal to open proceedings N° 2019/06

Main matter(s): principle of subsidiarity; in-race actions; material competence of the commission; complaint in relation to a UCI commissaire's decision; eventual immediate reaction to a possible improper or provocative behaviour

Date: 20.11.2019

Summary: The Complaint related to alleged behaviour of a UCI commissaire during the Elite Women's road race of the 2019 UCI Road World Championships in Harrogate, Yorkshire, United Kingdom. The Code was adopted with the aim of applying to conduct that damages the integrity and reputation of cycling and in particular to illegal, immoral and unethical behaviour. Nonetheless, the Code also focuses on general conduct within cycling. According to Article 2 of the Code, its application is hence subsidiary to the UCI Cycling Regulations with regard to any behaviour which is specifically governed therein, notably with respect to in-race actions. In the present case, the President of the Commission noted that the Complaint was filed against the UCI commissaires' panel, but that referred in fact to the behaviour of a particular UCI commissaire, who allegedly raised his middle finger at the Complainant. However, the President of the Commission observed that the Complaint did not bring any element enabling to identify the UCI commissaire. Furthermore, on the basis of the information in the Complaint, the President of the Commission unfortunately did not see what investigative measures could be taken in order to identify the UCI commissaire. Furthermore, according to the content of the Complaint, the alleged behaviour of the commissaire appeared to be a direct and immediate reaction to the behaviour of the Complainant, i.e. that the Complaint had shouted at him: "no sheltering", whereas the day before the UCI commissaires' panel had decided to disqualify (Art. 2.12.007, 4.7 of the UCI Sport Regulations) the rider Mr Nils Eekhoff based on video footage from a moto camera that showed the rider had spent more than two minutes sheltering behind a vehicle (see UCI Press release dated on 28 September 2019). Even in the case the identity of the UCI commissaire, who allegedly raised his middle finger at the Complainant, could be established, it should thus be assessed, in order to establish a breach of the Code, if his insulting behaviour was not an immediate reaction to the possible improper or provocative behaviour of the Complainant. In the present case and based on the foregoing, this question was nonetheless left open. The President of the Commission indeed deemed that he was not able to initiate proceedings in this case in accordance with the provisions of Article 27 of the Code. Having said that, the President of the Commission made it clear that he considered of paramount importance that UCI commissaires should at all times, even when not officiating, comply with the various UCI Regulations and abstain from causing any material or moral prejudice whatsoever to cycling as a sport or to the UCI. In view of the content of the claim, a copy of the Complaint, as well as this decision, were sent to the UCI Legal Service.

List of abbreviations

Code of Ethics

Code

Ethics Commission

Commission

Person/individual concerned by a case

Accused Person/Party