



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

Appeal brought by the Motor Sports Association (“MSA”)

on behalf of its licence-holder Lennox Racing Team

against

**Decision N°. 68 dated 16 June 2018 of the Stewards of the competition of
Ampfing (Germany) counting towards the 2018 CIK-FIA European Junior
Championship.**

Case ICA-2018-02

19 September 2018



The FIA INTERNATIONAL COURT OF APPEAL (the “Court”), comprising Mr Didier Bollecker (France), who was designated President, Mr Dieter Roskopf (Germany) and Mr Felipe Zeraik (Brazil) took the following decision on the appeal (and ultimately its withdrawal) brought by the Motor Sports Association (“MSA”) on behalf of its licence-holder Lennox Racing Team (“the Competitor”) against Decision N^o. 68 dated 16 June 2018 of the Stewards of the competition of Ampfing (Germany) counting towards the 2018 CIK-FIA European Junior Championship by which the Driver Mr Francesco R. Pizzi was disqualified from the Qualifying Heat D-E as a result of a collision that occurred during the downspeed lap of said Qualifying Heat (the “Decision”).

The parties filed their written submissions and, following the withdrawal of the appeal, waived their right to a hearing.

REMINDER OF THE FACTS

1. The 2018 CIK-FIA European Junior Championship (“the Championship”) is made up of four competitions. Each competition comprises free practice, qualifying practice, qualifying heats and a final phase.
2. On 16 June 2018, the Stewards found that the driver Francesco R. Pizzi (“the Driver”) had breached the CIK-FIA General Prescriptions and the Code of Driving Conduct by causing a collision with kart N^o. 223, driven by Mr. Georgi Dimitrov, during the downspeed lap of the qualifying heat D-E (“the Qualifying Heat”) of the competition of Ampfing (“the Competition”).
3. Based on the foregoing, the Stewards imposed on the Driver a disqualification from the Qualifying Heat.
4. Within the hour following the notification of the Decision, the Competitor notified its intention to appeal against the Decision and, as a consequence, the sanction was suspended and the four points were awarded to the Driver.
5. These points allowed the Driver to start on the 11th place of the starting grid of the final phase of the Competition.

PROCEDURE AND FORMS OF DECISIONS REQUESTED BY THE PARTIES

6. The MSA confirmed the appeal on 20 June 2018 within 96 hours following the Competitor’s notification of its intention to appeal against the Decision.

7. The Competitor filed its Grounds for appeal on 20 July 2018, seeking, in essence, the following orders from the Court:

“ (...) that the Driver was not in breach of the Regulations as determined by the Stewards and therefore to set aside Decision N°. 68 and to reinstate the Driver in the results of the Heat D-E. (...)”

8. The FIA filed its Grounds in response on 20 August 2018, inviting in essence the Court to declare the appeal inadmissible and to confirm the Decision.
9. On 28 August 2018, the Competitor informed the Court by email of its decision to withdraw the Appeal on the grounds that the Driver was refusing to attend the hearing scheduled on 4 September 2018 in Paris. The Competitor added in its email that it *“it understands that the Appeal Fee must be forfeited”* and that *“in the interests of costs and with no disrespect to the Court, [it does not] propose to attend Place de la Concorde on 4 September.”*
10. The FIA filed Written observations on the withdrawal of the appeal on 29 August 2018 arguing in essence that:

“

- *In its decision of 16 June 2018 (Decision n°68), the Panel of the Stewards imposed a disqualification from the Qualifying Heat (D-E) on Francesco Raffaele Pizzi (the “Driver”) as a result of a collision caused by him during the deceleration lap of that Qualifying Heat.*
- *Within the hour following the publication of Decision n°68, the Competitor notified its intention to appeal against this decision to the Stewards.*
- *Taking advantage of the suspensive effect resulting from the appeal lodged against Decision n°68, by application of Article 12.2.3b of the FIA International Sporting Code (the “Code”), the Driver started in the 11th place on the grid for the final phase, instead of 27th.*
- *Indeed, if the sanction of Disqualification from the Qualifying Heat concerned had been applied, Francesco R. Pizzi would have scored 30 points (28+2) instead of four in the classification of the Qualifying Heat D-E, i.e. a total of 55 points (instead of 29) in the classification of the Qualifying Heats. This would have resulted in him being in 27th place in the classification of the Qualifying Heats, and not 11th.*
- *The Classification of the Qualifying Heats determines the starting order of the final phase of the Competition. As a result of this, Francesco R. Pizzi started in 11th place on the starting grid for the final phase (instead of*

27th), which allowed him to finish the final phase in 10th place of the official classification of the Competition and score[d] 6 points in the Championship's classifications.

- *By lodging an appeal against the Decision, the Competitor enabled the Driver:*
 - ***To benefit unduly from the suspensive effect resulting from this appeal;***
 - *and to start the final phase under more favourable sporting conditions than those arising from the application of the Decision.*
 - *Also, to the extent that the Competitor and the Driver have unduly benefited from the suspensive effect of the appeal, and in accordance with the general principle of procedural economy, the FIA considers that the sanction of Disqualification from the Qualifying Heat D-E pronounced by the stewards should be converted into a sanction of Disqualification from the Competition concerned.*
 - *In this respect, it should be noted that the Ampfing Competition is the only one in which Francesco R. Pizzi scored points, and that none of the drivers who left after the 20th place on the grid of the final phase were among the top 10 in the official classification of the Competition.*
 - *The FIA wishes to make it clear, as in Case ICA-2015-02, that it is not a question of increasing the penalty imposed by the stewards but of meeting the objective of sporting equity referred to, in particular, in Article 1.1.1 of the ISC.”*
11. In the same Written observations, the FIA invites the Court to rule on its request on the basis of written submissions further to article 10.2 paragraphs 2 and 3 of the FIA Judicial and Disciplinary Rules (JDR).
12. The Competitor replied by email to the FIA's Written observations, on 30 August 2018. The relevant elements of this email may be quoted as follows:
- “While expressing my respect for FIA and its offices, I do not consider that it would be appropriate for the legitimate, proper and unavoidable withdrawal of the Appeal to then be “used” by FIA to try and substitute penalty. That request by FIA gives the appearance of seeking to punish a driver and related Competitor merely for having exercised the regulatory right (to appeal). I am sure that FIA would never intend such a consequence for the sport because such a precedent would*



be obnoxious to the principles of fairness enshrined in the ISC and where the Court ultimately holds the balance of that fairness.”

13. In that same email, the Competitor confirmed that it would not attend the hearing that had been scheduled before the communication of the withdrawal of the appeal, and therefore did not request to be heard by the Court during that, or any other, hearing.

WITHDRAWAL OF THE APPEAL AND CONSEQUENCES ON THE EXECUTION OF THE DECISION

14. The Court notes first that following the withdrawal of the appeal, the Decision is final and enforceable, which is undisputed.
15. Based on the clear wording of article 12.2.3.c of the International Sporting Code (ISC), the Court notes further that it is impossible to determine the Competitor's and the Driver's place in the final phase of the Competition *“resulting from the application of the penalty”* imposed by the Stewards in their Decision.
16. The Court notes that it could then in theory leave it up to the competent sporting authorities to draw the final consequences of the withdrawal of the appeal on the classification in the final phase of the Competition.
17. However, the Court stresses that according to Article 10.9 JDR *“the ICA has all the decision-making power of the authority that took the contested decision”* which means that it can decide on any kind of sanctions, notably the ones provided under articles 12.2 (penalties), 12.3 (scale of penalties) and more particularly 12.8 (disqualification).
18. Based on the foregoing, and on the general principle of procedural economy, the Court decides to rule on all the legal and sporting consequences of the Decision.
19. The Court stresses the point that the penalty imposed by the Stewards refers to a Qualifying Heat of the Competition. On the one hand, if the disqualification from the Qualifying Heat (the *“Sanction”*) is applicable, on the other hand, it is not possible to determine the Competitor's and the Driver's place in the final phase of the Competition following the application of the Sanction.
20. The Court thus finds that in application of the principle of sporting fairness, as is notably provided under article 1.1.1 ISC and in the preamble to the JDR, the application of the Decision shall lead to the disqualification of the Driver and the Competitor from the final phase of the Competition.



21. The Court emphasises that it does not increase the penalty imposed by the Stewards with this decision, but simply draws the consequences of the withdrawal of the appeal which leads to the lifting of the suspensive effect of the appeal.

COSTS

22. Considering that the Appeal was withdrawn, the Court orders the Appellant to bear all the costs in accordance with Article 11.2 JDR.



ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Admits the request of Lennox Racing Team to withdraw its appeal;**
- 2. Upholds Decision N°. 68 dated 16 June 2018 of the Stewards of the competition of Ampfing (Germany) counting towards the 2018 CIK-FIA European Junior Championship and, as a consequence, disqualifies the Driver Mr Francesco R. Pizzi and kart N° 207 of Lennox Racing Team from the official classification of the final phase of said competition;**
- 3. Orders the competent Sporting Authority to draw, as appropriate, the consequences of this ruling;**
- 4. Orders Lennox Racing Team to pay all the costs, in accordance with Article 11.2 of the Judicial and Disciplinary Rules of the FIA;**
- 5. Rejects all other and further conclusions.**

Paris, 19 September 2018

Didier Bollecker, President