

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

of the

**FEDERATION INTERNATIONALE DE L'AUTOMOBILE
(FIA)**

CASE:

Appeal lodged by

The Svenska Bilsportförbundet (SBF)

on behalf of its licence-holder, Citroën Sweden,

against the decision of the

Norwegian Court of Appeal of 18 September 2001

Concerning the Rallycross event run on 1 & 2 September 2001

In Lyngas (Norway) and counting in the

2001 FIA European Championship for Rallycross Drivers

Hearing of Tuesday, 30 October 2001 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr Reginald REDMOND (Ireland), elected President, Mr Xavier CONESA (Spain), Mr Michael LIMB (Great Britain), and Mr José MACEDO e CUNHA (Portugal);

Meeting in Paris on Tuesday, 30th October 2001 at the headquarters of the Fédération Internationale de l'Automobile (FIA-France), 8 place de la Concorde, 75008 Paris,

Ruling on the appeal lodged by the Svenska Bilspportförbundet on behalf of its licenceholder, Citroën Sweden, against the decision of the Norwegian National Court of Appeal which was not dated but was handed down on 18 September 2001 concerning the Rallycross event run on 1 and 2 September 2001 in Lyngas (Norway) and counting in the 2001 FIA European Championship for Rallycross Drivers;

After hearing:

For the appellant, Mr Lars EDVALL, Secretary General of the Svenska Bilspportförbundet, Mr Krister MALMSTEN, Vice President of the Swedish Sports Supreme Court, and Mr Kenneth HANSEN, Driver for the competitor Citroën Sweden;

For the Norwegian ASN (Kongelig Norsk Automobilklub), Mr Per MADSEN, President of the Norwegian National Court of Appeal, Mr Truls JOHANSEN, member of the Norwegian National Court of Appeal;

For the FIA, Mr Sebastien BERNARD, Head of the FIA Legal Department,

As knowledgeable parties, Mr Jean-Paul MAILLARD, President of the Panel of the Stewards of the Meeting, and Mr Andy LASURE, FIA Observer;

After an objection formulated by the FIA at the hearing, the International Court of Appeal considers that Mr MAILLARD and Mr LASURE, as FIA officials, should have the status of knowledgeable parties and not witnesses;

Having acknowledged that the procedure with full argument on both sides was in order, the rights of each party having been duly examined, both in the proceedings prior to the hearing and during the hearing itself, the parties of the case and knowledgeable parties having provided all the detailed explanations and answers

requested during the hearing with the help of a simultaneous translation system which was recognised as satisfactory by the parties;

WHEREAS the appellant maintains that Car N°1 Citroën Xsara of the competitor Citroën Sweden driven by Kenneth HANSEN caught up to Car N°7 driven by Ludvig HUNSBEDT, and that as the former car was faster, the driver HUNSBEDT should have allowed Car N°1 to pass by moving over to one side to allow for passing on the other side;

WHEREAS according to the appellant, the video footage of the incident and the reports from the Track Marshals seem to establish that, if Car N°1 had to use an area off track to finally overtake, it was forced to by Car N°7 driven by Ludvig HUNSBEDT because the latter had gone back to the right side of the track while Kenneth HANSEN's car was preparing to overtake; it was thus not to cut the curve and move up one place that Kenneth HANSEN ran onto the lower verge;

WHEREAS the appellant also points out that the Track Marshals felt Car N°1 was squeezed and that the driver HANSEN was not guilty, the Race Director stating that if he had given a warning to the driver HANSEN for having overtaken off the track, he declares that after having seen the photographs and the TV cameras video, he made a mistake and that it was Car N° 1 which was pushed toward the outside of the track, while adding that *it is always easier to see things more clearly afterward and to look at the different shots in slow motion*;

WHEREAS it is up to the International Court of Appeal in this situation to consider the relevant texts of the case;

WHEREAS the Regulations of the FIA European Championship for Rallycross Drivers provides in Article 17 entitled "Penalties", paragraph 9: *"Moving the track markers or driving outside the circuit in order to gain time: Exclusion from the heat"* ;

WHEREAS on the other hand *Chapter IV – Code of Driving Conduct on Circuits, Article 2 – Overtaking* of Appendix L of the International Sporting Code provides:

"a) during a race, a car alone on the track may use the full width of the said track. However, as soon as it is caught up on a straight by a car which is either temporarily or constantly faster, the driver shall give the other vehicle the right of way by pulling over to one side in order to allow for passing on the other side....."

c) curves, as well as the approach and exit zones thereof, may be negotiated by the drivers in any way they wish, within the limits of the track. Overtaking, according to the circumstances may be done either on the right or on the left.”

WHEREAS the Norwegian ASN, duly summoned, was represented by Mssrs MADSEN and JOHANSEN;

WHEREAS it is up to the International Court of Appeal, before all else, to examine the validity of the decision of the Panel of the Stewards of the Meeting which rejected the protest by Ludvig HUNSBEDT against overtaking outside track limits, the Stewards of the Meeting considering that if Car N°1 driven by Kenneth HANSEN overtook outside track limits, it was because it had been forced to do so by Car N°7 driven by Ludvig HUNSBEDT;

WHEREAS this decision was not signed by all the Stewards of the Meeting but only by their President, Mr MAILLARD, nor does it mention the names of the other Stewards of the Meeting; and moreover, as it does not show in the text of the decision that there was any defence of the parties present or any witnesses which Ludvig HUNSBEDT contends he brought with him, the President of the Panel declaring at the hearing today that their testimony was not helpful in the light of the other documents it had in its possession;

WHEREAS in a later note dated the 13th September 2001, Mr MAILLARD does not mention the names of the other members of the Panel of the Stewards of the Meeting either;

WHEREAS under these conditions, the International Court of Appeal must note the absolute nullity of this decision for breach of Article 134 of the International Sporting Code and of the rights of defence;

WHEREAS regarding the decision of the Norwegian National Court of Appeal which was neither signed nor dated, but announced at the hearing to have been taken on 18 September 2001, this decision mentions notably the presence of a Norwegian organisation known as “DU” apparently comprised of experts either in legal matters or in sporting matters, along with this organisation’s lawyer;

WHEREAS on the other hand, Mr JOHANSEN declared that *he was present at the decision but had to leave before the end because he had a plane to catch, and was present for the majority of the discussion but was absent during the last 10 minutes;*

WHEREAS it is necessary to note on the one hand that the organisation “DU”, in that it is comprised of sports people and represented, moreover, by a lawyer though was not involved in the event, did not have to intervene or to be heard during the hearing, and that on the other hand the decision of the National Court of Appeal did not mention the name of Mr JOHANSEN as being one of the Members taking part in the decision;

WHEREAS under these conditions, the decision of the Norwegian National Court of Appeal appears irregular and its nullity must be noted for the above-mentioned reasons;

WHEREAS, the FIA representative having asked the International Court of Appeal to exercise its right to summon a case pending before a lower court, it is up to the Court to pronounce judgement on the merits of the case;

WHEREAS after viewing the video and examining the photographs, the International Court of Appeal considers that the driver of Car N°7, Ludvig HUNSBEDT, pushed Car N°1 driven by Kenneth HANSEN off the track and consequently *Article 2 – Overtaking of Chapter IV – Code of Driving Conduct on Circuits*, found in Appendix L of the International Sporting Code was infringed as this article clearly states that:

“ during a race, a car alone on the track may use the full width of the said track. However, as soon as it is caught up on a straight by a car which is either temporarily or constantly faster, the driver shall give the other vehicle the right of way by pulling over to one side in order to allow for passing on the other side..... ”

ON THESE GROUNDS,

DECLARES admissible the appeal lodged by the Svenska Bilsportförbundet on behalf of competitor Citroën Sweden concerning Car N°1 driven by Kenneth HANSEN;

NOTES the absolute nullity of the decision taken by the Stewards of the Meeting of the event;

NOTES the same nullity concerning the decision taken by the Norwegian National Court of Appeal;

Consequently, by virtue of its right to summon a case pending before a lower court, the International Court of Appeal **RULES** that the driver Ludvig HUNSBEDT, Ford Focus, Car N°7, infringed the regulations in Chapter IV of Appendix L of the

International Sporting Code by refusing to allow any passing by Car N°1, driven by Kenneth HANSEN, which had caught up, and as a result pushed it off the track;

SENTENCES him to a fine of FF 10,000 in accordance with paragraph 2 of Article 2.c of *Chapter IV - Code of Driving Conduct on Circuits* of Appendix L of the International Sporting Code;

LEAVES it to the sporting authority to draw the conclusions of the present decision concerning the classification of the event;

ORDERS that the appeal fee received from the appellant be returned;

SENTENCES the respondent to bear all costs, in accordance with Article 190 of the International Sporting Code.

Paris, 30 October 2001

(signature)

The PRESIDENT