



INTERNATIONAL COURT OF APPEAL / COUR D'APPEL INTERNATIONALE

PRACTICE DIRECTIONS

I. Introduction

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

These Practice Directions are designed to assist participants in cases before the ICA, 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 Court. Nonetheless, the ICA Secretariat expects and requires participants in cases to comply with these Practice Directions.

These Practice Directions have been prepared to facilitate the conduct of the most common form of case submitted to the ICA: cases submitted by National Sporting Authorities under the conditions described in Article 14-1(1)(a) to (c) of the Rules. In other cases for which the ICA has jurisdiction (e.g. appeals against decisions of the International Tribunal of the FIA) it might not be practical to adhere to all aspects of these Practice Directions, though, in principle, parties in all cases should in the first instance look to these Practice Directions for guidance and clarify any remaining questions with the ICA Secretariat.

II. Written Submissions

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

1. In the cases described in Article 14-1(1)(a) to (c) of the Rules, it is the National Sporting Authorities (ASNs) that submit the relevant cases to the ICA. In those cases the ASNs (and/or their legal representative) must conduct all communications with, and make all submissions to, the ICA.

2. There can be no exception to this rule in relation to the submission of the ‘Notification of Appeal’ as described in Article 17.1.1 of the Rules. For other documents and communications with the Court, it is open to the ASN to notify the ICA in writing that it authorises its licence holder (e.g. a competitor that has requested the initiation of an appeal) to communicate with the ICA on that ASN’s behalf. In such cases and until such an authorisation is revoked, all communications received from the licence holder in relation to the case in question will be deemed to have been received from the ASN.
3. It is the responsibility of the ASN (not the ICA) to determine and monitor compliance with any conditions that it wishes to attach to an authorisation given (e.g. regarding what may be submitted, what approvals are needed).
4. The initial ‘Notification of Appeal’ must be submitted by the relevant ASN either by letter, fax or e-mail. The day on which the ICA first receives this Notification of Appeal (by letter, fax or e-mail) shall be the day of receipt for the purposes of assessing compliance with the appeal deadlines set out in the Rules. The burden of proving that a notification of appeal was sent by post, fax and/or e-mail, and the day of sending, in all cases rests only with the ASN submitting it. The Secretariat shall issue an “acknowledgement of receipt” which shall note the time and date of receipt in response to the appeals submitted. For the purposes of all deadlines, the time of receipt by the Secretariat, not the time of sending, is conclusive.
5. Apart from the Notification of Appeal, all other written Submissions (as defined in paragraph 11 hereof) including any Annexes or other supporting documents may initially be submitted to the Secretariat of the ICA by courier, hand delivery, post, fax or e-mail, though with a strong preference for e-mail delivery. For the purposes of all deadlines, the date of receipt by the ICA Secretariat (not the date of sending) shall be taken into account and it is the responsibility of parties submitting documents to choose a verifiable and secure form of delivery.
6. Written submissions must be transmitted to the ICA Secretariat within the time limits established by the President of the Hearing in the Summons. At least 15 days will be granted to each party but in case of manifest urgency, the President of the Hearing may decide to reduce the minimum periods set out in Article 17.5 of the Rules, as long as the basics rights of the parties are not jeopardised. Any documents submitted outside the deadlines will not be accepted and will not form part of the case file, unless an extension has been granted.
7. No extension of the time for submitting an initial notification of appeal is possible. However, the President of the Hearing has the discretion to grant extensions for other deadlines where the circumstances so require, on condition that adequate reasoning has been provided.
8. 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 the day on which the relevant event occurs.
9. Unless otherwise specified by the ICA 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 ICA Secretariat. The Secretariat may ask the parties to provide additional hard copies if it deems it necessary.

Content of the Notification of Appeal, the Grounds of Appeal and Defence

10. The information that must appear in a Notification of Appeal is set out in Article 17.1.1 of the Rules. The Notification of Appeal will not be regarded as valid unless all elements are present. An indication that proof of payment of the appeal fee will follow at some later time will not be acceptable.
11. The ICA Secretariat recommends that all Submissions (meaning the written Grounds of Appeal, Grounds in Response, any written argument, claims or pleadings made by any 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 12 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-pilot(s) and competitors who may be concerned by the outcome of an appeal;
 - d) a description of the relevant facts and the evidence relied on in support of 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 Court 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 filed with the Submission.
12. The following information must appear on the first page of the Submission:
 - a) the name and nationality of the ASN making the Submission;
 - b) the full name and relevant information of the party (driver, competitor, organiser, etc.) on whose behalf the ASN makes the Submission;
 - c) the nationality of the party and the nationality of any licence issued to the party on whose behalf the ASN makes the Submission;
 - d) if applicable, the name and the date of the relevant event(s) and the series or championship of which the event forms part;

- e) a clear statement of the date and content (in summary) of any decision that is contested and the source of that contested decision (e.g. stewards' decision, decision of a national court of appeal, etc.)
 - f) if applicable, the name and capacity of the agent(s) or lawyer(s) making the Submission and the identity of their client(s) (specifically, whether they represent the party on whose behalf the Submission is made, the ASN or both).
13. The parties shall decide for themselves what evidence is required to support their case. The following Annexes are usually regarded as being essential:
- a) a complete copy of any contested decision;
 - b) a copy of any relevant and applicable Sporting and Technical Regulations for series or events authorised by the FIA (this is not necessary for the FIA's own Championships, Challenges, Trophies or Cups);
 - c) a copy of any agreement which must be examined to resolve the issues in question;
 - d) 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;
14. 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 ICA encourages parties to cooperate to limit the overall volume of documents.
15. In appropriate cases, the ICA Secretariat may require parties to reduce Submissions to skeleton arguments.
16. Legal and factual arguments submitted for consideration by the ICA panel shall appear in the body of the text of the Submission and not in the Annexes or other supporting documents.
17. 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.
18. Only documents mentioned in the actual text of the Submissions and necessary in order to prove or illustrate their contents shall be submitted as Annexes.
19. 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 ICA Secretariat at the earliest opportunity in order to make a practical arrangements.

Payment of the Appeal Fee

20. The appeal fee must be paid *via* a wire transfer to the bank account of the ICA. The relevant details are available from the ICA Secretariat on request. It is the responsibility of the party submitting the appeal to provide adequate evidence that the relevant transfer has been made within the deadlines set out in the Rules. The full appeal fee amount must reach the ICA account before the ICA Secretariat shall be obliged to take any steps with regard to the appeal submitted.

Duty to provide evidence

21. 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 ICA's Rules 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 Court will receive and consider only the documents submitted by the parties.

Evidence other than documentary evidence

22. 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.
23. 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 et 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.
24. In all cases in which physical or recorded evidence is to be 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 ICA Secretariat) for the other parties to the case to inspect the evidence at the earliest opportunity.

Translations

- 25. All Submissions shall be produced in both English and French. The President of the Hearing may make orders adjusting this obligation, if necessary.
- 26. Annexes or other supporting documents may be provided in either English or French. However, the ICA 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.
- 27. Where any translated document is provided a copy of the original must also be provided.
- 28. Where it deems it necessary, the ICA Secretariat may require parties to provide translations of additional parts.
- 29. Any translators must be certified. If the poor quality of any translation causes the ICA 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 Court). A list of certified translators is available from the ICA Secretariat.

Production of evidence after exchange of Submissions

- 30. After the exchange of Submissions, the parties shall not be authorised to produce any further documents save in exceptional circumstances and with the permission of the President of the Hearing (Article 17.6, final paragraph of the Rules) unless a direction to the contrary has been issued by the President of the Hearing.
- 31. The ICA 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 17.7 of the Rules. This request must be made in writing and sent to the ICA 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 the application was not made in advance of the hearing.

Access and rights of other parties

- 32. Other parties may also apply to the ICA 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 ICA to hear the party concerned, that party may be permitted to make submissions and attend the hearing.

33. Submissions and their Annexes, exhibits and other supporting materials, as well as all substantive communications with the ICA Secretariat and any formal motions submitted shall be made available to the other parties, unless, in exceptional circumstances the Court were to decide otherwise.

III. Hearings of the ICA

Summons

34. The date of the ICA hearing is set by the President of the Hearing. The date will normally be announced in a Summons served by the ICA Secretariat as soon as an appeal has been lodged and arrangements for a hearing have been made. In principle, the ICA Secretariat seeks to give as much notice as practicable.

Identity of Attendees

35. Parties shall submit to the ICA Secretariat the following information, before the deadlines set by the Secretariat:
- 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 party concerned (e.g. the party's lawyer).
36. Persons not identified in accordance with paragraph 35 above may be refused access to the hearing.

Case file

37. The ICA Secretariat shall prepare a schedule of all the Submissions, their supporting documents (Annexes, exhibits, etc.) and any other evidence provided which shall be put before the Court at the hearing. The documents identified in this schedule shall constitute the 'case file'. This schedule shall be made available to all 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 Rules, 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.

Representation of ASNs

38. The ASN submitting the appeal must be represented at the hearing. The ICA has no objection to the ASN appointing the same legal representative as the party on whose behalf the appeal is submitted.
39. In the event that the ASN is not represented in person or through a duly authorised representative, the party on whose behalf the appeal has been submitted may be denied the right to address the ICA or to participate in the hearing, which may nonetheless proceed if the President of the Hearing so directs.

Duration of Hearings

40. In the absence of any contrary indication by the ICA 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

41. The President of the Hearing is responsible for keeping order during the hearings and has full discretion with regard to the manner in which hearings are conducted, who may speak, when, for how long, etc.
42. In addition to the party submitting the appeal and the defendant, Hearings are usually attended by representatives of the FIA, representatives of the ASN submitting the appeal, representatives of the ICA Secretariat, any interested parties, and any authorised members of the press.

Witnesses

43. Witnesses (which, for the purposes of these Practice Directions, include witnesses of fact, knowledgeable parties, independent experts or other persons who may be presented to the Court 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 ICA Secretariat in the manner and within the time frame described above.
44. The President of the Hearing shall give directions to the witnesses regarding their entitlement to remain, or not to remain, in the courtroom for the whole or part of the hearing.
45. 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.
46. The party calling the witness shall bear all the costs relating to the participation of that witness.

47. 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 ICA 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

48. The ICA shall hear submissions in French or English. Simultaneous translation to and from English and French will be provided by the ICA Secretariat.
49. Where a party wishes to address the ICA in any other language, it shall inform the ICA Secretariat as soon as possible and no later than at the time of lodging its Submissions. In this case, the ICA 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.
50. Only qualified interpreters approved by the ICA Secretariat shall be entitled to use the ICA's simultaneous translation facilities.
51. Parties are strongly discouraged from addressing the ICA 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.

Court's Costs

52. Under Article 18.2 of the Rules, the ICA has full discretion to decide who shall pay its costs.
53. These costs will be calculated by the ICA Secretariat. They may include all costs incurred by the ICA Secretariat in arranging the hearing. They shall include but not be limited to any travel and accommodation costs, translation, copying, 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 ICA Secretariat has deemed necessary.
54. In the event that the judgment of the Court requires the applicant to pay the costs, the appeal fee submitted will be offset against the costs incurred by the Court. In the event that the Court's costs are less than the appeal fee paid, no refund will be made. In the event (which is common) that the Court's costs exceed the appeal fee paid, the additional amount will be invoiced to the applicant.
55. In the event that another party is required to pay the costs, the appeal fee will be returned to the applicant and the entire amount of the Court's costs will be invoiced to that other party.

56. The ICA 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 ICA in its judgment).

Judgment

58. After hearing from all the parties, the ICA will deliberate in closed session before reaching its decision.
59. When the judgment is finalised, the ICA Secretariat shall serve it on the parties concerned and, in principle, will publish the judgment on the Court's website. In most cases the judgment is issued within two or three days following the hearing. The ICA Secretariat may also issue a press release about the judgment.
60. The parties shall be entitled to ask the ICA 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 ICA 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 ICA Secretariat.

General

61. The parties are invited to address the ICA Secretariat with any questions regarding the procedure which are not answered in this document. While the ICA 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 Court. In addition, only the Court itself is in a position to offer definitive interpretations of the Rules.