

**INTERNATIONAL COURT OF APPEAL (ICA)
OF THE
FEDERATION INTERNATIONALE DE L'AUTOMOBILE (FIA)**

CASE:

**International Appeal lodged by
the Royal Automobile Club - RAC Motor Sport Association of Great Britain
on behalf of its Licence Holder/Competitor
Super Nova Racing Ltd.
against the decision taken on 12 October 1996
by the Panel of Stewards of the Meeting at the
Grand Prix of Hockenheim (11-12 October 1996)
concerning the 1996 classification
for the F3000 International Championship
and the fine of \$ 50,000 imposed on the competitor Super Nova Racing Ltd.**

Hearing of Thursday, 7 November 1996 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Messrs. J.W.G. van ROSMALEN (Netherlands), elected President, Edgar JULIEN (France), Vassilis KOUSSIS, Greece), and José MACEDO e CUNHA (Portugal),

Sitting in Paris on Thursday, 7 November 1996. at the headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008, PARIS,

Ruling on the appeal lodged by the Royal Automobile Club - RAC Motor Sport Association on behalf of its licence holder/competitor, SUPER NOVA RACING Ltd., against the decision of 12 October 1996 of the Panel of Stewards of the Meeting at the Grand Prix of Hockenheim (11 - 12 October 1996), mentioned above,

After hearing the driver Kenny BRACK and the competitor SUPER NOVA RACING Ltd. represented by Mr. David SEARS, Team Manager, both assisted by Mr. David MILLS, Attorney, and Mr. Colin HILTON, RAC Director, on the one hand, and by Mr. Luc CLAES, Chief Steward of the Panel of the Stewards of the Meeting on the other,

After a screening of 2 cassettes presented by the appellant and another presented by Mr. Luc CLAES, and after cross-examining the parties during the screening of the 3 cassettes,

Having recognized that the cross-examination had been correctly conducted, the appeal admissible, and that the rights of the parties had been properly examined in the proceedings both before and during the hearing, the Appellant and Chief Steward of the Panel having supplied all detailed explanations requested of them, and having answered all questions during the hearing with the aid of simultaneous interpretation deemed satisfactory by the parties,

WHEREAS before any further discussion, the circumstances of the case should be recalled;

WHEREAS during the Hockenheim race, which was run on 12 October 1996 and which was part of the 1996 F3000 World Championship, an incident took place during the 18th lap deemed significant by the Stewards, which caused a serious accident during which car N° 33 driven by Jurg MULLER was ejected from the track;

WHEREAS the Black Flag associated with N°1 was shown to the car driven by Kenny BRACK;

WHEREAS although the flag was displayed, the car finished the race despite the instructions given to the competitor, who claimed that, due to a defective radio communication system, he could not get his driver to follow them, and that as the race was ending, he could not get a visual signal complied with;

WHEREAS the Stewards, under these circumstances, took a decision which they incorrectly termed a disqualification, but which in reality was an exclusion accompanied by a \$ 50,000 fine, this due to the particular seriousness of the infraction which consisted in disregarding the Black Flag, an unequivocal signal to stop;

WHEREAS the Appellant submits that the Sporting Regulations were not complied with because the Black Flag was displayed and the exclusion decided without the driver or the competitor being heard by the Panel of the Stewards of the Meeting;

WHEREAS these arguments are particularly inexact as the driver had been summoned to explain, the second time before the International Court of Appeal, and had stated that he had seen the number, that he had asked for instructions from his pit but had received no answer, and in addition claimed that he did not know what he had done which justified the Black Flag, and that without instructions, he had continued the race, adding that only once the race was finished had he realized he should have returned immediately, admitting in addition that he had taken the wrong decision, but that since the Championship was at stake, he had continued;

WHEREAS this attempted explanation is particularly inappropriate since, in recognizing that he did not know the regulations contained in the International Sporting Code, the driver has demonstrated his ignorance of them, which in itself constitutes an extremely serious offence;

WHEREAS he further pleads that the Stewards wrongly displayed the Black Flag because he had committed no violation which might have caused an accident, or even the incident in which he was allegedly involved;

WHEREAS in this respect, by virtue of Articles 87 and 88 of the Regulations of the F3000 International Championship, a Black Flag may be displayed if there is an incident which has caused an avoidable collision, and in Article 88 that it is up to the Stewards of the Meeting to decide if the driver(s) involved in an incident should be penalised;

WHEREAS in this case there is no doubt that not only was there an incident, but also an accident involving one of the drivers;

WHEREAS Article 88 specifies, in these circumstances, that the Stewards of the Meeting had the possibility to inflict a penalty on any driver involved in an incident, and that during a race, this may only be done by displaying the Black Flag, in accordance with Article 4.1.1 of Annex H of the International Sporting Code, thereby obliging the driver to stop at the next pass;

WHEREAS in this case, the infraction committed by Kenny BRACK was particularly significant as revealed during the viewing of the video cassettes presented by the team and the driver, and by the Chief Steward of the Meeting;

WHEREAS on the approach to the bend in question, the driver Kenny BRACK. without any valid reason, drove close to the driver Jurg MULLER to prevent him from following his best path to negotiate the bend;

WHEREAS during the hearing, Mr. David SEARS recognized that his driver, Kenny BRACK, had "leaned" on Jurg MULLER by showing his intention to continue on the straight line and to overtake him, and added on this point that he did not believe Kenny BRACK had moved over by more than half the trackwidth;

WHEREAS the driver Kenny BRACK, recognizing that this manoeuvre constituted a sudden change in his vehicle's path which forced driver Jurg MULLER to the left, maintained that there was no contact with the wheels of his opponent's car, and that this move was because Kenny BRACK's own wheels were already turned;

WHEREAS the Chief Steward maintains that Kenny BRACK's disruptive manoeuvre did not take place once but three times, and that Kenny BRACK attempted to get Jurg MULLER to change his position and thus to make it difficult for the latter to negotiate the bend, while Jurg MULLER did everything to avoid contact but, on the third attempt, was obliged to drive onto the grass verge, which caused his loss of vehicle control and the accident;

WHEREAS in these circumstances, there was indisputably a race incident and, pursuant to Article 88, at least one driver involved in this incident which led to an accident, thereby warranting display of the Black Flag, which was not respected by the driver Kenny BRACK;

WHEREAS irrespective of the explanations provided by these involved, the Stewards of the Meeting are the only ones who may decide whether or not the Black Flag should be displayed as they are particularly competent to judge racing incidents, and whatever their decision, it must be complied with;

WHEREAS in this case, not only was it not complied with, but the driver, in pleading his case, admitted that he was not aware the display of the Black Flag constituted an unequivocal signal to stop;

WHEREAS in these circumstances, the decision of exclusion which was taken after hearing the driver is particularly justified, because not only did the driver fail to stop his car, but the driver continued the race in spite of the Black Flag, thereby very seriously violating the Sporting Regulations of the F3000 International Championship and the International Sporting Code itself;

WHEREAS in decision N°2, the Stewards of the Meeting did not use the word "exclusion", although it is the effect of the phrase "Considering the non respect after this warning (Black Flag shown several times), the Stewards of the Meeting decided to cancel the times of Car N°1 from the television monitors and at timekeeping and not to show him the Chequered Flag as he was into first position";

WHEREAS it is up to the International Court of Appeal to reconsider the decision on this point, which is in fact an exclusion since cancelling the times of Car N°1 from the television monitors and at timekeeping along with the decision not to show the Chequered Flag are a clear indication that the Stewards of the Meeting had decided on exclusion after viewing the video, hearing the competitor and the driver in the presence of their lawyer, Mr. Kuviste, and that therefore a decision to exclude had been taken despite the inappropriate wording used;

WHEREAS this decision was fully understood since, immediately after it was made known and within the deadlines imposed, the competitor not only revealed his intention to appeal, but also deposited two cheques for the appeal fee to the order of the FIA, as required by the Sporting Code;

Regarding the fine

WHEREAS due to the seriousness of the drivers offence, a fine was imposed;

WHEREAS this fine seems nevertheless somewhat disproportionate in the light of the severity of the first penalty of exclusion, which deprived the driver not only of his possible victory in the event but also the possibility of winning the Championship;

WHEREAS consequently the decision taken on this point should be overruled, and the fine reduced to \$ 20,000;

ON THESE GROUNDS,

AS TO THE FORM,

DECLARES the appeal **ADMISSIBLE,**

AS TO THE FACTS,

CONFIRMS the decision of the Panel of the Steward s of the Meeting taken on 12 October 1996 wherein the exclusion of the driver was decided,

OVERRULES the remainder of the decision by reducing the fine of \$ 50,000 to \$ 20,000,

ORDERS and **JUDGES** that the Appellant shall pay all costs.

Paris. 7 November 1996

The PRESIDENT