



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

**Appeal brought by M-Sport Ford World Rally Team (GBR) against
the Decision No.7 dated 11 March 2018 of the Stewards of the Rally
Guanajuato Mexico 2018 counting towards the 2018 World Rally
Championship (WRC)**

Case ICA-2018-01

Hearing of 4 May 2018 in Paris



The FIA INTERNATIONAL COURT OF APPEAL (the “Court”), comprised of Mr Jan Šťovíček (Czech Republic), who was designated President, Mr Xavier Boné Matheu (Spain), Mr Jean Gay (Switzerland) and Mrs Tiffany Hemmer (USA), met in Paris on Friday, 4 May 2018 at the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris.

Ruling on the appeal brought by M-Sport Ford World Rally Team (GBR) (the “Appellant”) against the Decision No.7 dated 11 March 2018 of the Stewards of the Rally Guanajuato Mexico 2018 (the “Stewards”) counting towards the 2018 World Rally Championship (WRC) under which the car No. 1 of the Appellant was sanctioned with a 10-second time penalty on the basis of article 14.2 of the 2018 FIA WRC Sporting Regulations (the “Sporting Regulations”).

The following persons attended the hearing:

On behalf of the Appellant

Mr Alexis Gramblat (Attorney-at-law)
Mr Richard Millener (WRC Programme Manager)

On behalf of the FIA:

Mr Pierre Ketterer (Head of Regulatory, Governance and
Legal Corporate Affairs)
Mr Arnaud Crépin (Head of Rally Sporting Regulations)
Mrs Delphine Lavanchy (Legal Counsel)

Also attending the hearing:

Mr Jean-Christophe Breillat (Secretary General of the FIA
Courts)
Mr Nicolas Cottier (Clerk of the FIA Courts)
Mrs Sandrine Gomez (Administrator of the FIA Courts)
Mrs Nathalie Bourzat-Alaphilippe (Observer)



The parties filed their written submissions and, at the hearing of 4 May 2018, set out oral arguments and answered the questions asked by the Court. The hearing took place in accordance with the adversarial principle. No objection to the composition of the Court or to any element of the hearing, notably the simultaneous translation, was raised by anyone.

REMINDER OF THE FACTS

1. During the Rally Guanajuato Mexico 2018 (the “Rally”), more specifically during the last Special Stage No. 22 (the “SS 22”), run on Sunday 11 March 2018 the Appellant’s car No. 1 driven by Mr. Sébastien Ogier with Mr. Julien Ingrassia as co-driver, hit the elements of the first barrier of the chicane installed at the final straight of the SS 22.
2. SS 22 was run directly after the Special Stage 21 (the “SS 21”). SS 21 and SS 22 covered the same course, SS 22 being also a “Power Stage”. The “Power Stage” allows the first five drivers and co-drivers to score additional points for the classifications of the World Rally Championship for Drivers and for Co-Drivers.
3. The Stewards passed a decision No. 7 on 11 March 2018 (the “Decision”) and imposed a 10-second time penalty against the Appellant’s car No. 1. As a consequence, Mr. Ogier and Mr. Ingrassia dropped out of the Power Stage top five ranking and could not score additional points for the classifications of the World Rally Championship for Drivers and for Co-Drivers.
4. The Decision was notified to the Appellant on 12 March 2018 at 12.00 AM (Mexico time) and the latter immediately declared its intention to lodge an appeal at 12.40 AM (Mexico time).

PROCEDURE AND FORMS OF DECISIONS REQUESTED BY THE PARTIES

5. The Appellant notified its appeal before the Court on 15 March 2018 at 2.23 PM (CET) and informed the Polish Automobile and Motorcycle Federation (PZM), being a license-holder of that ASN, on the same day.
6. The Appellant filed its grounds of appeal on 3 April 2018.
7. The Appellant contends, in essence, that the Court should set aside the Decision and that no time-penalty sanction should be pronounced against the Appellant’s car No. 1. During the hearing, the Appellant subsidiarily sought for a lesser time penalty.
8. The FIA filed its grounds in response on 19 April 2018 and invites the Court:
 - to dismiss the appeal and to confirm the Decision;



- to order the Appellant to pay the costs in accordance with article 11.2 of the Judicial and Disciplinary Rules (JDR).
9. The Appellant produced during the hearing a stewards' decision dated 28 June 2014. The FIA, which was given the time during the hearing to study this new document, accepted that it be added to the file of the case.

ADMISSIBILITY OF THE APPEAL BEFORE THE ICA

10. The Decision was issued on 11 March 2018 and was notified to the Appellant on 12 March 2018, which in return immediately declared its intention to appeal against the Decision.
11. The Appellant lodged the appeal before the Court on 15 March 2018 and informed immediately the PZM about it, namely within the deadline provided under Article 10.3 (i) lit. a of the Judicial and Disciplinary Rules (the "JDR"), applicable to appeals against decisions of the Stewards. The appeal deposit was also paid in due course.
12. Considering the above, the Court finds the appeal admissible, which is undisputed.

ON THE SUBSTANCE

a) Submissions of the Parties

13. The Appellant puts forward, in essence, that:
- (i) The chicane layout was not consistent with the information in the road book, namely the chicane was marked in the road book with three small circles while on the race the chicane was made of plastic barriers. This situation made it difficult if not impossible for Mr. Ogier to go around the elements of the chicane;
 - (ii) The position and structural make-up of the chicane was not consistent between the reconnaissance and the race, and therefore no longer the same chicane;
 - (iii) The construction of the chicane was not consistent with the FIA Rally Safety Security Guidelines (the "Guidelines") as it was made of very light elements which did not meet the structural requirements set in the Guidelines;
 - (iv) The Guidelines allow for the possibility that the chicanes may be hit by the car and do not mention a sanction against the driver though;
 - (v) The positioning of the chicane during the SS 22 changed several times and was therefore not consistent for all drivers during the race;



- (vi) There was no intent of Mr. Ogier not to drive around the chicane;
- (vii) The car No.1 did not gain any time or sporting advantage by touching the chicane or, if it did, the gain could not be more than 0.1 second;
- (viii) Mr. Ogier was not the only driver to hit the chicane. Yet Mr. Ogier was the only one to be sanctioned;
- (ix) There was actually no deviation as the car No.1 had at least two wheels on the race track as reflected in the videos shown to the Court;
- (x) In any event, the sanction of 10 seconds is disproportionate.

14. The FIA puts forward, in essence, that:

- (i) The chicane constituted an essential safety element at the end of the race, aiming to slow the competitors and to ensure the safety of the participants, especially in areas where there is a lot of spectators;
- (ii) The Appellant's car No. 1 did not merely touch the elements of the chicane but completely displaced the first element and was the only one to do so;
- (iii) Chicanes do not form the subject of any specific description, so that there was no ambiguity in the representation of the itinerary;
- (iv) The Appellant's car No. 1 hit the chicane during its second passage as it already went through the chicane during the SS 21;
- (v) Actually car No. 1 had already slightly hit the chicane during the SS 21, this should have lead Mr. Ogier to be more cautious during the SS 22. Yet, Mr. Ogier did not make any change in that sense;
- (vi) The location and configuration of mobile elements, such as those of a chicane, cannot be considered as definitive;
- (vii) The Guidelines have no regulatory value and are only recommendations so that the organisers are free to build up chicanes with the elements of their choice;
- (viii) The Guidelines do not authorise the competitors to touch the chicanes;
- (ix) The elements of the chicane were not at the same place for all drivers because Mr. Ogier hit the chicane and there was no time to replace the elements properly;
- (x) No protest was raised against the alleged differences in the location of the elements of the chicane;
- (xi) The Stewards have the necessary sovereignty to assess the responsibilities and the sanctions to be applied;
- (xii) The Decision does not refer to any intent of Mr. Ogier to hit the chicane. Yet the Stewards referred to the fact that he had been made aware of the risks of a sanction should he nudge the first part of the chicane out of the way. This shows that Mr. Ogier was negligent in doing nothing to avoid "nudging the first part."
- (xiii) The time gained by Mr. Ogier because of the incident was not the determining factor in the choice of the sanction. With the time penalty imposed on the Appellant's car No. 1, the Stewards did not compensate for any time gained



by the competitor through the incident but did sanction a breach of article 14.2 of the Regulation;

- (xiv) A 10 second penalty is proportionate in comparison with other sanctions pronounced in similar cases or with other cases where a 10-second time penalty is provided by the Regulations (for instance in the case of a false start), considering also that the Regulations do not provide for time penalties below 10 seconds;
- (xv) Although the Appellant's car No. 1 was not the only one to hit the chicane, the fact that Mr. Ogier was the only one to displace the first element of the chicane in its entirety with the front right side of the car justifies the sanction provided in the Decision.

b) Conclusions of the Court

i) arguments related to the specificities of the chicane

15. The Court finds that the role played by a chicane is important not only for the competition itself but also for safety reasons. This element of the itinerary aims at reducing the speed of the cars and must therefore be respected by the competitors, who must avoid it in order for the chicane to properly play its speed reducing role.
16. In that context, the primary responsibility to respect the chicane is on the drivers and co-drivers' shoulders and the Appellant cannot shift the responsibility and blame the organisers that the chicane was too light. Although it is true that the Guidelines recommend to the organisers to use certain types of structures to build a chicane, those are indeed only "guidelines", which do not form part of the Regulations applicable to the Rally. The organisers were therefore free to use whatever material they felt suitable for the chicane.
17. The chicane was also removed between the day of the "reconnaissance" and the day when the two special stages took place. There was no mark on the road, so that any competitor could understand that the exact positioning of the chicane could change during the special stages and that each competitor had therefore to adapt its car's path according to the positioning of the chicane at the moment it was to pass the chicane.
18. As to the arguments raised by the Appellant about the way the chicane was described in the Road Book, the Court notes that road books apply generic symbols, which cannot be considered as specific sketches of the chicanes.
19. In any event, the incident took place during the SS 22, namely after the SS 21 which took place on the same itinerary, so that the driver and his co-driver had a very good knowledge of the structure and of the location of the chicane when they hit it.



20. The Court notes further that the Appellant's car No. 1 had already slightly hit the same chicane during the SS 21 and that the crew had been warned before the SS 22 that "nudging" the chicane would lead to an inquiry from the Stewards. For all these reasons, one would expect from them to be even more cautious.
21. Based on all the above, the Court rejects the Appellant's arguments in relation to the specificities of the chicane hit by its car No. 1 at the end of the SS 22.

ii) the issue of the equality of treatment

22. Based on its constant jurisprudence, the Court stresses again that the Stewards are in the best position with regards to their best knowledge of the relevant facts in a given time and a given place, which the Court cannot obviously have, to assess which particular incident committed by a particular rider has to be sanctioned or not.
23. Notwithstanding the foregoing, the Court could see because of the various videos provided by the parties and played during the hearing that the Appellant's car No. 1 was not the only one to hit the chicane during the SS 22.
24. Yet, the videos clearly showed that the Appellant's car No. 1 was the only one to "nudge" the first set of elements of the chicane away from the road, which is undisputed.
25. The Court finds that this makes an essential difference between the other competitors' case and the case of the Appellant's car No. 1, as the first set of elements of a chicane has the most important impact when it comes to: (i) adapting the car's path, (ii) reducing the car's speed and (iii) meeting the safety objectives of a chicane.
26. In that context it is not relevant whether Mr. Ogier and Mr. Ingrassia intended or not to hit the chicane. The fact is that they did hit it, although they had been warned before SS 22 of the possible consequences of an incident with this chicane, which they had already slightly hit during the SS 21.
27. Based on the above, the Court finds that the case of the Appellant's car No. 1 was different from the cases of other competitors who hit the chicane during the SS 22 and that the Stewards were right in deciding that the Appellant's car No. 1 had breached article 14.2 by not respecting the path imposed by the chicane indicated in the Road Book.



iii) the issues of the sporting advantage and of the proportionality of the sanction

28. As to the issue of the sporting advantage gained by the Appellant's car No. 1, the Court then notes that the purpose of the Decision is to sanction the Appellant's car No. 1 and not to compensate for any time gained during the incident.
29. In the present case, the Stewards pronounced a sanction of 10 seconds, taking into consideration the length of the race and other precedents where a sanction of 30 seconds or more was regularly pronounced.
30. The Court stresses first that according to its constant jurisprudence, it is firstly to the Stewards to assess what sanction is appropriate and that the Court should review a sanction only when it has no regulatory basis and/or when it is obviously disproportionate.
31. The Court notes further that in the Regulations a sanction of 10 seconds is to be pronounced in case of a false start.
32. Although a false start is different in nature from the incident committed by the Appellant's car No. 1, the Court finds that the sanction provided by the Regulations in that case supports the view that the sanction pronounced by the Stewards in their Decision is proportionate.
33. As a consequence, the Court finds that there is no reason to lower the sanction pronounced against the Appellant's car No. 1.

34. The Court thus upholds the Decision and rejects the Appeal.

COSTS

35. Considering that the Appeal was rejected, the Appellant shall bear all the costs in accordance with Article 11.2 JDR.



ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Declares the appeal admissible;**
- 2. Upholds the decision No. 7 of the Stewards of the Rally Guanajuato Mexico 2018, counting towards the 2018 FIA World Rally Championship;**
- 3. Orders the competent sporting authority to draw the consequences of the present decision;**
- 4. Orders M-SPORT Ford World Rally Team to pay all the costs, in accordance with Article 11.2 of the Judicial and Disciplinary Rules;**
- 5. Rejects all other and further conclusions.**

Paris, 4 May 2018

Jan Šťovíček, President