

**INTERNATIONAL COURT of APPEAL (I.C.A.)**

**of the**

**FEDERATION INTERNATIONALE DE L'AUTOMOBILE**

**Referred by the Fédération Internationale de l'Automobile  
by virtue of Article 1 of the Rules of the International Court of Appeal**

**Case**

**Decision of the Belgian National Court of Appeal concerning kart N°50, competitor  
CRG S.p.A., driver Jonathan Thonon during the event at Mariembourg (Belgium)  
run on 3 September 2006 and counting towards the 2006 CIK-FIA World Cup  
Super ICC**

**Hearing of Thursday 11 January 2007 in Paris**

*Translation: Original in French*

The INTERNATIONAL COURT of APPEAL of the FIA, comprised of Mr José MACEDO e CUNHA (Portugal), elected President, Mr Xavier CONESA (Spain), Mr Anthony SCRIVENER (Great Britain) and Mr Christian GROSJEAN (Switzerland),

Sitting in Paris on Thursday 11 January 2007, at the headquarters of the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris,

Ruling on the appeal lodged by the FIA against the decision taken by the Belgian National Court of Appeal on 24 October 2006 which quashed decision N°21 taken by the Panel of the Stewards of the Meeting of the event run on 3 September 2006 at Mariembourg (Belgium), which inflicted a penalty of 10 seconds on the competitor CRG S.p.A., driver Jonathan Thonon, because the kart moved before the starting signal; this decision was based on Article 2.20-K of the CIK-FIA General Prescriptions.

After hearing:

**For the FIA**, the appellant, Mr Sébastien BERNARD, Head of the Legal Department, assisted by Mr Vincent CARO, CIK-FIA Executive Secretary,

**For the respondents**, the competitor CRG S.p.A. represented by Mr Danilo ROSSI assisted by Mr Giuseppe NOLE, Lawyer in Potenza (Italy), Mr Christian THONON, father of the driver, who apologised for his son's absence and who represented his son,

**For the Royal Automobile Club of Belgium (RACB)**, Mr Gérard MARTIN, Lawyer in Brussels, assisted by Mr Laurent VOOGT, Clerk of the Course of the event,

**For the knowledgeable party**, Mr Marco CALORE, mechanic with the Team CRG S.p.A.,

Having acknowledged that the procedure with full argument on both sides was in order, the rights of each party having been duly examined, both in the proceedings prior to the hearing and during the hearing itself, the appellant, the competitor, the RACB and the knowledgeable persons having been cross-examined and having provided all the detailed explanations and answers requested during the hearing with the help of a simultaneous translation system which did not receive the least criticism by the parties;

**WHEREAS** before any discussion regarding the substance, a ruling must be made as to the plea of inadmissibility raised by the competitor CRG S.p.A. on the pretext that the FIA did not respect the time limits set out in Article 19 of the Rules of the International Court of Appeal to produce its memorandum of appeal;

**WHEREAS** it is necessary to note that at their express request, the competitor CRG S.p.A. had solicited the postponement of the hearing until a later date because they were not aware of the FIA's memorandum of appeal, and that this request had been granted;

**WHEREAS** consequently, in accordance with Article 18 of the Rules of the International Court of Appeal, new time limits were set both for the FIA and for the competitor CRG S.p.A. and these time limits were respected, thus respecting the due hearing of the parties;

**WHEREAS** consequently the plea of nullity raised by CRG S.p.A. must be rejected;

**ON THE SUBSTANCE,**

**WHEREAS** the main question before the International Court of Appeal is to determine if, during the event run at Mariembourg and before the starting signal was given, kart N°50 driven by Jonathan Thonon had anticipated the start; to be able to answer the question, the International Court of Appeal has viewed at length and several times the different videos submitted to the Court, notably the video which determined the decision taken by the Panel of the Stewards of the Meeting ;

**WHEREAS** this projection makes it possible to affirm not only that the kart had moved on its spot, but that it had left its spot while two red lights were still lit and the start had not yet been given;

**WHEREAS** it is only necessary to refer to Articles 92 and 94 of the International Sporting Code and to Article 2.20-K of the CIK-FIA General Prescriptions to see on the one hand that the kart had not remained immobile because it was a standing start, and on the other hand that it had left its assigned position before the start had been signalled;

**WHEREAS** CRG S.p.A. maintains that there was no attempt to anticipate the start and that the intention of the driver in this respect was in no way established, and explained that if the kart had in effect moved as was stated by all the interested parties, this manoeuvre had been provoked by friction of the clutch due to several successive starts and that the driver, realizing his mistake, had immediately stepped on the brake, and had let four other competitors pass him at the start; this had caused him to take the curve in fifth place and had not offered him any advantage but on the contrary was unquestionably prejudicial to his ranking;

**WHEREAS** the International Court of Appeal cannot enter into the considerations exposed by the competitor in order to validate some kind of excuse for his behaviour;

**WHEREAS** in effect the simple fact of seeing that the kart had moved from its spot before the starting signal was given is an objective fact, and it is impossible to accept at the subjective level a claimed intention which would have been not to have wanted to anticipate the start;

**WHEREAS** in this case, and due to the many violations which can be committed under such circumstances, accepting the slightest excuse from a competitor who would give such an excuse, would have as a direct consequence the destruction of the principles set out by the regulations and thus would clearly undermine the equality of chances ;

**WHEREAS** under these conditions it is necessary to quash the decision of the Belgian National Court of Appeal dated 24 October 2006 which itself quashed the decision of the Panel of the Stewards of the Meeting on 3 September 2006;

**WHEREAS** on this subject CRG S.p.A. maintained the nullity of the decision of the Stewards on the grounds the Race Director was not heard;

**WHEREAS** the International Court of Appeal can only refer to Article 174-e of the International Sporting Code which stipulates that « *The Stewards of the Meeting shall treat all protests referred to above as urgent and the Race Director shall be heard.* » ;

**WHEREAS** this text unquestionably requires that the Stewards of the Meetings hear the Race Director at their hearing;

**WHEREAS** irregardless of the fact the Race Director did not manifest himself, the text does not any the less require his being heard, and this was not the case;

**WHEREAS** the result is that the decision taken by the Panel of the Stewards of the Meeting is null and void on the grounds it infringes Article 174-e of the International Sporting Code;

**WHEREAS** the International Court of Appeal cannot leave unsanctioned an infraction which undermines the protest;

**WHEREAS** consequently the International Court of Appeal must exercise its right to summon a case before a lower court, and inflict on the competitor CRG S.p.A. a 10 second penalty as set out in Article 2.24 of the CIK-FIA General Prescriptions, on the grounds the driver anticipated the start in infringement of Articles 92 and 94 of the International Sporting Code and Article 2.20-K of the CIK-FIA General Prescriptions;

**ON THESE GROUNDS,**

**REJECTS** the plea of irregularity of procedure entered by the competitor CRG S.p.A.,

And **RE-RULING,**

**QUASHES** the decision of the Belgian National Court of Appeal taken on 24 October 2006,

**STATES** that the driver of kart N°50 anticipated the start in the conditions related above, in violation of the articles referred to in the grounds,

**STATES** that the decision of the Panel of the Stewards of the Meeting of the event at Mariembourg (Belgium) taken on 24 October 2006 is null and void, as was maintained by the competitor CRG S.p.A in his memorandum, insofar as the Race Director was not heard by the Panel of the Stewards of the Meeting, in violation of Article 174-e of the International Sporting Code,

**EXERCISING** its right to hear a case before a lower court, the International Court of Appeal, in light of the facts revealed by the projection of one of the videos submitted,

**INFLECTS** a 10-second sanction on competitor CRG S.p.A. (driver Jonathan Thonon) which must be added to the recorded times.

**LEAVES** it to the sporting authority to draw the conclusions of the present decision,

**LEAVES** the costs to be borne by the respondent in accordance with Article 190 of the International Sporting Code and with Article 24 of the Rules of the International Court of Appeal.

Paris, 11 January 2007

(signature)

The PRESIDENT