

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

of the

**FEDERATION INTERNATIONALE DE L'AUTOMOBILE
(FIA)**

CASE:

**Appeal lodged by the Fédération Française du Sport Automobile
on behalf of its licence-holder, Eddy BENEZET,
following the expertise ordered by the International Court of Appeal
in its decision of 11 December 2000 wherein it quashed
the decisions taken on 23 October 2000 by the National Court of Appeal
of the country hosting the
Rallycross event run at Buxtehude (Germany)
on 1st October 2000 counting in the
FIA European Championship for Rallycross Drivers 2000,
Division 2**

Hearing of Monday, 19 February 2001 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr Jan van ROSMALEN (Netherlands), elected President, Mr Vassilis KOUSSIS (Greece), Mr Reginald REDMOND (Ireland), and Mr José MACEDO e CUNHA (Portugal),

Meeting in Paris on Monday, 19 February 2001 at the headquarters of the Fédération Internationale de l'Automobile (FIA-France), 8 place de la Concorde, 75008 Paris,

Having heard:

- the appellant, represented by Mr Nicolas DESCHAUX, Head of the Legal Department of the Fédération Française du Sport Automobile (FFSA), on behalf of Eddy BENEZET, competitor also present at the hearing, assisted by Mr Alexandre de GOÜYON MATIGNON, lawyer with the Paris Bar;
- the respondent, the Svenska Bilsportförbundet (SBF), represented by Mr Lars EDVALL, SBF Secretary-General, representing Mr Magnus HANSEN, as well as Mr Magnus HANSEN himself;
- as knowledgeable parties, Mr Serge MEYER, Head of the Engine Department at S.N.B.E. (Snobeck);
- for the FIA, Mr Jacques BERGER, Head of the Technical Department;

Having acknowledged that the procedure was in order and the appeal admissible, 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 respondent and the knowledgeable parties having provided all the detailed explanations and answers requested during the hearing with the help of a simultaneous translation system which was recognised as satisfactory by the parties;

WHEREAS in its decision taken on 11 December 2000, the International Court of Appeal, after quashing the decisions of the National Court of Appeal of the country hosting the event (Germany) of 23 October 2000, declared admissible the appeal concerning the technical irregularities referred to by the competitor BENEZET, and on the substance, postponed its ruling, naming Mr Mike HARRIS as expert and entrusting him with the following mission:

1. to examine if the valve springs of Citroën Xsara VTS 16 V vehicle n°101 belonging to the competitor Citroën Dealers Sweden and driven by Magnus HANSEN did or did not comply with the prescriptions in effect for the FIA European Championship for Rallycross Drivers 2000, Division 2;

2. to examine if the pistons on the engine of the same car did or did not comply using those same standards, as well as to examine how they compared with the original parts, and to measure them;

WHEREAS the expert, Mr Mike HARRIS, carried out his mission on 20 December 2000, in the presence of Mr Cronge NORSTEDT, the FIA's representative, as well as representatives of the parties;

WHEREAS this report was sent to the parties in question, and following the scrutineering of the valve springs and pistons on the engine in question - Citroën Xsara VTS 16 V of vehicle n°101 in the Rallycross Division 2 – the expert Mike HARRIS declared: *“the pistons from the vehicle had been clearly modified, which is in breach of Article 4 of Art. 254 of Appendix J 2000 (Group N Regulations) and also Article 2 of Art. 279 regarding Division 2 Rallycross cars”*;

WHEREAS under these circumstances, the case returned before the International Court of Appeal at today's hearing, when the Swedish Federation acknowledged that the engine was not in conformity, just as Mr HANSEN had himself recognised in the memorandum submitted to the Court by the Federation;

WHEREAS the Fédération Française du Sport Automobile requested that the International Court of Appeal take the decision required of the situation, i.e. the exclusion from the event of the litigious car, the competitor and the driver;

WHEREAS in its memorandum, the Swedish Federation requested only that Mr HANSEN not be sanctioned other than with exclusion from the event in question;

WHEREAS the appellant wishes to point out in this respect that Mr HANSEN could not have been unaware the engine used was not in conformity;

WHEREAS it must be noted on this point that the driver HANSEN had declared before this very International Court of Appeal, at its hearing of 11 December 2000, that Citroën had provided him with a new engine for this race as the previous one was tired from all the events run during the year; while at Buxtehude (Germany) it was necessary to achieve the best performance possible, as this event would decide the winner of the title of European Rallycross Champion;

WHEREAS during this same hearing, the driver HANSEN affirmed it was “*a new engine direct from Citroën which had been mounted*”;

WHEREAS the Swedish Federation had submitted to the Court, in support of its memorandum, a fax sent by the engine tuner, Snobeck, directly to Mr HANSEN dated 23 January 2001 and signed by Mr MEYER, Head of Snobeck’s Engine Department;

WHEREAS this fax referred to an engine which was evidently not in conformity with regard to the pistons;

WHEREAS during the present hearing, Mr MEYER, representing Snobeck, declared that: “*the engine should not have been mounted. Mr HANSEN asked me to provide him with a new engine. I therefore provided a new engine which was old and which I had used as a prototype. This engine was not in conformity, as there were differences which should not have existed....this engine had been used for two years in practice sessions, and I did not have any other engine to give to Mr HANSEN*”;

WHEREAS the International Court of Appeal noted the discrepancy between a first declaration, made by Mr HANSEN, where he affirmed the engine used had come directly from Citroën, and a second declaration made by the engine tuner from Snobeck; and in any case, the driver could have asked himself whether the engine provided under such conditions was or was not in conformity with the regulations;

On the requests made during the hearing by the Fédération Française du Sport Automobile on behalf of the competitor BENEZET

WHEREAS these requests, other than the request for exclusion from the event of the car, the competitor and the driver HANSEN, included the following:

1. the reimbursement of the deposit fees;
2. that all costs of the hearings be paid by the respondent;
3. that the fees and costs incurred by the competitor BENEZET be paid by the respondent;
4. that Mr BENEZET be awarded 50,000 FF in damages;

As in addition, the appellant requested the publication in the FIA Bulletin of the decision regarding this case;

WHEREAS these requests were verbally announced without any written conclusions which would have been necessary following the expert's report in order to properly inform the adverse party so that it could reply, the due hearing of all parties thus being respected;

WHEREAS the International Court of Appeal under such circumstances, and in accordance with Article 190 of the International Sporting Code which excludes the reimbursement of expenses or defence fees incurred by the parties, must reject the appellant's requests with the exception of the reimbursement of deposit fees and court costs (first instance and appellate);

WHEREAS concerning the request for the publication of the decision in the FIA Bulletin, it is not up to the International Court of Appeal but up to the FIA to decide, in accordance with Article 191 of the International Sporting Code;

ON THESE GROUNDS,

DECLARES admissible and founded the appeal lodged by the Fédération Française du Sport Automobile on behalf of its competitor BENEZET;

STATES and JUDGES, upon seeing the expert's report, that the car was not in conformity;

EXCLUDES the Citroën Xsara VTS 16 V vehicle n°101 belonging to the competitor Citroën Dealers Sweden, the competitor and the driver, Mr Magnus HANSEN, from the classification of the Rallycross event run at Buxtehude (Germany) on 1st October 2000 and counting in the FIA European Championship for Rallycross Drivers 2000, Division 2;

LEAVES it to the National Sporting Authority (ASN) of the event and to the FIA to re-establish the classification taking into account the present decision;

STATES and JUDGES that the respondent must pay the entire costs as set out in Article 190 of the International Sporting Code, including the costs paid by the deposit fees.

Paris, 19 February 2001

(signature of J.W.G. van ROSMALEN)

THE PRESIDENT