

INTERNATIONAL COURT OF APPEAL (I.C.A.)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

Appeal brought by

the Royal Automobile Club de Belgique (RACB),

on behalf of its competitor, Prospeed Competition,

**against decision n° 28 taken by the Panel of the Stewards of the Meeting
on 18 May 2008**

**at the event run at Monza (Italy) on 18 May 2008, counting towards the
2008 FIA GT Championship**

Hearing of Thursday 12 June 2008 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Laurent ANSEMI (Monaco), elected President, Mr Dieter ROSSKOPF (Germany), Mr Harry DUIJM (Netherlands), and Mr Thierry JULLIARD (Switzerland),

Meeting in Paris on Thursday 12 June 2008 at the headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008 Paris,

Ruling on the appeal brought by the Royal Automobile Club de Belgique (RACB), on behalf of its licence-holder Prospeed Competition, against decision n°28 taken by the Stewards of the Meeting on 18 May 2008 concerning the event that was run at Monza (Italy) on 18 May 2008, counting towards the 2008 FIA GT Championship,

Having heard Mr Geoffroy THEUNIS, Secretary General for Sport of the Royal Automobile Club de Belgique, assisted by Mr Gérard MARTIN, Court Reporter for RACB Sport,

Having heard, for the competitor Prospeed Competition, Mr Rudy PENDERS, Team Owner, assisted by Mr Pascal NELISSEN GRADE, Lawyer,

Having heard, for the competitor AF Corse, Mr Antonio CAZZAGO, assisted by Mr Andrea FIORAVANTI, Lawyer,

Having heard, for FIA Sport, Mr Pierre de CONINCK, Secretary General, and Mr Sébastien BERNARD, Head of Legal Affairs,

Having heard, as witnesses, Mr Anthony IDDON, Race Director of the FIA GT Championship, and Mr Edwin SEGIER, Team Manager of Prospeed Competition,

Having acknowledged that the procedure was in order, the rights of each of the parties having been duly examined, both in the proceedings which preceded the hearing and during the hearing itself, the parties and witnesses having been duly heard and having provided all the detailed explanations requested from them during the hearing and having received answer, with the help of a simultaneous translation system which did not provoke any criticism on the part of anybody,

After viewing a video, which had been provided by the team AF Corse to the Panel of Stewards at Monza and was made available to the Court with the agreement of all the parties,

On the admissibility

WHEREAS the 3rd paragraph of Article 14 of the Code of Procedure and Rules of the FIA International Court of Appeal states: “*For the notification of an appeal against a decision of the stewards of the meeting an intention of appeal must also have been given in writing to the stewards, within one hour of the publication of the decision.*”;

WHEREAS the 3rd paragraph of Article 17 of the same Code states: “*Appeal from a decision of the stewards of the meeting: the appeal must be notified according to the provisions of Article 14 above within 48 hours following the publication of the stewards’ decision, on condition that the stewards of the meeting are notified in writing of the intention to appeal from the decision within one hour of its publication.*”;

WHEREAS in this case the Stewards were notified of the written intention of Prospeed Competition to appeal the disputed decision at 17.55 hours;

WHEREAS there is no evidence in this case that would allow the Court to determine the exact time of publication and to consider that the intention to appeal was notified after the time limit of one hour counting from the time of publication, set by the above-mentioned clauses;

WHEREAS there is therefore reason to consider that the appeal is admissible;

As to the form

WHEREAS it is claimed that the disputed decision is justified neither in fact nor in law, given that it lacks any precise mention of its legal basis and of the material acts allegedly committed in disregard of the applicable regulations;

WHEREAS, however, the terms of the decision, which had been preceded by an exchange between the Team Manager of Prospeed Competition and the Panel of Stewards, in combination with the technical notes and other written or verbal directives issued in this context, allowed an operator normally familiar with the rules applicable to the automobile competitions in which he habitually takes part, to comprehend, without any possible misunderstanding, the grievances raised against him. ;

WHEREAS, therefore, as regards the form, the disputed decision does not appear to be insufficiently motivated;

WHEREAS, however, it is claimed that the disputed decision was taken without first placing the Team Manager of Prospeed Competition in a position to understand the claims made against him, nor to put forward his own explanations; in particular, it is alleged that the party concerned, a Dutch speaker, does not have a perfect grasp of the English language used during his hearing by the Stewards, which could have affected his comprehension of what was being said;

WHEREAS, however, it has been established before the Court that the Team Manager of Prospeed Competition, within the context of his professional activities and the sports competitions relating thereto, habitually takes part in meetings during which the working language is exclusively English;

WHEREAS, in addition, during the said hearing, the audiovisual record on which the Stewards to a large degree based their decision, was viewed by the party concerned, who had every opportunity to discuss it and to put forward any argument that he might have considered relevant;

WHEREAS there is therefore reason to consider that the disputed decision was taken after an adequate bilateral exchange between its author and its addressee;

As to the content

WHEREAS the legal basis of the disputed decision is to be found in Articles 104 and 109 of the FIA Regulations applicable to the GT Championship;

WHEREAS according to the provisions of the above-mentioned Article 104, for the entire period during which the vehicles are being serviced in the pit lane and during refuelling, they may benefit from the services of a maximum of five persons, who are considered to be mechanics, including the Team Manager if applicable;

WHEREAS that same Article 104 contains specific provisions, based on legitimate safety concerns, that govern refuelling;

WHEREAS, during that phase which is potentially particularly dangerous, only two mechanics are allowed to work, under the supervision of a third equipped with a fire extinguisher, and no other operation may be carried during that phase, with the exception of cleaning the windscreen, as stated in the last sentence of paragraph 1) of the said article;

WHEREAS, therefore, the changing of the tyres, governed by paragraph 3) of the same article, can be carried out only once the refuelling operation has been completed;

WHEREAS it is to be inferred from the disputed decision that Prospeed Competition is accused of having begun to remove the wheels of the vehicle before the refuelling operation had been completed, without the number of persons present in the pit exceeding five;

WHEREAS, however, the witness accounts and other forms of evidence produced do not allow the court to establish with certainty that the provisions of the aforementioned Article 104 were clearly disregarded ;

WHEREAS the disputed decision must thus be considered as based on facts the material accuracy of which has not been proved, and, therefore, there is reason to quash the said decision;

WHEREAS, consequently, and without it being necessary to rule on the appropriateness and the proportionality of the exclusion pronounced pursuant to Article 109 of the Regulations of the FIA GT Championship, car n°61 must be reinstated in its proper place in the classification;

ON THESE GROUNDS,

AS TO THE FORM,

DECLARES admissible the appeal brought by the Royal Automobile Club de Belgique (RACB), on behalf of its licence-holder Prospeed Competition, against decision n°28 taken by the Stewards of the Meeting on 18 May 2008 concerning the event that was run at Monza (Italy) on 18 May 2008, counting towards the 2008 FIA GT Championship;

AS TO THE SUBSTANCE,

QUASHES decision n°28 taken by the Panel of Stewards of the Meeting on 18 May 2008 at the event that was run at Monza (Italy) on 18 May 2008, counting towards the 2008 FIA GT Championship;

LEAVES it to the sporting authority to draw the consequences;

LEAVES it to the Fédération Internationale de l'Automobile to pay the costs in accordance with Article 24 of the Rules of the International Court of Appeal and Article 190 of the International Sporting Code;

ORDERS that the deposit paid by the appellant be refunded.

Made in Paris, 12 June 2008

The PRESIDENT