



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

**Appeal brought by the Automobile Club d'Italia-Commissione Sportiva
Automobilistica Italiana ("ACI-CSAI")**

on behalf of its licence-holder Prema Powerteam Srl

against

**the decision No. 45 dated 30 May 2015 of the Stewards of the Monza
competition counting towards the 2015 FIA Formula 3 European
Championship by which the Driver Mr Lance Stroll was sanctioned as a result
of a collision that occurred during Race No. 2 of the Monza competition with
the obligation to start from the pit lane for the next race the Driver will
participate.**

Case ICA-2015-02

Hearing of 16 July 2015 in Paris

The FIA INTERNATIONAL COURT OF APPEAL (the “Court”), comprising Mr Rui Botica Santos (Portugal), who was designated President, Mr Jean Gay (Switzerland), Mr Michael Grech (Malta) and Mr Philippe Narmino (Monaco), met in Paris on Thursday, 16 July 2015 at the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris.

Ruling on the appeal brought by the Automobile Club d'Italia-Commissione Sportiva Automobilistica Italiana (“ACI-CSAI”) on behalf of its licence-holder Prema Powerteam Srl (the “Appellant”) against the decision No. 45 dated 30 May 2015 of the Stewards of the Monza competition counting towards the 2015 FIA Formula 3 European Championship by which the Driver Lance Stroll was sanctioned as a result of a collision that occurred during Race No. 2 of the Monza competition with the obligation to start from the pit lane for the next race the Driver will participate (the “Decision”).

The following persons attended the hearing:

On behalf of the Appellant:

Mr Jonathan Dudman (Managing Director)
Mr René Rosin (Team Manager)
Mr Massimiliano Maestretti (Lawyer)

On behalf of the ACI-CSAI:

Mr Vincenzo Capo (Lawyer)

On behalf of the FIA:

Mr Pierre Ketterer (FIA Head of Regulatory, Governance
& Legal Corporate Affairs)

Also attending the hearing:

Mr Jean-Christophe Breillat (Secretary General of the FIA
Courts)
Mr Nicolas Cottier (Clerk of the FIA Courts)
Mrs Sandrine Gomez (Administrator of the FIA Courts)

The parties filed their written submissions and, at the hearing of 16 July 2015, presented their oral arguments and answered the questions asked by the Court. The hearing took place in accordance with the adversarial principle, with the aid of simultaneous translation. No objection to the competence or the composition of the Court, to any element of the fairness of the proceedings or of the hearing and to any element of the simultaneous translation was raised by either party.

REMINDER OF THE FACTS

1. In the Decision, the Stewards of the Monza competition (the “Stewards”) found that Mr Lance Stroll, Driver of the car No. 25 of the Appellant (the “Driver”), caused a collision with the car No. 3 driven by Mr Antonio Giovinazzi.
2. As a consequence, the Stewards imposed on the Appellant a penalty consisting in *“starting from the pit lane for the next race the driver will participate”*.
3. The Decision was communicated to the Appellant at 23:45 on 30 May 2015 and the latter declared its intention to lodge an appeal at 00:21 on 31 May 2015, namely within the prescribed deadline set under Article 12.3 (i) lit. a) of the FIA Judicial and Disciplinary Rules (the “JDR”).
4. As a consequence, the Decision was suspended according to Article 12.2.3.b of the International Sporting Code (the “Code”) and the Driver took part in Race No. 3 of the Monza competition and started from the grid and not from the pit lane; in this race he was classified in 9th place, subject to the outcome of the appeal he intended to file before the ICA.

PROCEDURE AND FORMS OF DECISIONS REQUESTED BY THE PARTIES

5. On 1 June 2015, the ACI-CSAI sent an email to the General Secretary of the FIA Courts to which was attached a letter in order to lodge an appeal on behalf of its licence-holder, and the Appellant paid the appeal deposit the same day.
6. In its email to the General Secretary of the FIA Courts, attached to which was the formal letter of notification, the ACI-CSAI stated that the reasons for the appeal would be communicated by 3 June 2015, namely within the time limit set under Article 12.3 (i) lit. a) of the JDR. The Secretary General of the FIA Courts replied the same day to the ACI-CSAI, acknowledged safe receipt of these materials and confirmed that he had taken note that additional information would be sent by the ACI-CSAI within the above deadline.
7. On 3 June 2015, the Appellant informed the FIA Secretary General for Motor Sport, Mr Jean-Louis Valentin, in a formal letter attached to an email, of its decision not to lodge an appeal before the ICA. The Appellant explained in particular that the decision to notify the Stewards of the Appellant’s intention to appeal had been taken in the context of the incident involving its Driver, Mr Lance Stroll, which was allegedly extremely dangerous and had put his life at

risk. According to the Appellant, after it had reviewed all the relevant elements of the case, it decided not to pursue the appeal.

8. On the same day the ACI-CSAI informed the Secretary General of the FIA Courts of the decision taken by the Appellant not to pursue the appeal and, upon request of the Secretary General of the FIA Courts, confirmed this in a formal letter dated 4 June 2015 under the subject matter “*Request for withdrawal*”.
9. On 5 June 2015, the Secretary General of the FIA Courts informed all competitors in the 2015 FIA Formula 3 European Championship about the notification of the appeal by the Appellant and of its request for withdrawal. Any interested third party was invited to notify the ICA of its intention to be heard in the same appeal, by 11 June 2015. Within the said deadline, no third party made such a request to the Court to be heard as a third party.
10. Acting through its lawyer, the Appellant sent a letter to the Secretary General of the FIA Courts, attached to an email dated 5 June 2015, explaining that the appeal was formally lodged by the ACI-CSAI due to a misunderstanding and that it had not been the Appellant’s will to appeal to the ICA.
11. On 10 June 2015, the FIA, acting through its Secretary General for Motor Sport, Mr Jean-Louis Valentin, took note of the appeal filed by the ACI-CSAI and its subsequent request for withdrawal. Arguing that the Appellant had unduly taken advantage of the suspensive effect resulting from the appeal lodged against the Decision, the FIA asked the ICA to pronounce the exclusion of the Appellant’s Driver, Mr Lance Stroll, from Race No. 3 of the Monza competition, which was the next race after the incident that led to the sanction.
12. Upon request of the ICA, the Appellant filed, on 29 June 2015, its written comments on the FIA observations made on 10 June 2015.
13. At this stage, the Court notes that both the Appellant and the FIA confirmed that the facts at the basis of the Decision and the facts related to the proceedings were undisputed.

ADMISSIBILITY OF THE APPEAL

a) Submissions of the Parties

14. The Appellant argues that it had not taken the decision to have the appeal formally notified to the ICA and that the formal notification made by the ACI-CSAI on 1 June 2015 was due to a misunderstanding between the Appellant and its ASN. Based on the above, the Appellant claims that the appeal was simply not filed since it had never instructed its ASN to do it.



15. The Appellant stresses further that the notification of appeal made by the ACI-CSAI does not, in particular, contain the “reasons for bringing the appeal” as requested under Article 12.1.1 JDR, which should lead to the inadmissibility of the appeal, as provided under Article 12.1.1 *in fine* JDR.
16. The FIA claims that misunderstandings between ASNs and Appellants are internal matters that cannot affect the validity of an appeal duly filed before the ICA.

b) Conclusions of the Court

17. The Court notes first that according to Article 12.1.1. JDR, the ACI-CSAI, in its capacity of ASN of the Appellant, was solely competent to notify the appeal on behalf of its licence holder and that it is not up to the Court to take into consideration internal misunderstandings that may take place between an Appellant and its ASN. The action taken by an ASN on behalf of its Appellant is binding on the Appellant and it is up to the Appellant and its ASN to draw “internally” the consequences, notably in terms of liability, of such misunderstandings, if deemed necessary.
18. The Court thus rejects this first submission made by the Appellant.
19. As regards the Appellant’s second submission on the inadmissibility of the appeal, the Court refers first to Article 12.1.1 JDR, which provides that:

“12.1.1 Notification of an appeal

The appeal must be notified to the GSC by the FIA, the ASN, the FIA member or the person who is the subject of a decision of the IT. The GSC will issue an “acknowledgement of receipt” which will indicate the time and date of receipt. For the purpose of any deadline, the time of receipt by the GSC, and not the time of sending, will be deemed conclusive. The notification of an appeal must include:

- a) the identity of the Appellant (competitor, driver, organiser, ASN, FIA member, person who has been the subject of a decision of the IT, etc.), a copy of the contested decision and the reasons for bringing the appeal,*
- b) any document proving that the appeal deposit has been paid to the ICA,*
- c) the signature of a duly qualified representative of the ASN or of the FIA member who is bringing the appeal on behalf of the Appellant, where applicable,*
- d) where the appeal is one against a decision of the Stewards, proof that the intention of appeal was given in writing to the Stewards within one hour of the publication of the decision.*

Any irregularity in the notification will result in the inadmissibility of the appeal.”

20. The Court then points out that the Appellant claims that the notification of the Appeal made by the ACI-CSAI notably does not meet one of the formal requirements provided under Article 12.1.1 JDR, namely “*the reasons for bringing the appeal.*”
21. Having carefully read through the appeal notification made by the ACI-CSAI on 1 June 2015, notably its appendices, together with the email exchanges between the ACI-CSAI and the General Secretary of the FIA Courts, the Court concludes that the reasons for bringing the appeal were indeed not mentioned in the notification of appeal filed by the ACI-CSAI, neither in the notification itself nor in the appendices. The ACI-CSAI even expressly mentioned to the General Secretary of the FIA Courts, that this mandatory part of the notification of the appeal would be provided within the time limit set under Article 12.3 (i) lit. a) JDR, which as a matter of fact never happened as the Appellant and its ASN decided not to pursue the appeal.
22. Based on the clear wording of Article 12.1.1 JDR and with reference to a recent decision of the ICA on a similar issue (Case ICA 2015-1, Sven Quandt/Nasser Al Attiyah) the Court finds that the appeal is inadmissible.

ON THE NECESSARY CONSEQUENCES OF THE FOREGOING

23. In view of the foregoing, it follows that there is no need to examine the merits of the case, namely the factual and legal arguments which support the Decision, which are, in any event, neither disputed by the Appellant nor by the FIA.
24. In view of the inadmissibility of the appeal there is also no need to decide on the Appellant’s request to withdraw the appeal.
25. The Court does, however, note that the notification of the intention to appeal, caused the suspension of the Decision which was applicable to Race No. 3, and as a consequence of the inadmissibility of the appeal the Decision ought to apply. These very particular circumstances of the case do, however, require that the Court specifically deals with two issues, which are a consequence of the appeal and which have nothing to do with the merits of the case.
26. These two issues can be summarised with the following questions:
 - (i) Was the appeal frivolous or not?



- (ii) What are the consequences of the inadmissibility of the appeal, considering the suspensive effect of the notification appeal expressed by the Appellant?

ON THE ISSUE OF THE FRIVOLOUS APPEAL

a) Submissions of the Parties

27. As to the issue of its appeal being frivolous or not, the Appellant submits that it declared its intention to appeal within the one hour deadline provided under Article 12.3 (i) lit. a JDR and paid the appeal deposit in good faith. It was only after quietly reviewing all the circumstances of the accident, which lead to the Decision, that it eventually decided not to pursue the appeal proceedings. It further claims that the terrible circumstances of the accident, in which its Driver was involved and the fact that the Decision was notified in the late evening justified its decision to declare its intention to appeal, in order to safeguard its immediate interests. The Appellant also states that the suspensive effect brought about by the appeal proceeding is provided directly by the Code and was not granted upon a specific request coming from his side.
28. As to the FIA, the latter admitted during the hearing that it did not consider that the circumstances of the present case could lead to the conclusion that the appeal was frivolous. The Court also acknowledges that no observations have been made by interested third parties.

b) Conclusions of the Court

29. According to Article 12.2 paragraph 2 JDR, “*If the ICA considers the appeal to be frivolous and decides to reject it, the Appellant may be required to pay a fine of a maximum of €150,000, in addition to losing its appeal deposit.*”
30. As mentioned above in the part regarding the admissibility of the appeal, the Appellant did not file an appeal satisfying the requirements of Article 12.1.1 JDR and moreover it also demanded to withdraw its appeal. These facts lead the Court to consider whether Article 12.2 paragraph 2 JDR should apply to the present case.
31. Based on the declarations made by the Appellant and the FIA and considering all the circumstances of this case, the Court finds that the Appellant acted in good faith and did not try to unduly benefit from the suspensive effect of the appeal. The Court believes the declaration of the Appellant, namely that it filed its

intention to appeal and paid the appeal deposit in order to safeguard its immediate interests and not to postpone the execution of the Decision.

32. The appeal cannot therefore be considered as frivolous.

ON THE CONSEQUENCES OF THE INADMISSIBILITY

b) Submissions of the Parties

33. The Appellant relies on Article 12.2.3.c of the Code and argues that in the present case:
- (i) the automatic suspensive effect of the appeal ceases with the declaration of inadmissibility of the appeal, which means that the Decision enters into force;
 - (ii) as a consequence, the procedure provided under 12.3.3.c of the Code applies and the Driver should be excluded from the classification of Race No. 3 of the Monza competition. According to the Appellant, it is indeed simply impossible to apply the penalty pronounced by the Stewards in their Decision, namely “*starting from the pit lane for the next race the driver will participate*” and this penalty should thus be converted into an exclusion in order to execute the Decision.
34. The FIA shares the Appellant’s opinion on the consequences of the inadmissibility of the appeal and argues further that the ICA may draw the consequences of the suspensive effect granted by the appeal proceeding and decide to convert the penalty provided under the Decision into an exclusion based on the principle of sporting fairness anchored in the FIA Statutes, under Article 1.1.1 of the Code and in the Preamble to Chapter 3 of the JDR.

b) Conclusions of the Court

35. Article 12.2.3.c of the Code provides:

“The suspensive effect resulting from the appeal does not allow the Competitor and the Driver to take part in the prize-giving or the podium ceremony, nor to appear in the official classification of the Competition, in any place other than that resulting from the application of the penalty. The rights of the Competitor and of the Driver will be re-established if they win their appeal before the appeal courts, unless this is not possible due to the passage of time.”



36. Considering the terms of this Article 12.2.3.c, the Court concludes firstly that it is impossible to determine in which place the Appellant and the Driver should appear in the official classification as a result of the application of the penalty provided in the Decision because of the nature of the penalty inflicted by the Stewards.
37. The penalty consists indeed in “*starting from the pit lane for the next race the driver will participate*” and not in a time penalty (Art. 12.3.1.g of the Code) or a drop of places (Art. 12.3.1.h of the Code), for instance, where it would be easier to re-establish the classification of Race No. 3 taking into consideration the outcome of the present proceedings.
38. On the other hand, the Court could leave it up to the competent sporting authorities to draw the consequences of the inadmissibility of the appeal and pass a decision on the final classification of Race No. 3 of the Monza competition.
39. And yet, both the Appellant and the FIA asked the Court to deal with this issue and moreover they even pronounced that they agreed that the Appellant and Driver should be excluded from Race No. 3. Moreover the third parties have not raised any observation or filed any request in relation to this case.
40. Based on its competences as provided in the JDR, notably in the Preamble of Chapter 3, the Court declares itself competent to resolve these issues, “*with the aim of enforcing the Statutes and Regulations of the FIA, including the International Sporting Code*” (Preamble to Chapter 3 of the JDR).
41. The Court also refers to the general principle of procedural economy and the need to take a utilitarian approach to its mission and finds, therefore, that under the particular circumstances of the present case it would be inappropriate not to solve the issue immediately.
42. The Court goes on to stress that according to Article 12.10 “*The ICA has all the decision-making powers of the authority that took the contested decision.*” which means that it can decide on any type of penalty provided by the Code, according to Article 12.2 (PENALTIES), 12.3 (SCALE OF PENALTIES) and, in particular Article 12.8 (EXCLUSION).
43. The Court stresses again that both the Appellant and the FIA agreed that the Appellant and its Driver should be excluded from Race No. 3 of the Monza competition.
44. Having reviewed all the particular circumstances of the present case, the Court thus comes to the conclusion that the penalty imposed in the Decision relates to Race No. 3 of the Monza competition. However, considering that the penalty cannot be applied effectively and, therefore, the place resulting from such penalty cannot be determined, an exclusion of the Appellant and the Driver from the

classification of that race can be applied in order to achieve the objective of “*sporting fairness*” as provided in the FIA Statutes, under Article 1.1.1 of the Code and in the Preamble to Chapter 3 of the JDR.

45. For the sake of completeness, the Court notes further that an exclusion can, of course, be decided after the competition, as provided for under Article 20 of the Code in the definition of the term “Exclusion”.
46. As a consequence, and based on all the above, the Court decides that the penalty imposed in the Decision shall be converted into an exclusion and applied to Race No. 3 of the Monza Competition.
47. The Court stresses that this decision is not based on the merits of the case and therefore does not consist in increasing the penalty imposed by the Stewards of the Monza Competition in their Decision. The Court’s decision consists in drawing the consequences of the inadmissibility of the appeal in relation with its suspensive effect and ensuring the proper enforcement of the Decision.
48. By doing so, the Court solves *hic et nunc* the issue of the execution of the penalty imposed by the Decision.

COSTS

49. Considering that the Appeal was declared inadmissible, the Court orders the Appellant to bear all the costs in accordance with Article 13.2 JDR.

ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Declares the appeal inadmissible and considers the request for withdrawal as no longer relevant;**
- 2. Decides to replace Decision No. 45 of the Stewards of the Monza Competition by the exclusion of the Driver Mr Lance Stroll and the car No. 25 of Prema Powerteam Srl from the official classification of Race No. 3 of the Monza competition;**
- 3. Orders the competent Sporting Authority to draw, as appropriate, the consequences of this ruling;**
- 4. Orders Prema Powerteam Srl to pay all the costs, in accordance with Article 13.2 of the Judicial and Disciplinary Rules of the FIA;**
- 5. Rejects all other and further conclusions.**

Paris, 16 July 2015

Rui Botica Santos, President