

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

of the

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

CASE:

Appeal lodged by

**The Royal Automobile Club Motor Sports Association
on behalf of its licence-holder, British American Racing GP Limited,
against the decision of the**

**Panel of the Stewards of the Meeting of 13 May 2001
Document N°44, during the Formula One Grand Prix
run on 13 May 2001 in Spielberg (Austria)**

Hearing of Friday, 1st June 2001 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr Hervé de LIEDEKERKE (Belgium), elected President, Mr Xavier CONESA YBRAN (Spain), Mr Vassilis KOUSSIS (Greece), and Mr Reginald REDMOND (Ireland);

Meeting in Paris on Friday, 1st June 2001 at the headquarters of the Fédération Internationale de l'Automobile (FIA-France), 8 place de la Concorde, 75008 Paris,

Ruling on the appeal lodged by the Royal Automobile Club Motor Sports Association (MSA) on behalf of its licence-holder, British American Racing GP Limited, against the decision of the Panel of the Stewards of the Meeting of 13 May 2001 during the Formula One Grand Prix run on 13 May 2001 in Spielberg (Austria).

After hearing:

For the appellants,

Mr Terry LANKSHEAR, Secretary General of the Royal Automobile Club Motor Sports Association, Mr Craig POLLOCK, Team Principal of BAR Honda, assisted by Mr Nigel RIVERS, Company Solicitor and Secretary (BAR), Dr Mark WILLIAMS, Systems Integration Engineer (BAR), Mr James ROBINSON, Chief Race Engineer (BAR), Dr Charles ASKEW, Trackside IT Manager (BAR), and Dr Tim CLARKE, Electronic and Information Engineering Department City University London (BAR),

For the respondents,

Mr Daniel FAUSEL, Head of the Sport Department of the Automobile Club of Switzerland, Mr Peter SAUBER, Team Principal (Sauber), assisted by Mr Henry PETER, Lawyer, Messrs Kimi RÄIKKÖNEN, Sauber driver, Willy KAMPF, Technical Director (Sauber), Beat ZEHNDER, Team Manager (Sauber), and Mrs Monisha KALTENBORN, Head of Legal Department (Sauber),

For the FIA,

Mr Pierre de CONINCK (Secretary General of the Sport Department) assisted by Mr Charlie WHITING (Austrian Grand Prix of F1 Race Director),

In the presence of Mr Roberto CAUSO, Lawyer with the Rome Bar, representing the Automobile Club of Italy/Commissione Sportiva Automobilistica Italiana on behalf of its licence-holders Ferrari and Minardi,

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 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;

After viewing the respective video footage submitted during the proceedings;

WHEREAS before any discussion regarding the case before the International Court of Appeal, the Court must take a decision on the intervention of the ACI/CSAI on behalf of the competitors Ferrari and Minardi, to state and judge that, for lack of justification of direct and significant interest regarding the possible consequences of the decision to be taken, this intervention is not admissible;

WHEREAS concerning the dispute dividing the parties, the appeal introduced by the MSA must be considered admissible because of Article 149-e which stipulates that “... *The stewards may use any video or electronic systems to assist them in reaching a decision. The stewards may overrule judges of fact.....*”;

WHEREAS under the circumstances, the Panel of the Stewards of the Meeting had the possibility of ruling against the judges of fact on condition that the evidence available to the Panel was absolutely reliable in comparison to the evidence the judges of fact had at the time of the action;

WHEREAS the International Court of Appeal, after hearing the respective explanations of the parties to determine whether or not car N° 17 Räikkönen/Sauber had overtaken car N° 23 Burti/Prost on the part of the circuit limited by a waving yellow flag and by a green flag, and after examining the various videos produced by the parties, must decide the question of whether or not, with the help of aids now available, there actually was

breach of Article 4.1.2.b of Annex H of the International Sporting Code, which, for a waving yellow flag, calls for the following: “ *Reduce your speed. Do not overtake, and be prepared to change direction or stop. There is a hazard wholly or partly blocking the track..... Overtaking is not permitted between the first yellow flag and the green flag displayed after the incident.....* ”;

WHEREAS, concerning the flag marshals who in this case are judges of fact, “ *In a competition where a decision has to be given whether or not a competitor has touched or crossed a given line, or upon any other fact of the same type which has been laid down in the Supplementary Regulations for the competition, one or several judges of fact shall be nominated to be responsible for one or several of these decisions* ” (ISC – 149-c) it being understood, as stated in Article 149-f of the International Sporting Code, that “*...The decisions of these judges are final...*”, and as stated in Article 176, that “ *Protests against decisions made by ... judges of fact in the exercise of their duties, as laid down in Article 149, will not be admitted* ”;

WHEREAS, subject to Article 149-e cited above, the International Court of Appeal is thus confronted by the definitive nature of the decisions made by the judges of fact, whether these decisions be positive or negative, in other words implicit, because of the term “*whether or not*” employed in Article 149-c of the International Sporting Code;

WHEREAS BAR Honda thus had the possibility of protesting this implicit, negative decision;

WHEREAS concerning the definitive nature of the decisions of the judges of fact, the Panel of the Stewards of the Meeting had the possibility, in view of the most serious of circumstances, to invoke Article 149-e which, with the use of any video or electronic systems, would allow the decision of the Stewards of the Meeting to prevail over that of the judges of fact;

WHEREAS consequently the problem is to determine if the decisions of the judges of fact may be jeopardised by the sure and irrefutable evidence submitted, in particular in the different videos;

WHEREAS in this case the International Court of Appeal examined with the utmost care the four videos submitted, those being: the official video, and three other videos submitted by the parties, after which it was seen that car N°17 Räikkönen/Sauber approached car N°23 Burti/Prost, the latter which had considerably slowed down and was two laps behind as revealed by the lap time sheets, arrived alongside Burti before being in an overtaking position;

WHEREAS for its part, the International Court of Appeal, even with the means it has at its disposal, cannot find absolute proof of full overtaking at the level of the green flag which alone could jeopardise the decision of the flag marshals;

WHEREAS under these circumstances the decision of the first judges cannot be overturned;

WHEREAS moreover, even if Räikkönen had overtaken Burti in the forbidden area, this overtaking would not have ipso facto allowed for the addition of 25 seconds time (in the last five laps) which would have enabled Panis's BAR to move up one place by virtue of Articles 53 and 55 of the Formula One Sporting Regulations, with the scale in Article 153 of the International Sporting Code providing for other ways to apply a sanction;

WHEREAS under these circumstances, whatever the way Räikkönen drove his car in the area under examination, - which could be liable to sanction from the sporting authority - there is no sure and irrefutable proof, in the case referred to the International Court of Appeal, of breach of Article 4.1.2.b of Annex H of the International Sporting Code;

WHEREAS it consequently is necessary, subject to the reservation above, to confirm the decision taken by the Panel of the Stewards of the Meeting;

ON THESE GROUNDS,

DECLARES AND RULES inadmissible, due to lack of interest, the intervention of Mr Roberto CAUSO, representing the ACI/CSAI on behalf of the competitors Ferrari and Minardi;

DECLARES AND RULES admissible the appeal lodged by the Royal Automobile Club Motor Sports Association (MSA) on behalf of its licence-holder, British American Racing GP Limited, against the decision taken by the Panel of the Stewards of the Meeting (document N°44) at their meeting on 13 May 2001 during the Formula One Grand Prix run on 13 May 2001 in Spielberg (Austria);

CONFIRMS the said decision of the Panel of the Stewards of the Meeting, the appeal being non-founded;

LEAVES the costs to be borne by the appellant.

Paris, 1st June 2001

(signature of Hervé de LIEDEKERKE)

The PRESIDENT