

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

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Appeal brought by the Automobile Club de Monaco (ACM)
on behalf of its licence-holder JMB Racing,
car N° 17, driver Karl Wendlinger,
against decision N.GT 16 taken by the Panel of Stewards of the Meeting
of the event run at Donington (Great Britain) on 27 June 2004
counting towards the 2004 FIA GT Championship**

Hearing of Tuesday 20 July 2004 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Reginald REDMOND (Ireland), elected President, Mr Xavier CONESA (Spain), Mr Vassilis KOUSSIS (Greece) and Mr José MACEDO e CUNHA (Portugal),

Meeting in Paris on Tuesday 20 July 2004, at the headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008 Paris,

Ruling on the appeal brought by the Automobile Club de Monaco (ACM) on behalf of its licence-holder JMB Racing, car N° 17, driver Karl Wendlinger, against decision N.GT-16 dated 27 June 2004, taken by the Stewards of the Meeting of the event run at Donington (Great Britain) on 27 June 2004 and counting towards the 2004 FIA GT Championship,

Having heard:

For the appellant, Mr Michel Jockey, Barrister at the Paris bar, representing the Automobile Club de Monaco, assisted by Mr Alexis Ulcakar, Mr Karl Wendlinger (driver), and Mr Jean-Michel Bouresche, Director of the Team JMB Racing,

For the FIA, Mr Pierre de Coninck, Secretary General of FIA Sport, and Mr Sébastien Bernard, Head of Legal Affairs,

The knowledgeable party, Mr Simon Bill, Pit Marshal,

Having acknowledged that the 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 and the knowledgeable party 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 the parties,

WHEREAS the appellant claimed that he had not committed any breach of Articles 21-c of the General Prescriptions of the International Sporting Code and 158 of the GT Championship Sporting Regulations, since the car had been directed on the pit lane by the Pit Marshal without it having been possible for any intervention to be carried out on the car and so he could not be accused of committing an infringement; he therefore called for the invalidation of the Stewards' decision to impose the 5-minute penalty for

an alleged infringement which, moreover, would have occurred not during the event but after the finish,

WHEREAS on the contrary, the representative of the FIA called for confirmation of the decision on the grounds that the above-mentioned provisions of the regulations had obviously been infringed, as the two articles referred to above state that the car must go directly to the parc fermé without stopping,

WHEREAS in this case it was up to the International Court of Appeal to determine whether the fact that the car stopped, which moreover the driver Karl Wendlinger did not deny, was the result of a case of force majeure such as congestion in the pit lane in order to avoid causing potentially considerable physical injury or whether, on the contrary, the reason the car stopped was that the driver felt unwell and wished to remedy as soon as possible his indisposition which, according to him, was preventing him from seeing clearly owing to his condition which was duly noted by the doctor from the circuit's medical centre,

WHEREAS given the conflicting statements of Karl Wendlinger and the disputed decision, taken up again at the hearing by the representative of the FIA, it was necessary to resort to the long sought after testimony of the knowledgeable party, Simon Bill,

WHEREAS the knowledgeable party first declared that the car passed by him, that there was a huge crowd, and that he had given instructions to clear the way for the car so that it could go to the parc fermé; when questioned, he then stated that the fast lane of the pit lane had been free - only the slow lane of the pit lane had been blocked,

WHEREAS it appeared from this statement, which explained the apparent confusion that had been reigning in the pit lane, that had he stayed in the fast lane of the pit lane the driver Karl Wendlinger could have reached the parc fermé without difficulty,

WHEREAS the only remaining question was whether or not a serious indisposition had prevented the driver from making his way to the parc fermé and whereas, in that respect, while he claimed he had reported his sickness to the Stewards, and was today producing a certificate issued by the circuit's medical centre attesting to nausea, epigastric pain, vomiting and dehydration, at the moment of the examination - the time of which was not specified - the doctor had noted that he was in good health,

WHEREAS it can be concluded from the above that, while the driver had experienced a temporary indisposition at the time the race finished, he could not provide proof that his condition was liable to prevent him from reaching the parc fermé,

WHEREAS on the other hand, irrespective of the stop discussed above, no blame could be assigned to the driver for having respected the instructions of the Stewards who had decided to follow a procedure contrary to the one which they themselves had recommended during the briefing preceding the event,

WHEREAS the car had indeed been guided along the pit lane and then directed to the parc fermé under the supervision of the Pit Marshal Simon Bill, who had sought the assistance of the Team's mechanics,

WHEREAS given these facts, the 5-minute penalty for an incident that occurred not during the event but after it appeared particularly disproportionate, as it was unjustifiably damaging to the team and to the driver himself,

WHEREAS on the other hand, while neither the team nor the driver could provide proof that it had been absolutely necessary to stop in the pit lane either because the track was blocked or for medical reasons, the circumstances argued in favour of a more lenient penalty which would be more proportionate to the infringement committed,

ON THESE GROUNDS,

DECLARES AND RULES that the appeal is admissible and partially well-founded,

INVALIDATES the decision of the Panel of Stewards to impose a 5-minute time penalty on car N° 17, driver Karl Wendlinger,

GIVING A NEW RULING,

IMPOSES, for infringement of Articles 21-c of the General Prescriptions of the International Sporting Code and 158 of the GT Championship Sporting Regulations concerning the necessity of the stop, in this case not justified, a fine of 15,000 US\$ in place of the time penalty,

LEAVES it to the sporting authority to draw the consequences of the present decision as regards the classification of the event,

LEAVES it to the appellant to pay the costs, in accordance with Article 190 of the International Sporting Code.

The President,

Made in Paris, 20 July 2004