

INTERNATIONAL COURT OF APPEAL (I.C.A)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE:

**Appeal brought by the Royal Automobile Club de Belgique (RACB) on behalf
of its licence holder PK Racing, against decision N° 7 taken by the Panel of
Stewards of the Meeting on 8 July 2007
Event run at Oschersleben (D) on 8 July 2007
and counting towards the 2007 FIA GT Championship**

Hearing of Tuesday 24 July 2007 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Me Xavier CONESA (Spain), elected President, Mr Reginald REDMOND (Ireland) and Me Jan STOVICEK (Czech Republic);

Meeting in Paris on Tuesday 24 July 2007 at the headquarters of the FIA – 8, place de la Concorde – 75008 Paris;

Ruling on the appeal brought by the Royal Automobile Club de Belgique (RACB) on behalf of its licence-holder PK Racing against decision N° 7 taken by the Panel of Stewards of the Meeting on 8 July 2007 – Event run at Oschersleben (Germany) on 8 July 2007 and counting towards the 2007 FIA GT Championship;

Having heard:

For the appellant, Mr Geoffroy THEUNIS, Secretary General of the RACB, Mr Christian BOUMON, Barrister at the Bar of Brussels, assisting the competitor PK Racing, represented at the hearing by its Team Manager, Mr Jorge SEGERS;

For the FIA, Mr Pierre de CONINCK, Secretary General of the FIA (Sport), assisted by Mr Sébastien BERNARD, Head of Legal Affairs;

Having acknowledged that the adversarial procedure was in order, the rights of each of the parties having been duly examined, both in the proceedings which preceded the hearing and during the hearing itself, the parties having been duly heard and having provided all the detailed explanations requested from them during the hearing and having received answer, with the help of a simultaneous translation system which was recognised as satisfactory by all those present;

WHEREAS the appellant first contests the decision of the Panel of Stewards of the Meeting to refuse to register his intention to appeal, although this was formulated to the Panel of Stewards within the time limit, on the pretext that the mandatory appeal deposit had not been handed to the said Stewards, who had noted on their minutes dated 8 July 2007, 2144 hrs, i.e. 1 hour and 11 minutes after the notification to the competitor, the phrase “final and executive decision”, signed by the Panel of Stewards of the Meeting;

WHEREAS it is the duty of the International Court of Appeal to observe that the Panel of Stewards of the Meeting in no circumstances has the ability or the right to substitute for the International Court of Appeal, which is in this respect the only competent judge to give a ruling on the admissibility or inadmissibility of an appeal;

WHEREAS the argument put forward by the Panel of Stewards of the Meeting, namely that the deposit should have been paid at the time of notification of the intention to appeal, proves to be without foundation, and one has merely to reread Article 15 of the Rules of the International Court of Appeal to note that while the deposit becomes payable on notification of the appeal, nonetheless it is required to be paid within a time limit of 48 hours counting from the notification of the intention to appeal in order for the appeal to be brought before the International Court of Appeal;

WHEREAS as a result of the combination of these two requirements of the same Article 15, the expression payable does not suffice on its own, because the deposit can be demanded only on notification not of the intention to appeal but of the appeal itself, which is indeed what happened;

WHEREAS under these circumstances, the decision taken on this point by the Panel of Stewards proves to be as unlawful as it is unfounded;

WHEREAS concerning the substance of the dispute, it was argued by the competitor and his Counsel that the maximum quantity of fuel that may be carried on board a vehicle, in conformity with Article 258.6.5.1 of Appendix J to the International Sporting Code, was to be measured at a temperature which he estimated to be 34°, a temperature which he had taken unilaterally by means of a digital thermometer;

WHEREAS this information proves to be in contradiction to the report by the Scrutineers, who took the sample at 1900 hrs, i.e. nearly 4 hours after the end of the race, at an ambient temperature of 17 to 20° according to their own observations;

WHEREAS the question of the conformity of the measurement – which, furthermore, is not defined in any text, and neither is the temperature at which the sample should be taken – does not allow the appellant to cite any additional measurement that he may have taken unilaterally, and this in the absence of any text governing the problem of measurement;

WHEREAS it suffices to note that the technical report sent to the Stewards at 2040 hrs, admittedly after the decision had been taken and notified to the competitor at 2033 hrs, could be criticised inasmuch as the decision was taken at 2005 hrs and notified to the competitor at 2033 hrs; however, these circumstances were shown to have no bearing on the case, as the Technical Delegates had reported their findings to the Panel of Stewards of the Meeting in the actual presence of the competitor, a fact which the latter acknowledged during the hearing of the International Court of Appeal;

WHEREAS this report stated that the quantity of fuel that could be put into the car was 101.260 litres, besides what was not stated, namely the volume of fuel contained in the fuel lines;

WHEREAS in reference to the said text of Article 258.6.5.1 applying to the GT1 Group, the quantity of fuel that this vehicle was able to carry was greater than 100 litres, and this fact alone is sufficient to constitute the infringement;

WHEREAS what is more, at the hearing, the competitor recognised that he had filled up the fuel tank at the start of the event, and the car was thus carrying more than 100 litres of fuel when it took the start;

WHEREAS under these circumstances it remains to confirm the decision taken by the Panel of Stewards of the Meeting concerning the problem of the quantity of fuel, no matter how harsh the decision, since the restrictions provided for in the International Sporting Code and its Appendices must be strictly complied with in order to respect the equality of chance between competitors;

ON THESE GROUNDS;

INVALIDATES the decision taken by the Panel of Stewards of the Meeting in that it refused to accept the intention to appeal formulated by the competitor;

DECLARES that the competitor did so within the time limit while having been confronted with a written refusal from the Stewards;

DECLARES AND JUDGES the appeal therefore admissible, as brought within the time limits, concerning both the intention to appeal and the appeal itself;

AS TO THE SUBSTANCE,

CONFIRMS the decision taken in view of the particularly strict requirements of Article 258.6.5.1 of Appendix J to the International Sporting Code, which states that the maximum quantity of fuel that can be carried on board is 100 litres;

WHEREAS the competitor has not contested at the hearing that he has a fuel tank with a capacity of 101.260 litres as measured by the Technical Delegates, i.e. one that is able to contain a quantity of fuel greater than that authorised by the text;

LEAVES it to the sporting authority to draw the consequences of the present decision;

LEAVES it to the appellant to pay the costs, in accordance with Article 190 of the International Sporting Code and Article 24 of the Rules of the International Court of Appeal.

Paris, 24 July 2007

The PRESIDENT