



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

Appeal brought by TAG HEUER Porsche Formula E Team

against

**Decision No. 31 dated 13 April 2024 of the Stewards of the Misano E-Prix
event in Italy counting towards the 2023/2024 ABB FIA Formula E World
Championship**

Case ICA-2024-04

Hearing of 7 June 2024

Decision of 25 June 2024



The FIA INTERNATIONAL COURT OF APPEAL (“the Court”), which comprised Mr Laurent Anselmi (Monaco), who was designated President, Mr Michael Grech (Malta), Mr Marek Malecki (Poland) and Mr Filippo Marchino (USA/Italy), held a hearing at the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris, on Friday 7 June 2024.

Prior to the hearing, the Court received and considered submissions and attachments thereto made by TAG HEUER Porsche Formula E Team and the FIA.

The following persons attended the hearing:

On behalf of the Appellant, Porsche Formula E Team:

Mr Ian Barry Dearing, Solicitor
Ms Monika Baumhackel, Lawyer
Mr Florian Modlinger, Team Principal, TAG Heuer Porsche Formula E Team
Mr Carlo Wiggers, Director Team Management and Business Support, Porsche Motorsport
Mr James Anthony Lindsay, Team Manager, TAG Heuer Porsche Formula E Team (witness)

On behalf of the FIA:

Ms Alejandra Salmerón García, Head of Regulatory Affairs
Ms Prisca Mauriello, Senior Legal Counsel
Mr Pablo Martino, Head of Championship- Formula E
Mr Laurent Arnaud, Technical Delegate

Also attending the hearing:

Mr Jean-Christophe Breillat, Secretary General of the FIA Courts
Mr Nicolas Cottier, Clerk of the FIA Courts
Ms Sandrine Gomez, Administrator of the FIA Courts



The Parties filed written submissions and, at the hearing on 7 June 2024, set out oral arguments and addressed the questions asked by the Court. The hearing took place in accordance with the adversarial principle, with the aid of simultaneous interpretation in French and English. None of the Parties raised any objections, in relation either to the composition of the Court or to the manner in which the proceedings and the hearing were conducted, notably concerning the respect of the adversarial principle or the simultaneous interpretation.

I. REMINDER OF THE FACTS

1. TAG HEUER Porsche Formula E Team (“TAG HEUER Porsche Formula E Team” or “the Appellant”) first competed in the ABB FIA Formula E Championship in Season 5, which took place in 2019/2020.
2. Formula E cars have the particularity of being comprised of a series of components developed by the manufacturers, forming the “Manufacturer’s Perimeter”, and of other components developed by the single suppliers designated by the FIA, forming the “Common Perimeter”. These components, supplied by the manufacturers and the single suppliers respectively, then make up the cars used by the competitors.
3. Porsche (“Dr. Ing. h.c. F.Porsche AG” or “the Manufacturer Porsche”) supplies cars to multiple competitors, including the Appellant TAG HEUER Porsche Formula E Team and Andretti Formula E Team.
4. Spark is one of the single suppliers appointed by the FIA and produces, in particular, the throttle damper springs.
5. In 2022, the Formula E manufacturers developed third-generation (“Gen3”) cars, in preparation for Season 9 of the 2022/2023 ABB FIA Formula E Championship.
6. Due to production issues, Spark was unable to supply the springs for the Gen3 cars early on in the development of these cars. It therefore invited manufacturers to use Gen2 springs, until such time as it was able to produce Gen3 springs.
7. On 17 November 2022, the cars were presented to the FIA for homologation of the Manufacturer’s Perimeter.
8. On 21 November 2022, Spark delivered two springs with part number SRT-00171244 to TAG HEUER Porsche Formula E Team.



9. On 12 December 2022, the FIA homologated the Manufacturer's Perimeter of the Manufacturer Porsche, which supplies the cars used by Appellant TAG HEUER Porsche Formula E Team.
10. On 26 October 2023, Appellant TAG HEUER Porsche Formula E Team registered for the 2023/2024 ABB FIA Formula E World Championship ("the Championship") and entered two cars, namely Car No. 13 ("the Car") driven by Mr Antonio Felix Da Costa and Car No. 94 driven by Mr Pascal Wehrlein.
11. At the end of the race on 13 April 2024 counting for Round 6 of the Championship ("the Race") which took place at Misano (Italy), the Stewards received report No. 13 ("the Report") from the FIA Technical Delegate, Mr Laurent Arnaud, concerning the post-race scrutineering of the Car.
12. In particular, the Report states that *"[t]he Throttle Damper Spring mounted in car n°13 during race n°6 was not found in conformity with one of the 3 optional items declared in the GEN3_Spark_Catalogue_230929_S10_Rev.pdf document"*, namely springs with part numbers SRT-00171243 (soft), SRT-00171244 (medium) and SRT-00171245 (hard).
13. On the same day, the Appellant was summoned by the Stewards by letter delivered at 6:35 p.m.
14. A hearing was then held in the Stewards' offices, during which the representative of Appellant TAG HEUER Porsche Formula E Team, Mr James Lindesay, the representative of the Manufacturer Porsche, Mr Olivier Champenois, the representatives of Spark, Mr Jérémy Boudot and Mr Pierre Prunin, and the FIA Technical Delegate, Mr Laurent Arnaud, were heard.
15. After hearing the representatives of Appellant TAG HEUER Formula E Team and examining all the evidence at their disposal, the Stewards issued Decision No. 31 on 13 April 2024 at 8:20 p.m. ("the Decision"), according to which Appellant TAG HEUER Porsche Formula E Team had breached both Article 27.10 of the Sporting Regulations of the 2023/2024 ABB FIA Formula E World Championship ("SR") and Article 3.3 of the Technical Regulations of the 2023/2024 ABB FIA Formula E World Championship ("TR"). In view of the above, the Stewards pronounced the disqualification of the Car from the Race.
16. The Decision was notified to Appellant TAG HEUER Porsche Formula E Team on 13 April 2024 at 8:20 p.m. and published on the official digital notice board at 8:33 p.m. on the same day.
17. Also on the same day, at 8:35 p.m., Appellant TAG HEUER Porsche Formula E Team notified its intention to appeal the Stewards' Decision.



II. PROCEDURE BEFORE THE COURT

18. On 17 April 2024, the Appellant submitted to the Court its Notification of Appeal against the Decision.
19. On 7 May 2024, the Appellant submitted its Grounds of Appeal.
20. On 23 May 2024, the FIA submitted its Grounds in Response.
21. On 29 May 2024, the Appellant filed a procedural request for leave to submit further documents and evidence in response to the arguments raised by the FIA in its Grounds in Response.
22. On 30 May 2024, the FIA opposed the granting of the Appellant's request.
23. On 30 May 2024, by Procedural Decision No. 1, the President of the Court granted Appellant's request.
24. On 31 May 2024, the Appellant filed its further documents and evidence.
25. On 4 June 2024, the FIA filed its Written observations on the Appellant's further documents and evidence.

III. REQUESTS OF THE PARTIES

26. The Appellant asks of the Court to set aside the entirety of the Stewards' Decision and to reinstate the results of the Race as well as the "*subsequent championship classifications*".
27. The FIA asks the Court to dismiss the entirety of the appeal and confirm the Stewards' Decision.

IV. ADMISSIBILITY OF THE APPEAL BEFORE THE COURT

28. The Court notes that the Appellant lodged its appeal in accordance with the provisions of the 2024 FIA Judicial and Disciplinary Rules ("JDR").
29. The Court also considers that it has jurisdiction to hear this appeal.
30. Therefore, the Court finds the appeal admissible, which is undisputed.

V. ON THE SUBSTANCE

a) *Arguments of the Parties*

31. In essence, the Appellant puts forward the following grounds in support of its appeal:
- (i) The Car is a so-called “Gen3” car that has a homologation valid for 4 years from Season 9 (2022/2023) to Season 12 (2025/2026).
 - (ii) The disputed throttle damper spring mounted on the Car and bearing the part number SRT-00026020 was listed in the catalogue of spare parts supplies for Gen3 cars. It was mounted on the car presented by the manufacturer to the FIA for homologation on 17 November 2022. The Appellant maintains that this homologation was tantamount to the approval of the disputed spring until the end of the homologation period, i.e. until the end of Season 12 (2025/2026), and explains that it had been used throughout Season 9 and during 5 races of Season 10, on both of its cars.
 - (iii) The Appellant adds that the use of this spring did not raise any objection from FIA officials, even though its cars underwent several technical inspections.
 - (iv) The Appellant also explains that the Stewards were misled by the representatives of Spark, the single supplier, approved by the FIA, of the throttle damper springs, as well as other parts to be fitted to the cars participating in the Championship. Indeed, according to the Appellant, Spark’s representatives wrongly indicated to the Stewards that the disputed spring was on the list of parts for Gen2 cars, but not on the list of parts for the current Gen3 cars.
 - (v) According to the Appellant, the version of Spark’s catalogue valid on the date of homologation of the Car, 17 November 2022, is binding, in this case the “Gen3_Spark_Catalogue_S9_220624_rev5” version (“Catalogue S9/Rev5”).
 - (vi) In the Stewards’ Bulletin No. 6 of 11 April 2024, it was erroneously stated that the document “Gen3_Spark_Catalogue_230929_S10_Rev1” (“Catalogue S10/Rev1”) constituted a valid user manual/guide from FIA suppliers for the Championship and the Race when it was in fact neither a user manual nor a Guide from FIA Suppliers.
 - (vii) This alleged error by the Stewards would, according to the Appellant, have led to another error on the part of the Stewards, who, at the time of rendering the Decision, incorrectly understood that the Bulletin referred to a document incorporated within the homologation form of the Car, whereas, again according to the Appellant, this was not the case and the only Spark catalogue “incorporated” within the homologation form was Catalogue S9/Rev5.

- (viii) The Appellant infers from this that the Car was in fact fully compliant with its homologation form to which, according to the Appellant, Catalogue S9/Rev5 was appended. Insofar as this homologation in question would be valid for 7 years and no modification could be made to the design or construction of the homologated parts for the period in question, i.e. the entire 4-year cycle (see (i) above), the spring mounted on the Car on the day of its homologation was compliant in the Appellant's opinion.
- (ix) Lastly, the Appellant argues that if the Court were to rule that the Car did not comply with the applicable regulations, then this could not lead to the disqualification of the Car insofar as this possible violation of the applicable regulations was not committed either intentionally or negligently and, moreover, exceptional circumstances would justify it.
- (x) In this regard, the Appellant argues that:
 - (a) the manufacturer of the car was not informed of any change to this part in the "Gen3_Spark_Catalogue_S9_220624_rev5" catalogue ("Catalogue S9/Rev6");
 - (b) Spark had confirmed to manufacturers that changes in their catalogues would be notified by a Technical Note and a revised catalogue;
 - (c) No technical note detailing the changes in Catalogue S9_Rev6 was issued;
 - (d) The relevant change (deletion of the subject "spring") was not highlighted;
 - (e) The disputed spring gave no performance advantage;
 - (f) The technical inspections during seasons 9 and 10 did not lead to a finding that the Car was in breach;
 - (g) Not all technical infractions or breaches of technical regulations are the subject of penalties and, in fact, not even brought to the attention of the Stewards in some cases of Formula E;
 - (h) Lastly, the Appellant explains that it would be impossible for any competitor to cross-check a 135-page catalogue with its car.

32. In its Grounds in Response, the FIA contends, in essence, that:

- (i) Catalogue S10/Rev1 was the only one applicable to the Race and only three types of springs could be used by the Appellant, namely a soft spring, a medium spring and a hard spring. The disputed spring was not listed in Catalogue S10/Rev1.



- (ii) The Appellant, which is a competitor, should not be confused with the Gen3 manufacturer Dr. Ing. h.c. F.Porsche AG, which supplies two competitors, namely the Appellant and the Andretti Formula E Team. In this respect, the Appellant Porsche and Manufacturer Porsche are two legally distinct entities.
- (iii) Gen3 cars are used for Seasons 9 to 12. In this context, the cars are divided into two parts, the Manufacturer's Perimeter and the Common Perimeter, the latter, as its name suggests, being the same for all cars participating in the Championship.
- (iv) The Common Perimeter comes from the single suppliers designated by the FIA, including Spark.
- (v) The FIA thus maintains that the homologation process to which the Appellant refers relates only to the Manufacturer's Perimeter, of which the disputed spring is not part.
- (vi) As part of the homologation of the Manufacturer's Perimeter, the Manufacturer uses a development car and the suppliers designated by the FIA, including Spark, provide the Manufacturer with parts from the Common Perimeter to enable the Manufacturer to develop its car. In this context, catalogues are provided only to manufacturers. This was particularly the case with Catalogue S9/Rev5, which was not provided to the Appellant as a Competitor.
- (vii) During the development phase, the suppliers designated by the FIA, including Spark, carry out their own developments and the catalogues for manufacturers are therefore continuously evolving until publication of the latest version of the catalogue, which is provided to the teams and includes the list of elements that are eligible to be used by the teams.
- (viii) In order for a competitor's car to comply with the applicable regulations, it must therefore, on the one hand, have a duly homologated Manufacturer's Perimeter and, on the other hand, in the case of the Common Perimeter, have the various elements from the suppliers designated by the FIA, according to their catalogues.
- (ix) In the specific case of the Car, the FIA explains that, as Spark was unable to supply the regulation spring within the initially planned timeframe, the Appellant could provisionally use "a Gen2 damper" until the Gen3 damper ordered by the Appellant could be delivered to it, which was the case on 21 November 2022. It was therefore a Gen3 spring, with part number SRT-00171244, that was delivered to the Appellant on that date.

- (x) The FIA then explains that, contrary to what the Appellant claims, the Homologation Form only reflects the Manufacturer's Perimeter as homologated by the FIA and the main elements from the FIA's single suppliers, the spring not being mentioned in the Homologation Form since it is not a main element. This element can be found in the Catalogue for competitors.
- (xi) Thus, according to the FIA, the following documents complete the Homologation Form:
 - (a) the car catalogue which lists all the manufacturer-specific components, and
 - (b) the single supplier catalogues that contain information on the various components and parts supplied by the single suppliers.
- (xii) At the beginning of Season 9, Catalogue S9/Rev6 was sent by Spark to all Season 9 competitors, and Spark did the same at the beginning of Season 10 with Catalogue S10/Rev 1.
- (xiii) The FIA adds that competitors must comply with these catalogues by virtue of Art. 3.3 TR and the Bulletins issued before each event.
- (xiv) The FIA further clarifies that the reference to a 7-year homologation made by the Appellant is inaccurate insofar as paragraph 2.1.7 of Article 251 of Appendix J to the International Sporting Code ("the Code") to which it refers applies to mass-produced models, which is not the case for Formula E cars.
- (xv) According to the FIA, "*the homologation in itself does not change, however certain elements or pieces of the Race Cars may change / evolve via the different amendments to the Car catalogue (for components provided by the manufacturer to its competitors after being validated by the FIA and in accordance with Art. 3.5 of TR) and the Single Supplier's catalogue (when requested by the FIA and/or decided by the relevant Single Supplier and applicable to all competitors)*" (para. 63 of the FIA's Grounds in Response).
- (xvi) As the Appellant did not contest the checks made after the Race and the disputed spring did not appear in Catalogue S10/Rev1, the FIA maintains that the Car was non-compliant and should be disqualified on the basis of both Articles 27.10 SR and 3.3 TR.
- (xvii) As to whether or not the disputed spring was present at the time of the homologation of 12 December 2022, the FIA recalls that this homologation session only concerned the Manufacturer's Perimeter, of which the spring in question was not a part, and this spring was therefore not checked. The FIA concludes that, in any case, it is impossible to determine which spring was installed on the Car at that time since, on the day of homologation, the Appellant had in its possession both Gen2 springs and the new Gen3 springs that had been delivered to it on 21 November 2022.



- (xviii) Lastly, the FIA explains that the three springs allowed for Season 10 were already the only springs allowed for the whole of Season 9 since Catalogue S9/Rev6, which was distributed to competitors at the beginning of Season 9, the first season for Gen3 cars, included only these three springs and not the disputed spring.
- (xix) As for the question of the proportionality of the penalty, the FIA recalls that, according to the ICA's long-standing jurisprudence, an infringement of the technical regulations leads to disqualification unless exceptional circumstances, such as a clerical error or an error on the homologation document, exist. The FIA disputes that the circumstances cited by the Appellant constitute exceptional circumstances within the meaning of the ICA's jurisprudence. The FIA further submits that the disputed spring has a longer free length than the three springs in Catalogue S10/Rev1, which allowed the Car to have a stiffer pedal offering better possibilities for controlling the Car's energy consumption.

b) *Applicable regulations*

- 33. The applicable rules are the FIA regulations in the version in force at the time the Race took place, i.e. 13 April 2024.
- 34. Therefore, the regulations applicable to the substance of the present case are the 2024 editions of the Code and of the 2023/2024 ABB FIA Formula E World Championship Sporting Regulations ("SR") and Article 3.3 of the 2023/2024 ABB FIA Formula E World Championship Technical Regulations ("TR").
- 35. Neither the Appellant nor the FIA contests the foregoing.

c) Conclusions of the Court

36. Having carefully considered the written submissions of the Appellant and the FIA, as well as the submissions and evidence addressed at the hearing, including the hearing of the witness Mr James Lindesay, the Court rules as follows.

a. On the question of the authorised use of the disputed spring and its homologation

37. The Appellant claims in essence that the disputed spring was homologated within the Manufacturer's Perimeter on 12 December 2022, and that the disputed spring should therefore be deemed to comply with the applicable regulations and that no sanction could be imposed on it.

38. The FIA replies that the homologation of 12 December 2022 did not relate to the disputed spring, on the one hand because it does not appear in the Manufacturer's Perimeter, and on the other hand because this type of element is among those elements received by competitors from the single suppliers designated by the FIA, elements that are subject to evolution or to modifications duly documented in catalogues that are appended to the General Homologation Form as they arise.

39. After having thoroughly studied the homologation form of 12 December 2022, the Court notes that the disputed spring is not only not part of the Manufacturer's Perimeter that is the subject of the homologation check carried out on 12 December 2022, but that it is not even mentioned in the homologation documents issued as part of this check.

40. The Court therefore concludes that the disputed spring, or any other spring for that matter, was not homologated on 12 December 2022. The Appellant cannot therefore rely on this to argue that the disputed spring complies with the applicable regulations.

41. The Court also notes that the Appellant does not provide any evidence that would demonstrate that the disputed spring was subject to a special control after 12 December 2022 and had been in some way approved *a posteriori* by the FIA's technical staff. Assuming that this argument could have been relevant, it must therefore be rejected.

42. The Appellant then invokes the fact that the disputed spring was part of Catalogue S9/Rev5, which was appended to the Homologation Form of 12 December 2022 and was applicable to the Race, and that the use of this spring would therefore not have contravened the applicable regulations.

43. The FIA replies that Catalogue S9/Rev5 was intended for manufacturers only – and not for competitors – and that for the Race, only Catalogue S10/Rev1 was applicable to competitors.
44. The Court notes that Catalogue S9/Rev5 does indeed refer to a spring bearing the part number SRT-00026020, which, according to the Appellant, is the part number of the disputed spring.
45. The Court notes, however, that the Appellant does not prove at any time that Catalogue S9/Rev5 could have been part of the Homologation Form or that it was presented to the Formula E Season 9 (2022/2023) competitors as the applicable Catalogue during all or part of that season.
46. The Court notes, however, that on 21 November 2022 Spark delivered to the Appellant the springs intended for the Gen3 cars and bearing the part number SRT-00171244 and that, on 9 January 2023, Spark sent Catalogue S9/Rev6 to all competitors and Catalogue S10/Rev1 on 29 September 2023.
47. However, these two Catalogues mention spring No. SRT-00171244, supplied by Spark to the Appellant, but do not refer to spring No. SRT-00026020 which the Appellant claims to have used.
48. In addition, during the development phase of cars to be homologated within the Manufacturer's Perimeter, Spark systematically invited manufacturers to temporarily install a Gen2 spring until the Gen3 springs were finally produced.
49. The Court also notes that the Stewards informed the competitors at the beginning of Season 9 that Catalogue S9/Rev6 was applicable for that season, subject to subsequent amendments.
50. Bulletin No. 3 containing this communication reads as follows:

"(...) The Stewards inform all Competitors.

(...)

3) The following list of User Manual / Guide from FIA Suppliers will be valid for the season of the 2022-2023 FIA Formula E World Championship.

All these documents are in relation with Art. 27.03 & 27.10 of the 2022-2023 FIA Formula E World Championship Sporting Regulations.

(...)

27.10 *It is mandatory to follow the instruction manual from the FIA designated suppliers at all times.*

Spark

GEN3_Spark_Catalogue_230109_S9_Rev6_HIGHLIGHTED.PDF

(...)”

51. As for Season 10, the Stewards made the same communication, this time with regard to Catalogue S10/Rev1, before each race and in particular before the Race on 13 April 2024.
52. The Court therefore concludes that spring No. SRT-00026020 was never a usable spring for the Gen3 cars newly homologated at the end of 2022, and the fact that the Appellant had, as it claims, used this spring throughout Formula E Season 9 as well as part of Season 10, was not in line with the applicable regulations, and in particular Article 3.3 TR which provides that:

“The car must always be in conformity with the Homologation Form and with the present Technical Regulations. All car parts must be those supplied exclusively by the FIA designated single suppliers and the Manufacturer, and presented in the catalogue(s) to the FIA, the only exceptions are:

- the pedal pads*
- the loom & brake lines protections*
- the loom(s) within the Manufacturer scope of supply (pin-out to be declared with a minimum of 7 days between a request and presentation to scrutineering prior to a Competition.)*
- steering wheel hand grip (but respecting the prescriptions given by the supplier of the steering wheel and according to Drawing 12)*
- the bodywork taping*
- the adjustment holes taping.*
- All carbon fibre bodywork parts (except the survival cell, the front impact structure, the rear impact structure, and side impact structures) can be trimmed, adjusted and re-drilled, to improve their fitments only in a zone at 50mm maxi from their respective leading edges.*

The parts catalogue is considered as an Appendix to the Homologation Form. At a minimum, it must include all references, materials (according to the ISO definition), and the mass of parts over 100 g (tolerance +/- 3 %).”

53. The Court notes, however, that, insofar as it is accused of using a part not supplied by an FIA supplier and which does not appear in the supplier’s Catalogue, the Appellant did not infringe Article 27.10 SR which provides that *“it is mandatory to follow the instruction manual from the FIA designated suppliers at all times”*. Indeed, that article refers to a “user manual”, i.e. a document containing instructions, for example for

assembly, intended for competitors, whereas a catalogue consists, as its name indicates, only of a list of elements supplied by the supplier concerned, in this case Spark.

54. Consequently, and in view of what is meant by “user manual”, the Court concludes that while the Appellant did indeed breach the TR, it did not breach the SR.

b. On the question of the penalty and its proportionality

55. The Appellant does not deny that the disputed spring did not appear in Catalogue S10/Rev1, which the Court found to be binding on all competitors, forming part of the applicable technical regulations.
56. However, the Appellant argues, in the alternative, that it cannot be sanctioned, or at least not disqualified, on the grounds that (i) it was never reprimanded during the checks for using the disputed spring, (ii) it was impossible to verify compliance with the entire Catalogue so soon before the Race, and (iii) the use of the disputed spring had not given it any sporting advantage.
57. In accordance with Article 2.1 SR, all drivers and competitors must undertake to comply with all provisions of the FIA regulations. Article 3.2 SR further provides that “Competitors must ensure that their cars comply with the conditions of eligibility and safety throughout the Competition”. Lastly, Article 9.15.1 of the Code provides that “the Competitor shall be responsible for all acts or omissions on the part of any person taking part in, or providing a service in connection with, a Competition or a Championship on their behalf”.
58. According to the ICA’s long-standing and consistent jurisprudence, the obligation to comply with the technical regulations and the liability incurred as a result of non-compliance lie solely with competitors. The mere objective fact of not complying with those regulations is sufficient to characterise such non-compliance, the subjective intent of the defaulting competitor having no mitigating effect in this regard (see for example ICA-2022-02 of 8 July 2022, *Parolin Motorsport Srl*), as well as its negligence (see for example ICA-2013-03 of 10 September 2013, *G-Drive Racing*).
59. Any competitor in a competition or championship is therefore exposed to the sanction resulting from the simple material non-compliance with a technical regulation, regardless of its good faith or that of the members of its team. The Court concludes in this case that the Appellant must therefore be sanctioned.
60. As for the nature of the sanction incurred, in view of the equally clear and long-standing jurisprudence of the ICA, it can only be a sanction of disqualification, unless the existence of exceptional circumstances can be established (see in particular cases ICA-2014-03 of 26 September 2014, *Campos Racing*, and ICA-2013-03 of 10 September 2013, *G-Drive Racing*), which has not been demonstrated in the present case.



61. The existence of such circumstances is only accepted in very limited cases, such as an administrative mistake or an error in the homologation document (see ICA-2013-03 with reference to cases ICA-21/2009 of 14 October 2009, *Hexis Racing AMR*; ICA 26/2009 of 23 February 2010, *Pekaracing NV*; and ICA-1/2010 of 18 May 2010, *Young Driver AMR*).
62. In this this case, the Appellant does not allege that the non-compliance of the disputed spring is the result of an error in the homologation document. It only argues that Catalogue S9/Rev5 was part of the homologation documentation and wrongly contests the application of Catalogue S10/Rev1 to the Race. It alleges that this situation was “caused” by the FIA Scrutineers and the FIA Technical Delegate, who did not report the non-compliance of the said spring during Season 9 and the first months of Season 10. Lastly, it maintains that it could not check the Car against Catalogue S10/Rev1 only a few hours before the Race.
63. The Court notes that the Appellant has not produced, in any of the documents it has submitted during the present proceedings, any evidence to the effect that the FIA’s technical staff checked the disputed spring and admitted its compliance. On the contrary, the documents produced by the FIA have shown that the FIA officials never checked the spring in question.
64. Since the Court notes that, notwithstanding the Appellant's allegations, the disputed spring did not undergo any check, the question as to whether such a check on that spring could have been regarded as an “exceptional circumstance” within the meaning of the jurisprudence of the ICA does not need to be examined.
65. The Court notes that, in accordance with Articles 2.1 SR, 3.2 TR and 9.15.1 of the Code, the Appellant was responsible for the conformity of its Car with the applicable technical regulations, without being able to exempt itself therefrom by transferring or delegating this obligation to the FIA officials (see ICA-2022-02 of 30 June 2022, *Parolin Motorsport Srl*, para. 50).
66. The argument that it is impossible to check the conformity of the Car in the light of Catalogue S10/Rev1 must be rejected for the same reasons. The Court also notes that, contrary to the Appellant’s assertions, it did not become aware of Catalogue S10/Rev1 only “a few hours before the Race”, but at the beginning of the season, i.e. several months before the Race.
67. The Appellant further argues that it did not gain a competitive advantage from its non-compliance with Article 3.3 TR.



68. But as the ICA ruled in case ICA-2021-03 of 9 November 2021, *Rossel* (para. 82), in accordance with Article 1.3.3 of the Code, “*If an Automobile is found not to comply with the applicable technical regulations, it shall be no defence to claim that no performance advantage was obtained*”. The Appellant must therefore also be nonsuited on this point.
69. In conclusion, the Court considers that the sanction imposed by the Stewards on the Appellant in this case must be upheld as a result of the Appellant’s violation of the Technical Regulations, notwithstanding the findings of the Court that the Appellant did not breach the Sporting Regulations.
70. The appeal is therefore rejected and the disputed Decision is confirmed in its outcome.

VI. COSTS

71. In view of the outcome of the proceedings, the Court leaves the Appellant to bear all the costs, in accordance with Article 11.2 JDR.



ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Declares the appeal admissible;**
- 2. Rejects the appeal;**
- 3. Upholds Decision No. 31 dated 13 April 2024 of the Stewards of the Misano E-Prix event in Italy counting towards the 2023/2024 ABB FIA Formula E World Championship;**
- 4. Orders the competent Sporting Authority to draw, as appropriate, the consequences of this ruling;**
- 5. Orders the return of the sealed components to TAG HEUER Porsche Formula E Team;**
- 6. Leaves it to TAG HEUER Porsche Formula E Team to bear all the costs, in accordance with Article 11.2 JDR;**
- 7. Rejects all other and further conclusions.**

Paris, 25 June 2024

The President

Laurent Anselmi