



INTERNATIONAL COURT OF APPEAL

INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

**Appeal brought by the
Automobile Club d'Italia-Commissione Sportiva Automobilistica Italiana
(ACI-CSAI)
on behalf of its licence-holder Tony Kart Racing Team against
Decision n°26 dated 23 November 2013 of the Stewards of the Meeting of the
Bahrain event counting towards the 2013 CIK-FIA KF Junior World
Championship.**

Case ICA-2013-06

Hearing of Friday 20 December 2013 in Paris



INTERNATIONAL COURT OF APPEAL

The FIA INTERNATIONAL COURT OF APPEAL (“the Court”), comprised of Mr Harry Duijm (Netherlands), who was designated President, Mr Vassilis Koussis (Greece), Mr Dieter Roskopf (Germany) and Mr Jan Stovicek (Czech Republic), met in Paris on Friday 20 December 2013 at the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris.

Ruling on the appeal brought by the Automobile Club d'Italia-Commissione Sportiva Automobilistica Italiana (ACI-CSAI) on behalf of its licence-holder Tony Kart Racing Team (the “Appellant” or “TKR”) against Decision n°26 issued on 23 November 2013 by the Stewards of the Meeting (the “Stewards”) of the Bahrain event counting towards the 2013 CIK-FIA KF Junior World Championship, under which the Stewards decided to sanction Tony Kart Racing Team’s driver Nikita Mazepin (RUS) with a 10-second time penalty for an alleged infringement of Article 2.14.B of the CIK General prescriptions (“CIK”), the Court heard the statements and examined the submissions made by the Appellant, the FIA and the interested third party Baby Race Kart Racing Team (“BRK”).

The following persons were attending the hearing:

on behalf of TKR:

Mr Oliver Oakes (Team representative)
Mr Nikita Mazepin (Driver)
Mr Andrea Fioravanti (Attorney-at-law)
Mr Alessandro Ferrari (Judge of fact - witness)

on behalf of the FIA:

Mr Pierre Ketterer (FIA Legal Counsel)

On behalf of BRK:

Mr Alessandro Lorandi (Team Legal representative)
Ms Anna Maria de Mattei (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)
Ms Sandrine Gomez (Administrator of the FIA Courts)

The ACI-CSAI was neither present nor represented at the hearing.



INTERNATIONAL COURT OF APPEAL

The parties filed their written submissions and, at the hearing of 20 December 2013, set out oral arguments and addressed the questions asked by the Court. The hearing took place in accordance with the adversarial principle, with the aid of simultaneous translation in French and English. In addition, a simultaneous translation in Italian was also provided by the Court upon request of BRK. No objection to any element of the hearing, notably the simultaneous translation, was raised by anyone.

Considering the urgency of the matter the Parties accepted at the hearing that the Court's decision issued in English would come into force immediately upon notification to the Parties, without waiting for the French version of the Court's decision to be notified.

REMINDER OF THE FACTS

1. On the occasion of the event held in Bahrain on 23 November 2013 (the "Event") counting towards the 2013 CIK-FIA KF Junior World Championship (the "Championship"), an incident committed by TKR's kart n°137, driven by Nikita Mazepin (the "Driver") on the fifth lap of the final race, was reported to the Stewards of the Event by the Judge of Fact in a report n°11 (the "Report").
2. According to the Report, The Driver had left the track before overtaking 2 competitors while he was still outside the track.
3. On the basis of the Report and the video of the reported incident, the Stewards, having heard TKR's representative and the Driver, decided on 23 November 2013 (the "Decision") to sanction TKR's kart n°137 with a 10-second time penalty on the grounds that it had overtaken 2 other karts while outside the limits of the track, in breach of the Code of Driving Conduct on Karting Circuits (the "Code of Conduct").
4. This Decision was notified to the Appellant, which declared its intention to appeal against it within the next hour following the notification.

PROCEDURE AND FORMS OF DECISIONS REQUESTED BY THE PARTIES

5. The Automobile Club d'Italia-Commissione Sportiva Automobilistica Italiana ("ACI-CSAI"), acting on behalf of its licence-holder TKR, lodged an appeal before the Court on 26 November 2013 (the "Appeal") against the Decision.



INTERNATIONAL COURT OF APPEAL

6. In its submissions, received by the Court on 6 December 2013, the Appellant contends that the Court should either:
 - annul the Decision; or
 - annul the Decision and impose on the Driver a blame or a fine.
7. The FIA, in its grounds in response received by the Court on 16 December, invites the Court:
 - primarily, to declare the Appeal inadmissible;
 - secondarily, to confirm the Decision on all points.
8. BKR requested to take part in the present proceedings, as provided under Article 17.8 iii) of the Judicial and Disciplinary Rules of the FIA (“JDR”), which request was admitted by the President of the Hearing in his decision dated 5 December 2013. In this capacity, BKR requested in its submissions, received by the Court on 16 December 2013, that the Court consider the Appeal groundless and reject it.

ADMISSIBILITY

9. The Decision was notified to the Appellant on 23 November 2013 at 23:26 in Bahrain, i.e. at 21:26 CET.
10. The intention to appeal against the Decision was notified by the Appellant to the Stewards in writing within the hour following the notification of the Decision, which is undisputed.
11. The ACI-CSAI lodged the Appeal before the Court on 26 November 2013 at 14:52 CET, i.e. more than 65 hours after the notification of the Decision.
12. According to Article 17.3 (i) a) JDR, appeals against a decision of the Stewards of a meeting must be notified within 48 hours following the publication of the Stewards’ decision. If the decision of the Stewards is not published on a working day (in the French version of the JDR: “*un jour ouvrable*”), the 48-hour period shall not commence until the first hour of the following working day.
13. The FIA argues that Saturday is a working day and that in any case, the question of the working day is irrelevant as the Decision was notified to the Appellant directly and not simply published.



INTERNATIONAL COURT OF APPEAL

14. The Court carefully considered the arguments of the FIA. Firstly, the Court takes into account that the Decision was notified on Saturday evening at 23:26 and that in general an ASN is not available on Saturday evening and Sunday, so, as a consequence, the Appellant had in fact only one day to lodge its appeal. Secondly, the Appellant asked the Court whether its appeal had to be filed on Monday 25 November 2013 or on Tuesday 26 November 2013. The Court confirmed that the Appeal could be lodged on Tuesday 26 November 2013.
15. Based on all the above and the principle of good faith, the Court decides that the Appellant could rely on the information provided by the Court which is to be considered as binding in the present case.
16. Considering the above, the Court finds the appeal admissible.

ON THE SUBSTANCE

a) *Arguments of the parties*

17. The Appellant does not contest that its kart had left the track. However, it first puts forward that no warning flag was raised. It further argues that during the briefing before the Event, the Stewards had stated that the only sanction for leaving the track, whether the driver has gained a sporting advantage or not, was a warning flag for the first two times and for the third time a black flag. As a mitigating circumstance, the Appellant then puts forward that it was the first time that the Driver committed such a mistake and then claims that no sanction was imposed on a driver for a first breach in similar situations. According to the Appellant the Decision therefore violates the principle of equal treatment. Besides that, it is the Appellant's view that, in any case, the sanction imposed by the Stewards was too harsh and that a milder sanction should have been imposed on the Driver according to the last paragraph of Article 2.24 CIK, General Prescriptions which provide that "(...) *considering its serious nature* [of the Incident], *the Stewards may decide, instead of the 10-second time penalty, of a sanction among those provided for in the penalty scale of Article 153 of the Code.*" Finally, the Appellant stresses that the Driver did not gain any advantage from his move, as he then lost the two places he had "won" while driving outside the track.
18. On the basis of all the above, the Appellant argues that, due to the circumstances of the case, the 10-second time penalty should be set aside or, at least, that a milder sanction should be decided by the Court.
19. The FIA stresses that the Driver took advantage of the incident as he overtook two other karts while outside the track and that the advantage must be assessed at



INTERNATIONAL COURT OF APPEAL

the time of the incident and not afterwards. Reminding the Court of the discretionary power of the Stewards, the FIA further points out that the 10-second time penalty is a minimum sanction according to Article 2.24 c) CIK General Prescriptions. Regarding the communications at the briefing before the Event, the FIA points out that the powerpoint presentation presented to the drivers by the Stewards clearly states on page 66 that “*should a Kart leave the Track for any reason, and without prejudice to the actions/penalties (red), the Driver may rejoin. However this action must respect the safety standard and without gaining any advantage (red).”*

20. Based on all the above, the FIA finds that the sanction imposed on the Appellant should be confirmed.
21. As to the interested third party BKR, the latter submits some precedents to the Court indicating that, contrary to the Appellant’s submissions, sanctions of the same nature were imposed on other drivers for similar incidents. It contests the Appellant’s submissions putting forward the fact that the driver did eventually lose the advantage gained during the incident.
22. BKR therefore asks that the Decision be upheld by the Court.

b) Conclusions of the Court

23. Based on the pictures and videos provided to it, the Court finds first that the four wheels of the Appellant’s kart were outside the track’s lines during the Incident. It notes as well that when it rejoined the track, the Driver had gained two positions, as reflected in the Report.
24. The Court thus concludes that the kart left the track and gained an advantage of two positions during the Incident, which leads to a breach of Article 2.14 CIK and Article 2.c) of the Code of Driving Conduct on Karting Circuits.
25. As provided under Article 2.24 CIK paragraphs 1 and 2, the violation of Article 2.14 CIK and Article 2.c) of the Code of Driving Conduct on Karting Circuits has to be considered as an Incident which, according to the clear wording of Article 2.24 paragraph 4, must be sanctioned with a 10-second time penalty.
26. With regard to the briefing held before the event and the information provided by the Stewards, the Court concludes on the basis of Article 2.18 CIK that the aim of the briefing is only “*to remind*” the drivers of the regulations and the safety notions and to give any clarification but not to set new rules superseding the general regulations. Besides that, the Court notes that page 66 of the powerpoint presentation correctly and clearly reflects the terms of Article 2.14 CIK and



INTERNATIONAL COURT OF APPEAL

Article 2.c) of the Code of Driving Conduct on Karting Circuits. This submission must thus be rejected.

27. The Court dismisses as well the Appellant's submissions with respect to the disproportionality of the sanction imposed by the Stewards. Indeed, the clear wording of Article 2.24 CIK leads to the conclusion that any Incident must be sanctioned at least with a 10-second time penalty. The reference to the scale of penalties of Article 153 of the ISC does not allow the Stewards to impose a milder sanction but, on the contrary, only a harsher sanction, should the Incident be considered by the Stewards as being of a "*serious nature*". Both in the French and English versions (with the words "*doivent*" in French and "*shall*" in English), the CIK General Prescriptions clearly oblige the Stewards to impose a minimum 10-second time penalty when an Incident takes place during a race.
28. Based on the foregoing, the Court decides that the sanction imposed by the Stewards of the Bahrain event must be confirmed.

COSTS

29. Taking into consideration that the Appeal is rejected, the Court leaves it to the Appellant to bear the costs in accordance with Article 18.2 JDR, with the exception of the costs relating to the Italian language translation to be borne by BRK, which requested this service.



INTERNATIONAL COURT OF APPEAL

ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Declares the appeal admissible;**
- 2. Upholds the Decision n°26 of the Stewards of the Bahrain event counting towards the 2013 CIK-FIA KF Junior World Championship;**
- 3. Orders the competent Sporting Authority to draw, as appropriate, the sporting consequences of this ruling;**
- 4. Orders the conservation of the appeal fee paid to the Court by Tony Kart Racing Team;**
- 5. Leaves it to Tony Kart Racing Team to pay all the costs, in accordance with Article 18.2 of the Judicial and Disciplinary Rules of the FIA, with the exception of the costs relating to the Italian language translation to be borne by Baby Race Kart Racing Team;**
- 6. Declares that the present decision of the Court shall be enforceable when notified in its English version together with the French version of the orders;**
- 7. Rejects all other and further conclusions.**

Paris, 20 December 2013

The President

Harry Duijm