

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

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Oberste Nationale Sportkommission für den Automobisport
in Deutschland (ONS)**

**for the driver Michael Schumacher,
against the decision of the**

**World Motor Sport Council of the
Fédération Internationale de l'Automobile**

dated 26 July 1994

**having decided to suspend the driver Schumacher for the two Grands Prix
following the British Grand Prix
and to exclude him from the classification of that Grand Prix
for non-observation of the black flag during that Grand Prix**

Hearing of Tuesday 30 August 1994 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr J.W.G. van Rosmalen (Netherlands), elected President, Mr Vassilis Koussis (Greece), Mr José Macedo e Cunha (Portugal) and Mr P.G. Dahlstrom (Scandinavian countries),

Meeting in Paris on Tuesday 30 August 1994, at the Headquarters of the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris,

Ruling on the appeal lodged by the Oberste Nationale Sportkommission für den Automobilsport (O.N.S.) on behalf of its licence-holder Michael Schumacher, against the decision of the World Motor Sport Council (WMSC) dated 26 July 1994, having taken the decision mentioned above,

Having heard the driver Michael Schumacher, assisted by his Counsel, Mr Brian Clark (Solicitor) and by Mr Clark's assistant, Mrs Bella Colville, the representative of the FIA in the person of Mr Pierre de Coninck, Secretary General of the FIA (Sport), as well as the experts called upon whether by Mr Schumacher or by the FIA, namely Mr Patrick Symonds, the Engineer from the team Benetton on the one hand, and on the other hand Mr Roberto Causo, the Observer appointed by the FIA for the British Grand Prix which was run at Silberstone on 10 July 1994, and Mr Roland Bruynseraede, the Event Director,

Having acknowledged that the procedure was in order and the appeal admissible, the rights of the parties having been duly examined, both in the proceedings which preceded the hearing and during the hearing itself, the appellant and the representative of the FIA 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 it is necessary to recapitulate the circumstances of the case before commencing any discussion,

WHEREAS during the formation lap of the British Grand Prix, the driver Schumacher did not respect the order assigned to him, whereas he did not respect this order on at least two occasions, and whereas the panel of the Stewards of the Meeting decided to impose a 5-second penalty,

WHEREAS this penalty which must, with no discussion possible, according to the Sporting Regulations of the Formula One World Championship (Article 164), take the form of a "stop and go", was notified verbally to the Benetton team at 14.27 and in any case officially via electronic information at 14.31,

WHEREAS Mr Schumacher acknowledges that he had been informed of this notification by his team over the radio, but had been asked to continue racing on the pretext of a discussion concerning the time at which this penalty was to be carried out, i.e. probably at the end of the race, the 5 seconds being added to the real time taken,

WHEREAS this interpretation does not for one moment withstand examination, whereas neither the competitor Benetton nor the driver Schumacher should have been unaware of this, as Article 164 is particularly clear, and whereas both Benetton and Schumacher necessarily had to know this by virtue of the obligations they had assumed by the fact of their participation in the Formula One World Championship, the 5-second penalty at the end of an event being applicable only for an incident occurring during the last 12 laps,

WHEREAS since the driver continued racing, the black flag accompanied by the numer 5 board was shown to him at 14.41 after the three laps following the notification of the penalty, during which three laps, in accordance with Article 164, the driver ought to have stopped (Article 164.c),

WHEREAS the driver respected neither the 5-second penalty nor the black flag which had been shown to him,

WHEREAS during the present hearing he admitted having seen the number 5 board but had thought this referred to the 5-second penalty, although there could not have been any doubt in this respect, the number 5 board having been shown at the same time as the black flag, 5 being the number of the driver's car, and moreover the driver must have had his attention drawn to the signalling on account of the penalty which he knew had been imposed on him,

WHEREAS the driver, without respecting the imperative instruction given by the black flag, continued racing and did not stop, according to Schumacher, until 14.19 to carry out the penalty only on the instruction of the Benetton team, as he had acknowledged at the hearing,

WHEREAS the driver covered at least 14 laps after the notification of the penalty, and stopped to accomplish the penalty only on the instructions of his team, thereby also violating the prohibition represented by the showing of the black flag which requires that the driver stop immediately, which constitutes one of the most serious breaches of the Sporting Code, and whereas in the case in point it would appear that there are no extenuating circumstances to be taken into consideration,

WHEREAS in effect the driver Schumacher, both himself and through his Counsel, claims various possibilities, namely that the Stewards of the Meeting had applied the Regulations incorrectly during the formation lap, that there was prescription concerning the penalty imposed and that the team was responsible in any case since the driver had not deliberately disregarded the black flag which he said he had not seen,

WHEREAS these arguments cannot for one moment be accepted,

WHEREAS in effect the interpretation made with regard to the order of the formation lap is manifestly erroneous, as borne out by the terms of Article 118, paragraph e of the Formula One Sporting Regulations; Article 120, invoked by the driver, is manifestly inapplicable since it refers to a car which is unable to start or to a car which is unable to maintain the order of the formation lap, which was evidently not the case,

WHEREAS the prescription of paragraph a of Article 164 of the Sporting Regulations of the Formula One World Championship states that the notification of the penalty must be carried out no later than 15-minute time limit was obviously exceeded in the case in point,

WHEREAS this prescription is purely formal and does not efface the infringement itself which still remained, as the notification had merely been given belatedly,

WHEREAS in any case the black flag had been shown for a penalty which had manifestly been incurred, and the showing of this flag should have been respected, as should the notification of the penalty,

WHEREAS in effect the fact of allowing a driver to be the judge of the regularity or irregularity of a penalty imposed during an event would ruin all sporting discipline, all spirit of competition and all competition itself,

WHEREAS whatever the reason, regardless of the notification of the penalty, the black flag indicating an imperative stop was shown and was not respected, in breach of Article 4, paragraph 1.1, penultimate sub-paragraph of Appendix H, an infringement deemed as such by the World Motor Sport Council when in the case in point the driver, disregarding an imperative order to stop, which could just as well have been given for safety reasons, preferred to ignore it and stopped only on the instruction of his team,

WHEREAS although the team is responsible for the instructions which it gave to its driver and which were contrary to the Regulations, the driver is not the subordinate of his team but has a certain liberty which, moreover, is required by the Regulations which he has accepted, and must himself, along with the team, take responsibility for deliberate faults, particularly

with regard to the observation of the regulation signals, and his arguments should not for one moment be accepted,

WHEREAS the driver claims that owing to his speed, he did not see the black flag, and in support of this provided a video cassette on which the black flag is certainly visible on the left-hand side of the track, the visibility on the right-hand side being obscured from the sight of viewers watching the video, but not from that of the driver on the track, by the vehicle's rear-view mirror,

WHEREAS on the films broadcast live on television at the time of the event, the number 5 board and the black flag are clearly visible on the right-hand side of the track,

WHEREAS the driver, whose vision was not obscured by the rear-view mirror, would have been able to see the black flag with the number 5 board,

WHEREAS during the present hearing, the driver Schumacher admitted having seen the number 5 board, and whereas his argument that he did not see the black flag is unacceptable given that the black flag was shown at the same time as the number 5 board,

WHEREAS furthermore, the black flag was shown during three laps to a driver who had already been informed that a penalty had been declared against him, and whereas the driver is therefore especially guilty of failing to respect this flag and cannot seriously claim that he did not see it,

WHEREAS consequently the International Court of Appeal can only confirm in its entirety the decision of the World Motor Sport Council concerning the driver Schumacher,

ON THESE GROUNDS,

CONCERNING THE FORM,

DECLARES THE APPEAL ADMISSIBLE,

CONCERNING THE SUBSTANCE,

CONFIRMS in its entirety the decision of the World Motor Sport Council dated 26 July 1994,

It being nevertheless specified that owing to the suspensive nature of the appeal, the suspension of the driver Michael Schumacher for two Grands Prix shall be effective for the two Grands Prix following the decision of the International Court of Appeal,

STATES AND JUDGES that the costs shall be borne by the appellant,

Made in Paris, 30 August 1994

The President