

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

CASE:

Appeal lodged by
the Croatian Auto & Karting Federation
on behalf of its licence-holder, Ivan POKOS

against the decision taken
by the Croatian National Court of Appeal

on 25 August 1999

Event : Petrol Prize Opel 99 run on 25 July 1999 in Croatia

Hearing of Monday, 20 December 1999 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr. Vassilis KOUSSIS (Greece), elected President, Mr. Pedro ROMERO (Spain), Mr. Reginald REDMOND (Ireland), and Mr. José MACEDO e CUNHA (Portugal);

Sitting in Paris on Monday, 20 December 1999, at the Headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008, PARIS;

Ruling on the appeal lodged by the CAKF on behalf of its licence holder Ivan POKOS, against the decision on the Croatian National Court of Appeal handed down on 25 August 1999 - Event : Petrol Prize Opel 99 run on 25 July 1999 in Croatia;

WHEREAS the appeal lodged by the Croatian Auto & Karting Federation on behalf of its licence holder Ivan PEKOS was supported by Messrs Damir HORVAT, Deputy President of the Croatian Federation, Boris GORUP, President of the Technical Commission, Zrinko GREGUREK, Secretary-General, Zarko SIMUNIC, Club Representative, Zeljko SANGARELO, Team Representative, assisted by Mr Francesco FAZZALARI, Lawyer with the Rome Bar, and Mr Goran MARCAN, Lawyer with the Rijeka Bar ;

Having recognised that the procedure was in order, but that it was up to the International Court of Appeal to rule on the admissibility of the appeal lodged, in accordance with the provisions of Article 180 first paragraph, Article 184 second paragraph, and Article 185 b of the International Sporting Code, that the rights of the parties had been properly examined both prior to the hearing and during the hearing itself, that the appellant had supplied all detailed explanations so wished and all answers when requested with the aid of simultaneous interpretation which was deemed acceptable by all parties involved,

WHEREAS the examination of the regularity of the appeal is firstly conditioned by Article 180 of the International Sporting Code which states that « *Each ASN through its national court of appeal, as defined in Article 187, constitutes for its own licence-holders the final court of judgement empowered to settle any dispute which may have arisen between its own licence-holders on its own territory in connection with national motor sport or with a particular competition* »;

WHEREAS this case concerns a Croatian national event, « Petrol Opel 99 », run on 25 July 1999 on Croatian territory with a Croatian driver, Ivan POKOS, and that the appeal thus lodged via the national ASN, the Croatian Federation, is inadmissible before the FIA International Court of Appeal;

WHEREAS it is useful also to point out that the appeal did not show a clear and significant intention, on the part of the Croatian Federation acting on behalf of the licence-holder, to lodge an appeal before the International Court of Appeal;

WHEREAS in this respect it in fact suffices to refer to the terms of the letter dated 8 September 1999 addressed by the Croatian Federation to the FIA in order to notice, particularly, that it was said that « ... *during this case which is not over yet if you decide to proceed with it...* » and further on, « ...*At the end, we are asking you kindly tell us if the International arbitration is necessary in this case. In case you think that FIA must arbitrate we will send you the complete material that was gathered in investigating procedure and pay the fee to the amount of 30,000 FF* »;

WHEREAS these declarations are irreconcilable with the expression of a clear and determined will to appeal by seeming to leave the decision in this respect up to the FIA;

WHEREAS moreover, according to Article 184, paragraph 2, « *All appeals brought by an ASN must be in writing, signed by a duly qualified representative of the ASN and accompanied by such fee as shall be decided annually by the FIA (30 000 FF for the current year)...* »;

WHEREAS in this case, the declaration made in the letter dated 8 September is contrary to the provisions of the International Sporting Code because no appeal fee accompanied the letter ;

WHEREAS the appeal is, for a second reason, inadmissible ;

WHEREAS finally, from the formal declarations made during the hearing, the decision of the National Court of Appeal of 25 August 1999 was communicated on 27 August 1999 ;

WHEREAS the deadline for lodging an appeal before the International Court of Appeal expired seven days later, in other words 2 September, and whereas the Croatian Federation's letter, mailed to the FIA on 8 September 1999 and wherein for the first time the conclusions of the appeal - which were claimed to have been made the 2 September - were announced, did not respect the deadline because the appeal had to be lodged initially before the 7-day period had expired, that is, seven days after the date of the communication of the decision ;

WHEREAS under these circumstances, despite the strong desire expressed by the Croatian Federation to rule on the substance of the case, the provisions of the International Sporting Code only allow to note the absolute inadmissibility of the appeal lodged;

ON THESE GROUNDS,

STATES AND RULES the appeal lodged by the Croatian Federation on behalf of its licence-holder, Ivan PEKOS, inadmissible;

DECLARES that all costs shall be borne by the appellant.

Paris, 20 December 1999

(signature)

The President