

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

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Appeal lodged by the Automobile Club d'Italia/Commissione Sportiva
Automobilistica Italiana (ACI/CSAI)
on behalf of its licence-holder, BMS Scuderia Italia,
against decision N° 22 taken by the Panel of the Stewards of the Meeting,
on 11 May 2003**

**Event run on 11 May 2003 at Enna Pergusa (Italy) and counting in the 2003 FIA GT
Championship**

Hearing of Wednesday, 21 May 2003 in Paris

The FIA INTERNATIONAL COURT of APPEAL, comprising Mr Reginald REDMOND (Ireland), elected President, Mr Erich SEDELMAYER (Austria), Mr Carl Christian HANSEN (Denmark, representing Scandinavia) and Mr Harry DUIJM (Netherlands),

Meeting in Paris, on Wednesday, 21 May 2003, at the headquarters of the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris,

Ruling on the appeal lodged by the Automobile Club d'Italia/Commissione Sportiva Automobilistica Italiana (ACI/CSAI) on behalf of its licence-holder, BMS Scuderia Italia, against decision N° 22 taken by the Panel of the Stewards of the Meeting on 11 May 2003 at the event run on 11 May 2003 at Enna Pergusa (Italy) and counting in the 2003 FIA GT Championship,

After hearing:

For the appellant,

Mr Salvatore ALEFFI, Lawyer with the Bar in Rome, representing the ACI/CSAI, Mr Augusto MENSI, Legal Representative of BMS Scuderia Italia, assisted by Mr Roberto CAUSO, Lawyer with the Bar in Rome,

For the FIA,

Mr Pierre de CONINCK, Secretary General of the Sport Division, and Mr Sébastien BERNARD, Head of the Legal Department of the same division,

And as knowledgeable parties,

Mr Jean VINATIER, FIA Technical Delegate, and Mr Marco GADOLA, Head of the Technical Department at BMS Scuderia Italia.

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 and the knowledgeable persons 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 following the decision taken by the Panel of the Stewards of the Meeting of the event run at Enna Pergusa (Italy) on 11 May 2003, car N° 22 of the competitor BMS Scuderia Italia, driven by the Cappellari/Gollin team was excluded from the event by virtue of Article 258.5.3.2 of the Technical Regulations for Grand Touring Cars,

Appendix J, which specifies that: “ *All the air feeding the engine must pass through these restrictors, which must be made of metal or metal alloy.* ”, as the air box had not met the required conditions when scrutineered after the event, which was won by the team driving car N° 22,

WHEREAS the appellant essentially maintains that it was the vibrations felt by the car on the circuit at Enna Pergusa during the event which in all likelihood caused the cracks which were noted by Mr VINATIER, FIA Technical Delegate, during the technical check, and that in addition, it was the repetition of tests, totalling 6, which could have caused the cracks,

WHEREAS Article 5 of the Sporting Regulations for Grand Touring Cars stipulates that: “ *Competitors must ensure that their cars comply with the conditions of eligibility and safety throughout practice and the race.*” and Article 258.2.6 of the Technical Regulations for Grand Touring Cars specifies that: “ *Compliance with the regulations - It is the duty of each competitor to satisfy the Scrutineers and the Stewards of the Meeting that his car complies with these regulations in their entirety at all times during an event.*”,

WHEREAS the competitor did not provide the proof required of him by the Regulations in the presence of the Technical Delegate's observations at the very end of the race, and that the air box was also, after due hearing of the parties, examined by the Court during the present hearing and was found in effect to have cracks as were noted in the Technical Delegate's report,

WHEREAS Article 16-b of the International Sporting Code clearly specifies that the event “ *... shall end upon the expiry of one or other of the following time limits, whichever is the later:*

- *time limit for protests or appeals or the end of any hearings;*
- *end of administrative checking and post-event scrutineering carried out in accordance with the present Code.*”

WHEREAS consequently, whatever the cause, the cracks were observed before the end of the event,

WHEREAS, under these conditions, the International Court of Appeal must note that no sure and absolute proof was provided and that consequently it is necessary, regardless of their severity, to implement the existing regulations and to confirm the decision of the Panel of the Stewards of the Meeting; even if it appears that the competitor acted in good faith, this does not mean one can concede there were extenuating circumstances because of the necessity of ensuring the respect of regulations which prove indispensable to

maintain the equality of chances between the competitors,

WHEREAS, under these conditions, it is necessary to confirm decision N° 22 taken by the Panel of the Stewards of the Meeting on 11 May 2003 during the event run at Enna Pergusa (Italy) on 11 May 2003 and counting in the 2003 FIA GT Championship,

ON THESE GROUNDS,

STATES and RULES admissible in form the appeal lodged by the Automobile Club d'Italia/Commissione Sportiva Automobilistica Italiana (ACI/CSAI) on behalf of its licence-holder, BMS Scuderia Italia, against decision N° 22 taken by the Panel of the Stewards of the Meeting on 11 May 2003 during the event run on 11 May 2003 at Enna Pergusa (Italy) and counting in the 2003 FIA GT Championship, wherein car N° 22 was excluded,

ON THE SUBSTANCE,

CONFIRMS the decision of exclusion from the race on the above-mentioned grounds,

LEAVES it to the sporting authority to draw the conclusions from the present decision,

LEAVES the costs to be borne by the appellant.

Paris, 21 May 2003

The PRESIDENT