



**NATIONAL COURT OF APPEAL**

**PUBLIC HEARING SEPTEMBER 10th 2019**

The National Court of Appeal of the Belgian ASN pronounces the following judgment, in the case of :

**BLANCPAIN GT Series – Circuit Zandvoort - GRT (GRASSER RACING TEAM)**

**Concerning** : Appeal against decision n° 06 issued by the Stewards, Disqualification from Q2 with the caveat that car # 63 is permitted to start Race 2 with a grid position based on no times having been set in Q2, Blancpain GT Series 2019 World Challenge Europe, Zandvoort (13/7/2019)

The hearing was attended by :

On behalf of the appellant :

- ° Mr. Gottfried GRASSER, team principal ;
- ° Mrs. Monika BAUMHACKEL, counsel ;

Judicial Reporter : Mr. Gérard MARTIN

Court Clerk : Mr. Robby WUYTS

The proceedings have been pursued in the English language as not all parties present spoke French or Dutch. Everyone however spoke English or could be assisted in translation by the Clerk of the Court when necessary. Since English is an official language of the FIA, the judgment is also in English.

This Court of Appeal has reviewed all submitted evidence and all the writings submitted to the Court, seen and checked the material evidence submitted and heard all testimonies, comments and oral submissions made by all persons attending the hearing.

This Court heard among others the pleadings of the appellant and his counsel, looked at the datalogger provided and heard the opinion of the Judicial Reporter.

The hearing was closed after no one requested the floor any longer.

After deliberation, the National Court of Appeal pronounces the following judgment.

### **1. OBJECT OF THE PROCEEDINGS :**

Competitor Grasser Racing Team appealed against the decision of the Stewards n° 06 'The Stewards impose a penalty of disqualification from Q2 with the caveat that car # 63 is permitted to start Race 2 with a grid position based on no times having been set in Q2' during the Blancpain GT Series 2019 World Challenge Europe, Circuit Zandvoort, taken on July 13<sup>th</sup> 2019 at 11:00 hrs.

The Stewards withheld a breach of Article 27.6 of the Blancpain GT Series 2019 Sporting Regulations.

The decision was not motivated, but in the 'facts' the Stewards state : *'The Technical Delegate reports that car # 63 was technically non-compliant in Q2 in that the datalogger was not working in Q2.'*

The Stewards did explain the performed investigation in the decision :

*'The Stewards have summons the Competitor's Representative and advised of the content of the Technical Delegate's report. The Competitor is unable to advise why the datalogger did not receive data in Q2 and advises that the Regulations do not permit any interference with the datalogger between Q1 and Q2.'*

During the hearing, an interactive debate took place, in which all parties attending to the hearing took part.

### **2. GENERAL CONTEXT :**

The Blancpain GT Series 2019 is governed by the FIA International Sporting Code and its appendices (further : the FIA Code), The International Series General Prescriptions and the Blancpain GT Series 2019 Sporting Regulations (further : Sporting Regulations).

According to article 59 of the Sporting Regulations : *'Appeals shall be heard by the RACB.'*

The Blancpain GT Series 2019 is a competition that is run over the territory of several countries. The Belgian ASN, RACB, requested the registration of that Competition on the International Sporting

Calendar. According to article 15.1.2 of the FIA Code, this National Court of Appeal is consequently competent to hear appeals against Steward's decisions taken at any event of said Series.

### **3. ADMISSABILITY OF THE APPEAL :**

Decision n° 06 of the Stewards was received by the Competitor (and signed for receipt) on July 13<sup>th</sup> 2019 at 12:40 pm.

The written intention of Appeal was received by the Stewards from the Competitor on the same day at 12:50 pm, i.e. within one hour as stipulated by art. 15.3.2 a of the FIA Code.

Appellant brought the appeal to the ASN via mail on July 17<sup>th</sup> at 10:05 am, which is within the delay of 96 hours from the moment the Stewards were notified of the intention to appeal, as provided for in article 15.3.3 of the FIA Code.

Also, the appeal deposit of € 2.000 was paid by appellant on July 13<sup>th</sup> 2019 and received by the ASN on July 16<sup>th</sup> 2019 , as foreseen in article 15.4.2 of the FIA Code

Under the rules set by the FIA Code and the Sporting Regulations, the procedure is consequently admissible.

### **4. FACTS :**

Appellant entered a Lamborghini Huracan GT3 2019 as participant 63 (further : Car 63) in the abovementioned event of the Blancpain GT Series, which took place at Circuit Zandvoort on July 12<sup>th</sup> -14<sup>th</sup> 2019.

After the Qualifying session on July 13<sup>th</sup> 2019, the Technical Delegates sent their report n° 4 to the Stewards of the Meeting, stating that *'For the Car # 63 The Datalogger is not correct.'* A report by Technical Delegate Claude Roth dated 13.7.2019 at 11:09am was attached, which states : *'For car #63 it was found that CAN communication from the car to the datalogging system was not working in Q2. The whole datalogging system was working fine in Q1, but for Q2 the datalogger did not receive any data from the onboard engine control management.'*

The Stewards took their decision n°. 06 after summoning the Competitor's Representative, and hearing the competitor being unable to advise why the datalogger wasn't working.

The Stewards found the Competitor being in Breach of Article 27.6 Sporting Regulations : *'The data logger must work throughout the Competition, including during every practice. Controls may be carried out at any time during the Event. Competitors cannot leave the Event before their data loggers have been downloaded or unless the Stewards have given their consent for them to leave.'*

The Stewards considered that *'the Competitor is unable to advise why the datalogger did not receive data in Q2.'* The Stewards considered the content of the Technical Delegate's report sufficient to constitute a breach of the abovementioned article 27.6 Sporting Regulations taking into account : *'Facts : The Technical Delegate reports that car #63 was technically non-compliant in Q2 in that the datalogger was not working in Q2.'*

Car 63 did not agree with this decision and appealed, which appeal is admissible, as mentioned above. The suspension of the decision following the appeal, allowed Car #63 to compete in the race and finish in 2<sup>nd</sup> position.

Appellant's appeal is based mainly on two elements of non-accord with Decision n° 06 :

- According to Appellant the Stewards based their decision on faulty facts. Appellant states that Mr. Hohl, a representative of Memotec, who provide the Datalogger system, told him the datalogger WAS working, but only the data through the CAN signal were missing.
- According to Appellant the Stewards did not accept the 'failsafe' duplicate information from Car #63's Bosch Car Logger, to replace the missing parts of data.

Appellant asks for the penalty of disqualification to be dismissed, alternatively for the penalty to be mitigated into a fine.

#### **5. AS TO THE MERITS OF THE APPEAL :**

Following appellant's written submissions, the Court invited Claude Roth, the Track Data Support delegate from Memotec GmbH on whom's report the Decision n°6 was based, to attend the hearing as a technical witness.

On the day of the hearing, Mr. Roth was unable to attend the hearing, but submitted an additional written statement, which was communicated to Appellant.

From this additional written statement, the Court may conclude that the 'facts' as described in the Decision n°6 were not entirely correct where they say : *'the datalogger was not working.'*

Mr. Roth explains in his additional written statement : *'the reading of the SD card and the internal memory revealed that the recorded data were not complete following the absence of the transmission of data by the engine management box of the car (transmission through CAN bus).'*' (underlining by the Court)

Mr. Roth further explains that after the Qualifying session a new and tested datalogger system was installed in the car, and did not function again. After changing the looms on the car, the same datalogger system did function. After the Race, the Car #63 was submitted to Scrutineering and no problems with the Datalogger were found.

Appellant points out that the datalogger was functioning as should during Q1, and calls upon article 41.7 of the Sporting Regulations which provides that no means of testing are possible between qualification rounds, since no computers can be connected to the car, which was under pitlane supervision at all times.

The Court follows the opinion of the Judicial Reporter that the appeal is grounded, since an unknown reason must have caused the partial malfunction of data retrieval via the data logger in car # 63 during Q2, because it did function during Q1 and no manipulation from the Competitor's side was possible between Q1 and Q2.

Article 27.6 Sporting Regulations states that the data logger must work, which in this case it did. There was only a problem of partial malfunction of data retrieval, so the Court sees no infraction on article 27.6.

Since the appeal is grounded on the first part of the appeal, the second part of the appeal, stating that the Stewards did not take into account the offered duplicate information from Car #63's Bosch Car Logger, to replace the missing parts of data, is redundant.

As to the appeal fee, article 15.4.5 provides that the deposit MAY be returned. The Court remarks that neither in the appeal document of July 17th 2019, nor in the document presented by the Counsel on August 20th 2019, return of the deposit was asked.

**FOR THESE REASONS**

The National Court of Appeal,

- Rules the appeal admissible and grounded ;
- Waives the decision n° 06 issued by the Stewards, Disqualification from Q2 with the caveat that car # 63 is permitted to start Race 2 with a grid position based on no times having been set in Q2, Blancpain GT Series 2019 World Challenge Europe, Zandvoort (13/7/2019) ;
- Says that the Appeal fee will not be refunded to the Appellant;

Heard at the Public Hearing of September 10th 2019, the bench being composed of

Mrs. Arianne VANDECASTEELE

Mr. Louis DERWA

Mr. Philippe Normand

Chairwoman

Judge

Judge