



INTERNATIONAL COURT OF APPEAL

of the

FÉDÉRATION INTERNATIONALE DE L'AUTOMOBILE

**Appeal brought by the Deutscher Motor Sport Bund E.V. ("DMSB") on behalf
of its licence-holder X-Raid Motorsport GmbH
against**

**the Decision dated 2 March 2016 of the National Court of Appeal of the
Fédération Française du Sport Automobile (FFSA), having ruled on an appeal
brought by AXION X-raid (X-raid Motorsport GmbH) against
Decision No. 2.14 taken by the Stewards of the Dakar 2016 on
12 January 2016.**

Case ICA-2016-01

Hearing of 27 May 2016 in Paris



The FIA INTERNATIONAL COURT OF APPEAL (the “Court”), made up of Mr Philippe Narmino (Monaco), who was designated President, Mr Harry Duijm (Netherlands), Mr Richard McLaren (Canada) and Mr Gérard Martin (Belgium), met in Paris on Friday, 27 May 2016 at the Fédération Internationale de l’Automobile, 8 place de la Concorde, 75008 Paris.

Ruling on the appeal brought by Deutscher Motor Sport Bund E.V. (“DMSB”) on behalf of its licence-holder X-Raid Motorsport GmbH (“Axion X-Raid” or the “Appellant”) against the Decision dated 2 March 2016 of the National Court of Appeal of the Fédération Française de Sport Automobile (“FFSA”) confirming Decision No. 2.14 of 12 January 2016 of the Panel of Stewards of the Dakar 2016 rejecting the protest submitted by X-Raid Motorsport GmbH against the Crew of car No. 302 of Team Peugeot (the “Decision”).

The following persons attended the hearing:

On behalf of the Appellant:

Mr Thomas Quandt (President)
Mr Sven Quandt (Team Manager)
Ms Lisa Crampton (Team Manager)
Mr Michel Perin (Co-driver)
Mr Jacques Leblond (Attorney-at-law)
Ms Amélie Mathieu (Attorney-at-law)

On behalf of the FFSA:

Mr Jean-Philippe Gaudichau (Legal Director)
Mr Paul Sauvage (Lawyer)
Mr Francis Murac (Clerk of the Course of the Dakar 2016)

On behalf of the FIA:

Mr Pierre Ketterer (FIA Head of Regulatory, Governance
& Legal Corporate Affairs)
Ms Delphine Lavanchy (Legal Coordinator)

On behalf of the interested third party, Team Peugeot:

Mr Bruno Famin (Team Manager)
Ms Hélène Perret (Lawyer)
Mr Stéphane Peterhansel (Driver)
Mr Jean-Paul Cottret (Co-driver)
Mr Philippe Veber (Attorney-at-law)

Also attending the hearing:

Mr Jean-Christophe Breillat (Secretary General of the FIA
Courts)
Mr Nicolas Cottier (Clerk of the FIA Courts)



The parties filed their written submissions and, at the hearing of 27 May 2016, presented their oral arguments and answered the questions put to them by the Court. The hearing took place in accordance with the adversarial principle, with the aid of simultaneous interpreting. No objection to the competence or the composition of the Court, to any element of the fairness of the proceedings or of the hearing or to any element of the simultaneous interpreting was raised by either party.

REMINDER OF THE FACTS

1. On 11 January 2016, during Stage No. 8 of the Dakar 2016 between the towns of Salta and Belen (Argentina) (the “Stage”), the crew of car No. 302 consisting of French driver and co-driver, Stéphane Peterhansel and Jean-Paul Cottret respectively (“Crew No. 302”) driving for the competitor Automobiles Peugeot “Team Peugeot Total” (“Team Peugeot”), proceeded to refuel at kilometre point 181.5 during Neutralisation in a Selective Section.
2. After the Stage, Axion X-Raid lodged a protest against Crew No. 302 on the grounds that the refuelling of their vehicle during a Neutralisation had been unlawful.
3. Having heard Crew No. 302, the Manager of Peugeot Total, the Axion X-Raid Representative and the Clerk of the Course, the Stewards by Decision No. 2.14, rejected the protest of Axion X-Raid on the grounds that the Neutralisation concerned was comparable to a Road Section, during which refuelling is permitted, and, in any case, due to the lack of clarity in the applicable regulations, Crew No. 302 should not be penalized.
4. Axion X-Raid immediately announced its intention to appeal against the Decision and subsequently confirmed the appeal before the National Court of Appeal of the FFSA (the “NCA”).
5. Axion X-Raid, Peugeot Total, Crew No. 302 and the Clerk of the Course were summoned to appear before the NCA during a hearing set to take place on 9 February 2016.
6. At the hearing, the NCA declared that the appeal brought by AXION X-Raid was admissible and that it was competent to hear the appeal pursuant to Article 15.1.3 of the International Sporting Code (the “Code”).
7. During this hearing, the NCA, noting that it needed to interview the event organiser in order to determine the legal scope of the concept of “Neutralisation”, decided to convene a further hearing to which the parties present during the first hearing, the Clerk of the Course, and the Chairman of the Panel of Stewards, would be summoned along with the event organiser.



8. On 16 February 2016, the NCA sent a questionnaire to the event organiser, which was returned by the latter to the NCA on 19 February 2016.
9. In the new hearing, held on 2 March 2016, the NCA confirmed the Decision in handing down its own decision, which was notified to the parties on 23 March 2016 by email and registered letter.

PROCEDURE AND FORMS OF DECISIONS REQUESTED BY THE PARTIES

10. In a letter dated 29 March 2016, the DMSB brought an appeal before the Court on behalf of the Appellant.
11. On 11 April 2016, Peugeot Total requested to participate in the appeal procedure as a third party, permission for which was granted by President of the Court in a decision of 12 April 2016.
12. The Appellant, which submitted its Grounds for Appeal on 19 April 2016, asks the Court to:
 - *“Admit the appeal and declare it well-founded;*
 - *Declare void the Decision du TAN 2 Mars [March] 2016 of the FFSA, NCA and the Decision Doc. No. 2.14 panel of Stewards of the 38th Dakar Rally;*
 - *or even to provide a new ruling in light of the factual elements submitted and evidence provided in support of the arguments.”¹*
13. The interested third party, Team Peugeot, submitted its Grounds in Response on 9 May 2016. It concludes that the appeal should be rejected.
14. The FFSA lodged its Grounds in Response on 9 May 2016. It primarily concludes that the appeal should be declared inadmissible and that the Decision of the NCA should be confirmed, thus inviting the Court to dismiss the Appellant’s appeal.
15. The FIA lodged its submission on 9 May 2016 and invited the Court to assess the facts in this case and to rule on the arguments put forward by the Appellant.

¹ The English translation of the Appellant’s Grounds of Appeal does not contain a translation of this text: "voir statuer à nouveau en considération des éléments de faits rappelés et preuves versées aux débats".



ADMISSIBILITY OF THE APPEAL

a) *Submissions of the Parties*

16. The FFSA contests the admissibility of the appeal on the basis that the Grounds for Appeal do not indicate the “*remedy sought*”, but merely request the overturning of the decision of the National Court of Appeal of the FFSA, which would not meet the formal requirements of Article 10.6 of the FIA’s Judicial and Disciplinary Rules (JDR).
17. The other parties to the proceedings are not questioning the admissibility of the appeal.

b) *Conclusions of the Court*

18. The Court notes the FFSA’s argument based on Article 10.6 JDR. Nevertheless, it does not come to the same conclusion as the FFSA with regard to the requirements set out therein.
19. Article 10.6 JDR paragraph b) stipulates that:

“The grounds for appeal and grounds in response:

(...)

b) Must indicate each of the arguments on which the Parties intend to rely (which may be presented in skeleton form), the remedy sought, a list of any material evidence (...).”

20. It emerges from this article that the JDR do not require that the remedy sought be formally requested in the concluding section of the Grounds for Appeal. It is sufficient that this remedy be requested in the Grounds for Appeal.
21. In its Grounds for Appeal, the Appellant requests on the one hand to “*declare void*” the decision of the NCA and on the other hand, as noted in paragraph No. 91 of its submission “*within Article 31P6.3 of the Regulations it clearly states ‘(...) The obtaining of fuel is authorised uniquely, on pain of Disqualification (sic) (...)’ at the listed places.*”
22. The Appellant is thereby clearly referring to an article of the Regulations that establishes the relevant sanction in the context of unauthorised refuelling, the subject of the present case. The Grounds for Appeal thus make it clear that the Appellant is requesting the exclusion of Crew No. 302 as the “*remedy sought*” in the sense of Article 10.6 paragraph b) JDR.



23. Consequently, these grounds for inadmissibility proposed by the FFSA in its Grounds in Response must be rejected.
24. The appeal is therefore admissible.

ON THE MERITS

a) *Submissions of the Parties*

(i) *The Appellant*

25. The Appellant advances a series of complaints against the Decision of the Stewards and that of the National Court of Appeal of the FFSA which, in essence, may be summarised as follows.
26. The Appellant firstly stresses that the “*key argument within the original protest*” is whether refuelling is authorised or not “*within the neutralisation of a selective section.*” Reference is made to this matter in Article 7P.5) of the Car/Trucks Regulations of the Dakar 2016 (the “Regulations”) which states that “*Anything not authorised by this Specific Regulations is forbidden.*”
27. With reference to Articles 31P1 (General), 31P3.2b. (assistance is authorised on the route of a road section), 31P6 (Fuel – Fuel Range – Refuelling) and 38P4 (Neutralisation between two consecutive Selective Sectors), the Appellant notes that the case of refuelling is not mentioned in Article 38P4, which mostly concerns assistance during Neutralisation, and therefore concludes that this is authorised only in the circumstances set out in Article 31P6 which, according to the Appellant, are not met in the present case.
28. Arguing that the minimum fuel tank range must be 800 km plus 10% according to the Regulations, the Appellant considers this to be proof that refuelling was not necessary given that the length of the Selective Section of Stage 8 was less than 800 km.
29. The Appellant then distinguishes between Road Sections and Selective Sections. It claims that a Road Section never has a Neutralisation and therefore concludes that the refuelling took place during the Neutralisation of a Selective Section.
30. Regarding the handling of the procedure by the Stewards, the Appellant accuses them of refusing to allow its team managers, Mr Sven Quandt and Ms Lisa Crampton, to speak, hearing only its President, Mr Thomas Quandt. It considers this to be contrary to Article 13.5.2. of the International Sporting Code (the “Code”).



31. The Appellant claims that Ms Crampton had obtained, the day before the contentious facts took place, confirmation from the Chairman of the Panel of Stewards and the Clerk of the Course that Stage No. 8 consisted of a single Selective Section with Neutralisation. This was confirmed by those same persons before the NCA.
32. The Appellant had then requested the Court not to take into account Bulletin No. 2 of the Dakar 2015, produced by Team Peugeot before the NCA. The Appellant invokes on that matter Article 4P1 (General) of the Regulations, which does not provide for the application of regulatory provisions concerning previous events.
33. The Appellant also contests the admissibility of the responses provided by ASO, the company organising the Dakar 2016, to the NCA's questions, on the basis that they concern "clarification of regulations made after the event and of pure convenience". According to the Appellant, only the Clerk of the Course and the Stewards may respond to questions of interpretation, notably pursuant to Article 2P of the Regulations, according to which the organiser delegates the entire sporting authority and power to the Event Officials.
34. The Appellant further contests that other competitors were refuelled in the same location as Crew No. 302 of Team Peugeot and therefore refutes the information transmitted by the organiser of the event to the NCA, on the grounds that the organiser did not provide any evidence to support its assertions.
35. On that issue, the Appellant adds that stopping at the service station was not a breach of the Regulations, but only refuelling. Still according to the Appellant, the fact that others may also have breached the Regulations does not release Crew No. 302 from its responsibility. The Appellant specifies further that according to its own observations, the top 20 starters of Stage 8 did not refuel during the Neutralisation.
36. The Appellant then refers to Article 11.16.3 of the Code and is of the opinion that only a Judge of Fact, in the sense of the Code, can provide evidence of a fact relating to the event concerned. The naming of the Judges of Fact for the Dakar 2016 did not take place in accordance with the formal requirements set out in Article 11.16.8 of the Code.
37. The Appellant then distinguishes between the Bikes/Quads, which have a lesser fuel tank capacity and therefore require more frequent refuelling, and the other vehicles. It highlights that the service station where the disputed refuelling took place was marked "Bike/Quad" but was not noted in the Assistance road book, which would suggest that it was not authorised for all vehicles. According to the Appellant, if it had been so authorised, it would have been noted in the Assistance road book.



38. According to the Appellant, there was no communication regarding the possibility for cars and trucks to refuel during a Neutralisation. In its opinion, the refuelling points outside of the bivouac were thus meant for Bikes and Quads only.
39. During the briefing in Salta, the day before Stage No. 8, the organisers “mentioned and placed on the screens of the briefing the clear facts” of Stage No. 8, according to the following description transcribed as follows in its Grounds for Appeal:
- “LA [*Liaison A*] 129km
 - SS1 162 km
 - Neutra [*Neutralisation*] 140km
 - SS2 232km
 - LB [*Liaison B*] 104km”
40. The Appellant further notes a contradiction between the two decisions, in that the Stewards mention a “road section” in their Decision while the NCA maintains, following the testimony received, that it concerned the Neutralisation of a Selective Section.
41. The Appellant finds, based on Article 22P1 of the Regulations, that the absence of a “Chrono” symbol in the road book for Stage No. 8 is evidence that there was only one Selective Section.
42. Referring to the other indicators summarised by the NCA to liken the Neutralisation to a Road Section, namely the wearing of helmets, the use of telephones, etc., the Appellant claims that these facts are not relevant to the present case and cannot lead to the assumption that the Neutralisation is a Road Section.
43. The Appellant then claims that the time of the Neutralisation was included in the maximum time of the Selective Section, which supports the argument regarding the absence of two distinct Selective Sections. Furthermore, “*there were never selective sections linked by road sections*”² according to the Appellant, specifying that the English translation of the Regulations is incorrect on that

² The English and French versions of paragraph 71 of the Appellant’s Grounds of Appeal do not correspond on this citation. The French version states: “il n’y avait jamais de ‘secteurs sélectifs reliés par tronçons routiers’”, whereas the English version states: “not however, ‘selective sections linked by road sections’”.



point. The Appellant recalls that the French version refers to “*selective sections, linked by liaison sections*”³.

44. Referring back to Stage No. 8, the Appellant mentions lastly that there had been only one “SS8” classification on the Stage, which would demonstrate that there had been only one Selective Section.
45. The Appellant then outlines the various benefits gained by Crew No. 302 from refuelling. It essentially claims that if it had not refuelled, Crew No. 302 would have run out of fuel due to using up too much fuel during the first part of the stage. Knowing that they could refuel allowed Crew No. 302 to optimise the weight of their vehicle by approximately 140 kg, and to gain precious time, making the fastest time “*after refuelling*”.
46. The Appellant refers to this matter in two decisions taken by the Stewards of the Dakar that it submitted in support of its appeal.
47. Regarding the Decision of the NCA, the Appellant expresses doubts as to “*its judgement*” contesting its reasoning by analogy, which allowed a doubt to persist⁴ and which did not take into consideration several testimonies, nor the fact that of the first 17 competitors, none had refuelled and that the refuelling of 17 litres by Crew No. 302 was, as evidenced, for safety purposes, not to be equated in any way with the notion of assistance, which is clearly distinguished in the Regulations.
48. In summary, the Appellant submits that the Neutralisation during Stage No. 8 was carried out on a Selective Section and that neither the Regulations nor the Dakar 2016 Bulletins state that refuelling is permitted in a Selective Section or during the Neutralisation of such a section, with the exception of refuelling between vehicles still in the race.

(ii) *Team Peugeot*

49. The response of Team Peugeot to the Appellant’s regulatory arguments may be summarised in five points.
50. Firstly, Stage 8 of the Event consisted of two Selective Sections separated by a 140 km Neutralisation, which corresponded to a Road Section and could in no way be considered to be a Selective Section.
51. Secondly, a “Neutralisation”, being defined as an “Allotted time section” under Article 3P21 of the Regulations, can only be considered to be a “Road Section”,

³ The French text states “secteurs sélectifs, reliés par des secteurs de liaison”.

⁴ The French and English versions of Paragraph 81 of the Appellant’s Ground of Appeal do not correspond; this text has been translated from the French text “*proscrit et, de surcroît, empreint de doute*”.



as expressly confirmed by Article 20P1-2 of the Supplementary Regulations and Article A11.1 2 of the Service Crews/Service Vehicles Regulations.

52. Thirdly, as with the other Road Sections, the Neutralisation was subject to a Target Time and in no circumstances to a Maximum Time as is the case for the Selective Sections. Therefore, the classification of Stage 8 was drawn up based on the total times recorded in the two Selective Sections and not including the Target Time of the Neutralisation, which means that this neutralisation was excluded from the Selective Sections. Furthermore, the notice board, the briefing materials from the evening before and the race documents produced by the organiser confirm the existence of two Selective Sections separated by the Neutralisation, the conditions for passing through which were absolutely incompatible with those imposed by the regulations for a Selective Section.
53. Fourthly, the refuelling carried out by Crew No. 302 was done at a service station that was indeed located on a Road Section, in accordance with Articles 31P6 point 3a) and 31P6 point 3b) of the Regulations.
54. Fifthly, all the Bikes/Quads refuelled during the Neutralisation even though there are no provisions for this in the Dakar 2016 Bikes/Quads Regulations, which are strictly identical to the Dakar 2016 Cars/Trucks Regulations in that regard. The principle claimed by the Appellant that “*anything not authorised [...] is forbidden*” cannot apply in this particular instance. Numerous Car competitors had the same understanding as Team Peugeot on this matter, and refuelled at the same location.
55. Regarding the issue of the performance advantage gained by the contentious refuelling, Team Peugeot specifies further, in its Grounds in Response, that the refuelling carried out by Crew No. 302 did not give it an advantage as all vehicles had to present themselves at the start of the Selective Section following the Neutralisation with the quantity of fuel required to complete it. As the Stage ended with a 104 km Road Section with a service station until the bivouac, the risk of not reaching the bivouac due to fuel problems equally played no role. Therefore, according to Team Peugeot, the sole purpose of refuelling during the Neutralisation was to avoid the risk of refuelling at the service station on the final Road Section, where the quality of the fuel was not guaranteed, while the quality of the fuel at the service station in the Neutralisation was guaranteed.

(iii) *La FFSA*

56. The FFSA claims that Bulletin No. 2 of 2015 served to enlighten the NCA in its search for a solution to the dispute and that pursuant to Article 1156 of the French *Code Civil*, the NCA sought the parties’ intentions when an interpretation became necessary.



57. The FFSA notes that the steps undertaken by the NCA on this matter were in full compliance with the principle of fairness to both sides and the rule of law. During the hearing, Mr Coma, representing the organiser of the Event and whose questioning was not challenged by the Appellant, also present at that hearing, confirmed all the points contained in the questionnaire previously completed by the organiser.
58. The FFSA lastly stresses that both the content of the questionnaire and the testimony of the representative of the Event organiser are perfectly consistent with the Bulletin, which was published prior to the facts of the case.
59. Regarding the argument advanced by the Appellant concerning the Stewards' refusal to hear its witnesses, the FFSA states that the facts of the case have never been disputed and that there was therefore no point in hearing the witnesses.
60. The FFSA then addresses the Appellant's argument regarding the NCA's taking account of the testimonies of the competitor Hallspeed and co-driver Torralardona.
61. The FFSA claims that Mr Hallspeed based his testimony on an inaccurate reading of the Road Book, while Mr Torralardona had demonstrated a certain lack of knowledge of the Regulations.
62. Regarding the issue of refuelling, the FFSA notes that the organiser of the Event has formally stated in its written replies that several competitors had refuelled so the Appellant's argument on that point should be dismissed, regardless of whether the first 17 competitors refuelled or not at the service station concerned.
63. The FFSA further challenges the assertion that the NCA's ruling and the Decision were made on the issue of whether the section subject to Neutralisation was a "selective section" or a "road section". The NCA simply noted that in line with the understanding of the organiser and the officials who were heard, the refuelling regimen necessarily followed the assistance regimen. In this regard, the FFSA stresses that "*Road Section*" in the English version of the Regulations corresponds to "*Secteur de Liaison*" in the French version and on no account to "*tronçon routier*" as claimed by the Appellant in its Grounds for Appeal.
64. Lastly, the FFSA dismisses the arguments put forward by the Appellant relating to a possible performance advantage obtained by Crew No. 302 through refuelling. It notes that this argument was never raised before the NCA even though Team Peugeot had supplied all the figures and technical information during the initial hearing held before the National Court.
 - (iv) *La FIA*
65. The FIA notes firstly in its Grounds in Response that while Article 13.5.2 of the Code provides that the concerned parties summoned to appear at the Stewards'



hearing may be accompanied by witnesses, it is up to the Stewards, in accordance with Article 13.4.7 of the Code, to determine who will be heard.

66. Recalling the duties of the Judges of Fact and the regulatory requirements under Article 11.16 of the Code, the FIA states secondly that this same Article does not specify that *“all evidence to be deemed acceptable must come from a Judge of Fact”*.
67. Citing the definitions of the terms “road section”, “exclusion” and “disqualification” in Article 21 of the Code, the FIA specifies thirdly that there is no definition of the term “neutralisation” in the Code.
68. Fourthly, the FIA stresses that the application of the 2016 FIA General Prescriptions for Cross-Country Rallies (“the General Prescriptions”) is not obligatory but only recommended and that these General Prescriptions do not form part of the applicable regulations listed in Article 4P1 of the Supplementary Regulations Dakar Perù – Bolivia – Argentina. The FIA nevertheless notes the definitions of the terms “assistance” and “refuelling” in the General Prescriptions and specifies that these do not contain any definition of Neutralisation or of Selective Sections. Only the Section is defined, in Article 4.14 of the General Prescriptions, as *“each part of the rally separated by a regroup”*.

b) Conclusions of the Court

69. The Court has examined all the arguments of the parties put forward in their written submissions and presented fully during the hearing.
70. When an interpretation of the Regulations is necessary, the Court will rule in compliance with the requirements set out in Articles 1156 et seq. of the French *Code Civil*.
71. Article 3P point 21 of the Regulations defines Neutralisation as *“Time during which the Crews are stopped by the Race Direction or Section with allotted time but not timed for classification between two Selective Sections.”*
72. Article 38P4 of the Regulations, the title of which has been changed by Bulletin No. 1 and is now “Neutralisation of a selective section” as opposed to “Neutralisation between two consecutive selective sectors”, states:

“On certain Stages a neutralisation will be effected in the form of a transfer, with a target time, to separate two sections (red.) of the same Selective Section.

The Crew will hand in its Time Card to the Time Control at the beginning of the Neutralisation, on which will be noted the time at which they start the Neutralisation (finish time of the 1st section) and their time at the end of the Neutralisation which will also be their start time for the 2nd section.



During these Neutralisations the maximum speed allowed, checked by GPS, will be that of the speed limit of the country being crossed.

Assistance is authorised in the Neutralisation Itinerary among Pilots / Competitors still racing.

Assistance by a Service vehicle is authorised only for the sections common to the Race and the Service Vehicles.”

73. On reading this Article 38P4, it becomes apparent that the purpose of Neutralisation is to “*separate two sections of the same Selective Section*”.
74. The Court stresses first that according to the preamble of the Regulations “*in any case, the French version is the official version of the regulations*“. The definition of “*séparer*” in the Larousse is “*mettre à part, éloigner les unes des autres des choses qui étaient ensemble*“.
75. According to this definition, there is no doubt for the Court that the Neutralisation does not form part of the Selective Section. On the contrary, neutralisation splits the Selective Section in two. This literal interpretation of Article 38P4 is confirmed by the definition of Neutralisation in Article 3P point 21, presented as a “*Section (...) between (red.) two Selective Sections*”, and by the interpretation of Article 38P4 in light of the wording of the previous version of this article. Indeed, the previous title of this article was “*Neutralisation between two consecutive selective sectors*” thereby corresponding to the definition of Neutralisation. As the text itself of the article remains the same, this shows clearly that Neutralisation does not form part of the Selective Section(s). Regardless of whether Stage 8 was comprised of one or two Selective Sections, contrary to the Appellant’s assertion, Neutralisation did not form a part of that. Indeed, the neutralisation separated a Selective Section, referring again to the title of Article 38P4, into two distinct sections, moved apart from one another by the Neutralisation, which constitutes a Section in its own right, in accordance with the definition of Article 3P point 21 of the Regulations.
76. At this stage, it is important to determine the legal nature of Neutralisation, insofar as this separating section is not expressly defined in Article 3P point 21 as a Selective Section or a Road Section.
77. In this matter, one should refer to the letter of the Regulations.
78. Article 23P1 “*General*” of Chapter 23P “*Official Itinerary*” states that “*The Official Itinerary (Selective Sections and Road Sections) is recorded in the GPS(s) supplied to Crews.*”
79. It emerges from the above and from a careful reading of the Regulations (see in particular Chapter 3P “*Terminology*” or Article 36P4 “*Maximum Time / Target Time*”), that only two types of section are provided for: Selective Sections and



Road Sections; as a result, Neutralisation, which is indeed a “Section” according to the definition in Article 3P point 21, can only be either a Selective Section or a Road Section. This conclusion is not disputed by the Parties since they are both seeking to attribute Neutralisation to one of the two types of section, the Appellant maintaining that Neutralisation is a part of a Selective Section, the FFSA and Team Peugeot claiming that it is a Road Section.

80. Article 3P point 34 defines a Road Section as a “*Section of itinerary with a Target Time between two successive Time Controls.*” and Article 3P point 35 defines a Selective Section as follows:

“Speed test in real time. Selective Sections may be run over a course exclusively reserved for the Competitors of the Event. Starts of Selective Sections (DSS) are preceded by or twinned with a Time Control and followed by a Time Control after the Finish (ASS).”

81. The Court notes that the fundamental distinction between a Road Section and a Selective Section lies in the fact that the Road Section is a section “*with a Target Time*” while a Selective Section is a section “*with a Maximum Time*”.
82. The definition of Neutralisation in Article 3P point 21 on this subject is very clear insofar as it specifies that Neutralisation is a “*Section with a Target Time*”.
83. It must necessarily be concluded that the Neutralisation Section is a Road Section in the Itinerary, since this Section is one with a target time.
84. Regarding the issue of Time Controls, the Court note that this issue is settled in paragraph 2 of Article 38P4 cited above, which provides that:

“The Crew will hand in its Time Card to the Time Control at the beginning of the Neutralisation, on which will be noted the time at which they start the Neutralisation (finish time of the 1st section) and their time at the end of the Neutralisation which will also be their start time for the 2nd section.”

85. It therefore appears clear that the first section of the Selective Section – or the first Selective Section, depending on whether one applies the terms used in Article 3P point 21 or Article 38P4 – ends at the time of finishing the first section which marks the start of Neutralisation, when the first Time Control will be carried out.
86. With regard to the definition in Article 3P point 34 of the Regulations, it is therefore necessary to determine whether a second Time Control took place.
87. In the case of Neutralisation, the Time Control at the at the end of the first section has several roles on the basis of the aforementioned Article 38P4 paragraph 2, namely (1) Time Control of the finish of the first section, (2) Time Control of the start of Neutralisation and, through the automatic stamping of the

time of the end of Neutralisation on the Time Card of Crew No. 302 which serves as the start time for the “2nd section” of the same Selective Section according to 38P4 paragraph 2, (3) the Time Control of the end of Neutralisation and (4) the Time Control of the start of the 2nd Section, thus allowing the start time for the 2nd section to be established.

88. Furthermore, it is important to note that Stage 8 comprised an SS1 and an ASS1 for the first section and an SS2 and an ASS2 for the second section. If one refers to the definition of Selective Section in Article 3P point 35, each section is preceded by “*Starts of Selective Sections (DSS)*” and followed “*by a Time Control after the Finish (ASS)*”. It is clear from the provisions of Articles 38P4 and 36P1 point 16 of the Regulations that the Time Control at the start of Neutralisation serves as the Time Control of the end of the first section and the Time Control of the start of the 2nd section.
89. It is not disputed that the first section started with a Time Control and that the second section ended with a Time Control. As a consequence, each section of the Stage 8 Selective Section was “*preceded*” and “*followed*” by Time Controls, while the Neutralisation was comprised “*between two successive Time Controls*” according to the procedure provided under Article 38P4 paragraph 2, in accordance with that which is established under Article 36P1 point 16.
90. In these circumstances, it is clearly established that Neutralisation is a Road Section in the sense of Article 3P, point 34, namely “*Section of itinerary with a Target Time between two successive Time Controls.*” and that the two selective sections of Stage 8 perfectly complied with the definition of a Selective Section according to Article 3P point 35.
91. Incidentally, the Court notes that the Appellant did not dispute that its Team Manager was on the Neutralisation section without the authorisation of the Clerk of the Course. According to point 1 of Article 31P5 Team Manager, “*At no moment can he [the Team Manager] be on the itinerary of the Selective Section, except if specifically authorised by the Clerk of Course.*”
92. This context tends to confirm that the Appellant itself believed that this was a Road Section and not a Selective Section. This is also apparent from the Appellant’s tweet produced by Team Peugeot in support of its submission, the content of which was not disputed by the Appellant and which indicated that the Stage 8 in question included 373 km of “*liaison*”. The figure of 373 km can only be reached by adding the Neutralisation Section to the other two Road Sections.
93. Lastly, although extracts from previous regulations, in this case Bulletin No. 2 of the Dakar 2015, cannot serve as a regulatory basis for the Dakar 2016, previous versions of the Regulations that can assist in interpreting a provision, in this case Neutralisation, which is repeated from one year to the next, are not without some



value as a reference. In this regard, in 2015, Neutralisation was officially recognised to be a Road Section, since Bulletin No. 2 of 2015 states:

“*Art. 34P Time Card (...)*”

The Road Section Target time (Neutralisation). (...)”

94. As Neutralisation is a Road Section, it only remains to address the issue of refuelling in such a Section.
95. Article 31P6 point 3a) of the Regulations expressly provides that “*The obtaining of fuel is authorised uniquely (...) at commercial service stations in the Stage towns or on the Road Sections*”.
96. Insofar as no specific provision in the Regulations prohibits refuelling during a Neutralisation, the general rule under Article 31P6 point 3a) should apply, and refuelling in a Neutralisation Section cannot be penalised.
97. The Appellant’s argument regarding the absence of a need to refuel due to the sufficient capacity of the automobiles’ fuel tanks must therefore be dismissed.
98. As the contested refuelling is authorised, neither does the Court need to determine whether other Crews did or did not refuel at the station concerned. It notes furthermore that the testimonies on this matter are contradictory, and that the photograph taken by the Appellant in no way proves that Crew No. 302 was the only one to refuel in that location. However, the photograph indicates that several trucks did so whereas they were subject to the same Regulations.
99. The Appellant’s arguments based on the Road Book, which the Court recalls may not serve as a regulatory basis for contentious issues, must also be dismissed. There is nothing to support a different conclusion and no article in the Regulations gives such scope to this road document. The Road Book does however contain information aimed at all vehicle categories. Thus the reference to “ESS MOTO QUAD” on page 17 of the Road Book for Stage No. 8 should not be interpreted as a prohibition against any automobiles refuelling in that location but as an indication intended for Bikes and Quads, which risk running out of fuel due to their smaller tanks.
100. The Court furthermore refers to the other arguments dealt with by the NCA and which only confirm, if there was any need to do so, the Court’s interpretation of the regulatory provisions at issue.
101. Concerning the Appellant’s objections regarding the alleged shortcomings in the procedure before the Stewards, the Court notes that the procedures before the NCA and before the Court itself have addressed these shortcomings, if they even existed, as the procedures before these two appellate courts have a fully devolutive effect. The Court notes in that regard that Mr Quandt and



Ms Crampton were able to present their views fully in Court. These grievances are therefore dismissed.

102. In view of the above, the Court concludes that a Neutralisation Section is a Road Section in which the Regulations permit refuelling. Crew No. 302, having followed the provisions of the Regulations, shall not be penalised and the Appeal must be dismissed.

COSTS

103. Considering that the Appeal has been dismissed, the Court orders the Appellant to bear all the costs in accordance with Article 11.2 JDR.



ON THESE GROUNDS, AND THOSE OF THE NATIONAL COURT OF APPEAL OF THE FEDERATION FRANCAISE DE SPORT AUTOMOBILE THAT ARE NOT CONTRARY IN ITS DECISION OF 2 MARCH 2016,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Declares the appeal admissible but unfounded;**
- 2. Rejects consequently the appeal of X-Raid Motorsport GmbH;**
- 3. Orders the competent Sporting Authority to draw, as appropriate, the consequences of this ruling;**
- 4. Orders X-Raid Motorsport GmbH to bear all the costs in accordance with Article 11.2 of the Judicial and Disciplinary Regulations of the FIA;**
- 5. Orders the restitution to Team Peugeot Total of its third party deposit.**

Paris, 27 May 2016

Philippe Narmino, President