

INTERNATIONAL COURT OF APPEAL (ICA)
OF THE
FEDERATION INTERNATIONALE DE L'AUTOMOBILE (FIA)

CASE:

Appeal lodged by

**the Automobile Club d'Italia (ACI)/
Commissione Sportiva Automobilistica Italiana (CSAI)
on behalf of its licence holder, SCUDERIA FERRARI MARLBORO
against the decision taken
by the Panel of the Stewards of the Meeting
on 17 October 1999 during meeting N°3
at the Formula One Grand Prix
run on 17 October 1999 in Kuala Lumpur
(Malaysia)**

Hearing of Friday, 22 October 1999 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr. José MACEDO e CUNHA (Portugal), elected President, Mr. Gerhard NURSCHER (former Attorney General of Austria), Mr. Philippe ROBERTI de WINGHE (Belgium), Mr. Vassilis KOUSSIS (Greece), and Mr. J.W.G. van ROSMALEN (Netherlands);

Sitting in Paris on Friday, 22 October 1999, at the Headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008, PARIS;

Ruling on the appeal lodged by the Automobile Club d'Italia (ACI) / Commissione Sportiva Automobilistica Italiana (CSAI) on behalf of its licence holder SCUDERIA FERRARI MARLBORO against the decision taken during meeting N°3 of the Panel of the Stewards of the Meeting on 17 October 1999 at the Formula One Grand Prix event run on 17 October 1999 in Kuala Lumpur (Malaysia);

After hearing :

For the appellants,

Mr Rosario ALESSI, President of the Automobile Club d'Italia, Mr Erasmo SALITI, Secretary of the Commissione Sportiva Automobilistica Italiana (CSAI) of the ACI, assisted by Mr. Roberto CAUSO, lawyer with the Rome Bar, Mr Jean TODT, representing the Ferrari Team, Mr Ross BRAUN, Ferrari Technical Director, assisted by Mr Henry PETER and Mr ZUBLIN, lawyers with the Lugano Bar, Mr Jean-Pierre MARTEL and Mr JOCKEY, lawyers with the Paris Bar;

and for the interested parties,

for West McLaren Mercedes, Mr Martin WHITMARSH, Managing Director of West McLaren Mercedes, Mr Timothy MURNANE, Head of Legal Affairs for the TAG McLaren Group, assisted by Mr Antony BOSWORTH, QC of Fountain Court Chambers;

and for Stewart Grand Prix, Mr Paul STEWART, Chief Operating Officer of Stewart Grand Prix, assisted by Mr Christopher CLARKE, QC, and Mr Jeremy COURTENAY-STAMP, Solicitor ;

After hearing Mr Pierre de CONINCK, FIA Secretary-General, Sport Division;

After hearing the following knowledgeable parties :

- Mr Jo BAUER, FIA Technical Delegate
- Mr Peter WRIGHT, FIA Technical Consultant
- Mr Eddie IRVINE, Driver of Ferrari Car N°4;

Having recognised that the procedure was in order, that the rights of the parties had been properly examined both prior to the hearing and during the hearing itself, that there had been due hearing of the parties who had supplied detailed explanations and answers when requested during the hearing with the aid of simultaneous interpretation which was deemed acceptable by all parties involved,

WHEREAS during the Malaysian Grand Prix, the Technical Delegate's report, drafted by Mr Jo BAUER, Technical Delegate of the FIA, dated 17 October 1999 at 17 :30 hrs stated, for Ferrari's cars N° 3 and 4, that « *When checking the bodywork facing the ground (Article 3.12.1), it was noticed that the upper parts of the deflector panels do not lie on either the reference or step planes* »; and whereas this report was followed by a second report from Mr Jo BAUER, Technical Delegate of the FIA, dated 17 October 1999 at 18 :45 hrs, which stated that cars N° 3 & 4 were in conformity except for the deflector panels ;

WHEREAS the decision of the Stewards of the Meeting of the same date stated that, having heard the explanations of the Technical Manager of the Ferrari Team and having heard those of the Technical Delegate of the FIA, the team accepted that the bodywork was not in compliance, the Panel of the Stewards then decided the exclusion of the Ferrari cars (Article 3.12.1);

WHEREAS under those circumstances, it behoves the International Court of Appeal (ICA) to state, in the light of the data provided, whether there was or was not a non-compliance of the cars according to the terms used in the technical report and those mentioned by the Panel of the Stewards of the Meeting;

WHEREAS it is necessary first to refer to Article 3.12.1 of the Formula One Technical Regulations, and that in that respect the International Court of Appeal (ICA) notes that no explanation is given in this text on how to define a reference plane or a step plane, nor is it specified at what distance one should observe the car from below; and furthermore, in the paragraph in question, no mention is made of any projection in respect of these surfaces ; the text merely states that : « *All sprung parts of the car . . . which are visible from underneath, must form surfaces which lie on one of two parallel planes, the reference plane or the step plane* » ;

WHEREAS due to the lack of definition of the elements mentioned above it is impossible to state whether there is compliance or not, in the light of the lack of accuracy of the text;

WHEREAS secondly, from the technical explanations provided by the parties during the cross-examination it is also impossible to ascertain the compliance or non-compliance, in the light of the measurement means used on the spot to check the non-compliance alleged by the Technical Delegate, up to 10 mm (*« In my opinion, neither car does comply up to 10 mm with Article 3.12.1 of the 1999 FIA Formula One Technical Regulations »*);

WHEREAS especially in a Formula One Event, it does not appear appropriate to be content with approximate measurement results, but the consistency of the checks requires their accuracy such as not to leave any doubts with respect to the regulations' requirements;

WHEREAS indeed, the measuring equipment available to the Technical Delegate at the Malaysian Grand Prix did not provide the degree of accuracy necessary to meet the requirements of the regulations, especially since the latter should have provided the necessary degree of accuracy;

WHEREAS indeed it has been established during the debate that the checks were made by means of a single graduated ruler, and whereas the use of a square corner in relation to the determined plane might have provided a different result;

WHEREAS the simulation performed during the hearing in the presence of the parties disclosed that with a square corner and a given plane, the results of the checks were equal to or less than 5 mm, whereas by means of a graduated ruler only, the results approximated 10 mm;

WHEREAS in this respect, Article 3.12.6 of the Formula One Technical Regulations concedes a tolerance of plus or minus 5 mm;

WHEREAS during the hearing it was demonstrated that the deflector panels in question did not exceed this tolerance;

WHEREAS the acceptance by Ferrari at the meeting of the Panel of the Stewards of the Meeting of the non-compliance of the bodywork of the cars resulted but from a check which was not appropriate and which was undertaken on the spot (graduated ruler) and that the International Court of Appeal (ICA) cannot be content with inadequate measuring equipment;

WHEREAS under these conditions, it behoves to OVERTURN the Stewards' decision in all its provisions;

ON THESE GROUNDS,

ADMITTING the well-founded appeal lodged by Ferrari,

OVERTURNS the decision taken in all its provisions;

REQUESTS that the sporting authority draw the conclusions concerning the ranking of the Event,

ORDERS Ferrari's deposit to be refunded.

Paris, 22 October 1999

(signature)

The President