



FIA INTERNATIONAL TRIBUNAL / TRIBUNAL INTERNATIONAL DE LA FIA

PRACTICE DIRECTIONS

I. Introduction

It is in the interests of the fair and efficient conduct of proceedings before the FIA International Tribunal (herein referred to as the 'IT' or 'the Tribunal') that practice directions are available to the parties appearing before the IT and to their legal representatives.

These Practice Directions are designed to assist participants in cases before the IT, to answer a number of commonly arising questions and to set out 'best practice'.

In some instances, the manner in which the Secretariat applies particular provisions of the Judicial and Disciplinary Rules of the FIA (herein referred to as the 'Rules') in practice is explained. However, these Practice Directions do not amend the Rules in any way. Nor do these Practice Directions limit the discretion of the Tribunal. Nonetheless, the IT Secretariat expects and requires participants in cases to comply with these Practice Directions.

The IT is the FIA's disciplinary body of the first instance, except for cases relating to doping. Its decisions may be appealed before the FIA International Court of Appeal (herein referred to as the 'ICA' or 'the Court'). These Practice Directions have been prepared to facilitate the conduct of this type of case.

II. Commencing proceedings

Who is subject to the Rules?

1. The list of persons, whether natural persons or legal entities, who are subject to the Rules and therefore likely, in case of an infringement, to be subject to a disciplinary procedure and to have sanctions imposed upon them, is set out in Article 8.1 of the Rules. This list is exhaustive and, if necessary, it is up to the Tribunal to determine how exactly the person being prosecuted is subject to the Rules.

In disciplinary terms, each person is responsible for its own deeds. This principle does not prevent persons who are subject to the Rules from being prosecuted for acts committed by persons who are not subject to the Rules but whose acts they must control.

Do the persons being prosecuted communicate directly with the Tribunal?

2. Yes. Unlike the procedure before the ICA, with regard to which certain acts must mandatorily be carried out by the parties' parent ASN, the persons being prosecuted before the IT (and/or their legal representative) communicate directly with it. However, they may request the assistance of their parent ASN, which may make observations and be heard as a witness.

What are the infringements?

3. The infringements are exhaustively listed in Article 8.2-(i) of the Rules, and it is up to the Tribunal to determine how exactly the actions with which the prosecuted person is charged constitute a disciplinary infringement in terms of that list.

What are the sanctions?

4. The available sanctions are exhaustively listed in Article 8.2-(ii) of the Rules. The Tribunal can only impose the sanctions that appear in that list. The Rules do not prescribe a mandatory relationship between a particular offence and a particular sanction. Therefore, unless another applicable text (e.g. the International Sporting Code) provides for such a relationship, the Tribunal must choose, depending on the circumstances of the case, the most appropriate sanction and ensure that its quantum is proportional.

What is the prosecuting body?

5. The President of the FIA is the prosecuting body (Article 6 of the Rules). He alone decides whether or not it is appropriate to launch disciplinary proceedings.

Can a 'victim' or a third party commence disciplinary proceedings?

6. Apart from the prosecuting body (the President of the FIA), it is not possible for any other person or legal entity directly to bring a person or legal entity before the IT. A natural person or legal entity can complain to the FIA of acts that it considers merit disciplinary proceedings but, in all cases, the President of the FIA remains sovereign in his assessment of whether or not it is appropriate to commence disciplinary proceedings. If the President of the FIA decides to start proceedings, the complainant does not acquire the status of a party to the proceedings and has no right to be heard or to claim indemnification for any wrong suffered. He is considered as a 'third party' for the purposes of the Rules. He may nevertheless be heard as a witness, whether or not at his request, if the President of the Hearing so decides (see also *infra*, "Access and rights of other parties").

What is the disciplinary inquiry?

7. This is the preliminary phase before the commencement of the disciplinary proceedings themselves. The inquiry is started by the prosecuting body when it suspects that somebody has committed a disciplinary infringement. To that end, one or more persons (whether external to the FIA or not), are tasked with conducting the investigation. The prerogatives of the investigators are set out in Article 7 of the Rules.

How are the disciplinary proceedings commenced in practice?

8. If, at the end of the inquiry, the prosecuting body decides not to drop the case and/or no arrangement concluding the matter is entered into, it will draw up a notification of charges, the content of which is set out in Article 11.1 of the Rules. This notification will be sent simultaneously to the prosecuted person and to the President of the IT. This formality constitutes referral of the case to the Tribunal and is the starting point of the disciplinary proceedings.
The notification of charges may be made by any means that allows the receiving party to prove receipt (registered letter with acknowledgement of receipt, delivery in person in exchange for a receipt, etc.).

What is the calendar of proceedings?

9. The President of the Hearing draws up the calendar of proceedings, which includes the date of the hearing, and communicates it to the prosecuted person and the prosecuting body as soon as possible after the start of the proceedings. The President of the Hearing may amend the calendar of proceedings at any time, as long as the rights of the parties are respected.
The calendar of proceedings will at least indicate the period of time that the prosecuted person has to respond to the notification of charges (minimum 15 days), the period the prosecuting body has to reply (in principle minimum 15 days after the response to the notification of charges), and the date of the hearing (in principle minimum 15 days after the reply by the prosecuting body).
In case of manifest urgency, the President of the Hearing may decide to reduce the minimum periods set out in Article 11.3 of the Rules, as long as the basics rights of the parties are not jeopardised.

III. Written Submissions (response to the notification of charges by the prosecuted person and reply from the prosecuting body)

How to make written submissions to the IT; adhering to deadlines; and provision of 'hard copies'

10. It is up to the prosecuted person and the prosecuting body to scrupulously respect the deadlines set out in the calendar of proceedings. These deadlines run from the time of their notification, by whatever means, and compliance with them is assessed with reference to the day on which the IT receives the document concerned (and not the day on which it was sent). In all cases it is the responsibility of the parties to prove compliance with the deadlines and to choose a verifiable and secure form of delivery. The Secretariat

shall issue an “acknowledgement of receipt” which shall note the time and date of receipt. For the purposes of all deadlines, the time of receipt by the Secretariat, not the time of sending, is conclusive.

11. Any document submitted outside the prescribed deadlines will not be accepted and will not form part of the case file, unless an extension has been granted.
12. There is no right to an extension of the fixed deadlines. However, the President of the Hearing has a discretion to grant extensions where the circumstances so require, on condition that adequate reasoning has been provided.
13. Deadlines which are expressed in the Rules in terms of number of days refer to calendar days, not working days, and start to run on the first day following that on which the relevant event occurs.
14. Unless otherwise specified by the IT Secretariat, the parties are required to submit 20 hard copies of all submissions (10 copies in French and 10 copies in English). These shall be sent at the same time as the submissions to the IT Secretariat. The Secretariat may ask the parties to provide additional hard copies if it deems it necessary.

Content of the written submissions

15. The contents of submissions in response to the notification of charges (to be filed by the prosecuted person), and of submissions in reply (to be filed by the prosecuting body) are set out in Article 11.4 of the Rules.
16. The IT Secretariat recommends that all Submissions (meaning the written Grounds of Appeal themselves, and any written argument, claims or pleadings made by an interested party, and any supplementary written statements requested or permitted by the President of the Hearing, but excluding all Annexes, exhibits and supporting evidence) adhere to the following structure:
 - a) a front page containing all of the information described in paragraph 17 below;
 - b) an introduction briefly describing the nature and objectives of the Submission;
 - c) a description of the identity of the party making the Submission. Where known, this should include the legal nationality and licence nationality of all driver(s), co-driver(s) and competitors who may be concerned by the outcome of the proceedings;
 - d) a description of the relevant facts and the evidence relied on to support those facts;
 - e) a description of any applicable legal, regulatory or contractual provisions;
 - f) separate sections dealing with each of the individual pleas of the party regarding the application of the law to the facts;

- g) a clear statement of what the party requests the Tribunal to do (i.e. a ‘form of order sought’);
- h) the identity of any witnesses, experts or knowledgeable parties that the party intends to call;
- i) a Schedule of any exhibits or evidence served with the Submission.

17. The following information must appear on the first page of the Submission:

- a) the full name and relevant information (licence, address, etc.) of the party (driver, competitor, organiser, etc.) making the Submission;
- b) if applicable, the name and the date of the relevant event(s) and the series or championship of which the event forms part;
- c) if applicable, the name and capacity of the agent(s) or lawyer(s) making the Submission).

18. The parties shall decide for themselves what evidence is required to support their case. The following Annexes are usually regarded as being essential:

- a) (from the prosecuting body) if necessary, a copy of the Sporting and Technical Regulations applicable to series or events recognised by the FIA (this is not necessary for the FIA’s own Championships, Challenges, Trophies or Cups);
- b) a copy of any agreement which must be examined to resolve the issues in question;
- c) a copy of any report, photograph, video, expert evidence, or other evidence supporting the factual or legal arguments advanced by the party making the Submission.

19. It is not necessary to submit an Annex if a party is certain that the Annex in question has already been submitted by another party. No presumption should be made in this regard. Where practicable, the IT encourages parties to cooperate to limit the overall volume of documents.

20. In appropriate cases the IT Secretariat may require parties to reduce Submissions to skeleton arguments.

21. Legal and factual arguments submitted for consideration by the IT shall appear in the body of the text of the Submission and not in the Annexes or other supporting documents.

22. Submissions should be divided into sequentially numbered paragraphs. The pages of all documents submitted, including all Annexes or other supporting documents, must be numbered sequentially.

23. Only documents mentioned in the actual text of the Submissions and necessary in order to prove or illustrate their contents should be submitted as Annexes.

24. If the production of any evidence, Annex or other supporting document presents technical problems (e.g. due to the size, format or nature of the data), the party making the Submission should contact the IT Secretariat at the earliest opportunity in order to make practical arrangements.

Duty to provide evidence

25. It is the responsibility of the parties to produce all of the documentation and evidence upon which they intend to rely. Apart from the FIA's International Sporting Code and its Appendices, the FIA's Statutes, the Judicial and Disciplinary Rules of the FIA and the Sporting and Technical Regulations for the FIA's Championships, Challenges, Trophies and Cups (which may be referred to without being re-submitted), the IT will receive and consider only the documents submitted by the parties.

Evidence other than documentary evidence

26. Parties are permitted to produce physical evidence (e.g. a vehicle part) to support their case. Parties should consider the necessity of producing physical evidence if photographic evidence, descriptions or drawings might serve equally well. This remains a matter for the parties' discretion and it is for each to determine how best to prove its case.

27. Parties are permitted to produce recorded evidence (e.g. video or television footage of an event). This should be produced on CD Rom in one of the following formats: MPEG, ISO and AVI – Software and video players: Gom Player, Windows Media Player, Media Player Classic and WinDVD. It should not be copy protected as it may be necessary to make further copies for the purposes of the case. The obtaining of all necessary permissions and authorisations (including copyright authorisations) remains the sole responsibility of the party submitting the recorded evidence.

28. In all cases in which physical or recorded evidence is produced, parties must:

- a) indicate in their Submissions that they will submit such evidence;
- b) indicate in their Submissions the facts and arguments that they claim this evidence will support;
- c) indicate whether any technical or expert evidence or report will be offered in conjunction with such evidence to establish the claims made and include a written outline of such evidence with their Submissions;
- d) provide this physical or recorded evidence at the same time as the relevant Submissions;
- e) in the case of physical evidence, facilitate arrangements (to be made through the IT Secretariat) for the other parties to the case to inspect the evidence at the earliest opportunity.

Translations

29. All Submissions shall be produced in both English and French. The President of the Hearing may make orders adjusting this obligation, if necessary.
30. Annexes or other supporting documents may be provided in either English or French. However, the IT Secretariat may require the parties to provide a translation into both French and English of at least the relevant parts or provisions within the Annexes or other supporting documents upon which that party places particular reliance.
31. Where any translated document is provided, a copy of the original must also be provided.
32. Where it deems it necessary, the IT Secretariat may require parties to provide translations of additional parts.
33. Any translators must be certified. If the poor quality of any translation causes the IT Secretariat to deem it necessary to re-translate any document, the party that submitted the poor quality translation shall bear the cost of that translation (subject to a direction to the contrary in the final judgment issued by the Tribunal). A list of certified translators is available from the IT Secretariat.

Production of evidence after exchange of Submissions

34. After the exchange of Submissions, the parties shall not be authorised to produce any further document save in exceptional circumstances and with the permission of the President of the Hearing (Article 11.4, final paragraph of the Rules), unless a direction to the contrary has been issued by the President of the Hearing pursuant to Article 11.5 of the Rules.
35. The IT Secretariat may not issue such a direction. A party wishing to provide additional Submissions, evidence or arguments (or seeking any other direction) must address a formal request to the President of the Hearing for a direction under Article 11.5 of the Rules. This request must be made in writing and sent to the IT Secretariat as soon as practicable and as far in advance of the hearing as possible. Other parties to the case will be offered an opportunity to comment. In exceptional circumstances and if permitted by the President of the Hearing, an oral application may be made at the hearing itself. In such cases, the party making the application must explain why an application was not made in advance of the hearing.

Access and rights of other parties

36. Other parties may also apply to the IT to be heard in a specific case by making a written application to the President of the Hearing outlining their interest in the outcome of the case. If the President of the Hearing finds that it would assist the IT to hear the party concerned, that party may be permitted to make submissions and attend the hearing.
37. Submissions and their Annexes, exhibits and other supporting materials as well as all substantive communications with the IT Secretariat and any formal motions submitted

shall be made available to the other parties, unless, in exceptional circumstances, the IT were to decide otherwise.

IV. Hearings of the IT

Summons

38. The date of the IT hearing is set by the President of the Hearing, within the framework of the calendar of proceedings sent to the parties at the start of the proceedings. Depending on the circumstances, the President of the Hearing may change this date and will immediately inform the parties of such change.

Identity of Attendees

39. Parties shall submit to the IT Secretariat the following information:

- a) the identity of every person who will attend the hearing;
- b) the status and role of every person planning to attend the hearing and/or their affiliation with the concerned parties (e.g. the party's lawyer).

40. Persons not identified in accordance with paragraph 39 above may be refused access to the hearing.

Case file

41. The IT Secretariat shall prepare a schedule of all Submissions, their supporting documents (Annexes, exhibits, etc.) and any other evidence provided which shall be put before the IT at the hearing. The documents identified in this schedule shall constitute the 'case file'. This schedule shall be made available to all of the parties. The parties shall not be entitled to refer to any document or evidence which is not in the case file other than the Code of Procedure, these Practice Directions, the International Sporting Code (including its Appendices), the FIA Statutes and the Sporting and Technical Regulations of the FIA's Championships, Challenges Trophies and Cups, without the prior permission of the President of the Hearing.

Duration of Hearings

42. In the absence of any contrary indication by the IT Secretariat in advance of the hearing, hearings will not last longer than one day. In the event that the President of the Hearing determines that more time is required to conclude a hearing, a further date will be fixed and due notice will be given to the parties.

Structure of Hearings

43. The President of the Hearing is responsible for keeping order during the hearing and has full discretion with regard to the manner in which hearings are conducted, who may speak, when, for how long, etc.
44. Hearings are usually attended by the prosecuted person, representatives of the prosecuting body, representatives of the IT Secretariat, any interested parties, and any authorised members of the press.

Witnesses

45. Witnesses (which, for the purposes of these Directions include witnesses of fact, knowledgeable parties, independent experts or other persons who may be presented to the IT in order to assist with establishing one or more elements of a party's case) may be called by the parties to give evidence. All persons so called must have been identified in advance to the IT Secretariat in the manner and within the time frame described above.
46. The President of the Hearing shall give instructions to the witnesses regarding their entitlement to remain, or not to remain, in the courtroom for part or all of the hearing.
47. All witnesses who give evidence shall be made available for questioning by the other parties to the case, under the supervision of the President of the Hearing.
48. The party calling the witness shall bear all the costs relating to the participation of that witness.
49. Each party shall ensure that all witnesses whose evidence is to be relied upon attend the hearing. If any witness is unable to attend the hearing, written statements may, with the consent of the President of the Hearing, be permitted in evidence (these must be delivered with the parties' Submissions). Parties should note that the IT may take account, when weighing the value of any written statement, of the fact that the author of a written statement was not available for questioning or cross examination and, where appropriate, draw adverse inferences from that failure.

Language and Translations

50. The IT shall hear submissions in French or English. Simultaneous translation to and from English and French will be provided by the IT Secretariat.
51. Where a party wishes to address the IT in any other language, it shall inform the IT Secretariat as soon as possible and not later than at the time of lodging its Submissions. In this case, the IT Secretariat will endeavour to provide translation facilities to and from the third language, though in such cases the cost must be borne by the party requesting these additional facilities.
52. Only qualified interpreters approved by the IT Secretariat shall be entitled to use the IT's simultaneous translation facilities.

53. Parties are strongly discouraged from addressing the IT through personal interpreters as the absence of identical simultaneous translation which is available to all participants may unnecessarily obstruct and delay hearings. Personal interpreters shall only be used with the permission of the President of the Hearing.

Tribunal's Costs

54. As set out in Article 13.2 of the Rules, the IT has full discretion to decide who shall pay its costs.

55. These costs will be calculated by the IT Secretariat. They may include all costs incurred by the IT Secretariat in arranging the hearing. They shall include but not be limited to any travel and accommodation costs, translation, copying and courier charges, as well as administrative charges (e.g. security costs, provision of any special facilities enabling the parties to present video evidence or other evidence requiring special preparation, etc.) that the IT Secretariat has deemed necessary.

56. The IT does not make awards regarding the personal costs (e.g. legal costs, travel expenses, etc.) incurred by the parties or their witnesses.

57. If the date of the hearing is changed at the request of one of the parties, or as a result of the actions of one of the parties, then that party shall cover all additional costs incurred due to the change of the date (subject always to a contrary direction by the IT in its judgment).

Judgment

58. After hearing from all the parties the IT will deliberate in closed session before reaching its decision.

59. When the judgment is finalised, the IT Secretariat shall serve it on the parties concerned and, in principle, will publish the judgment on the Tribunal's website. In most cases the judgment is issued within two or three days following the hearing. The IT Secretariat may also issue a press release about the judgment.

60. The parties shall be entitled to ask the IT to treat certain information (e.g., certain facts or figures etc.) submitted by the parties as being confidential. Any application for confidentiality shall be made in advance or at the time of submission of the confidential information. If the IT decides to grant confidentiality for certain information, then such information shall be removed from the judgment and shall not appear in any press release issued by the IT Secretariat.

General

61. The parties are invited to address the IT Secretariat with any questions regarding the procedure which are not answered in this document. While the IT Secretariat will

endeavour to be helpful, it is not in a position to provide legal advice, offer advice regarding the merits of any case or advice regarding how cases should be presented to the IT. In addition, only the IT itself is in a position to offer definitive interpretations of the Rules.