



NATIONAL COURT OF APPEAL

PUBLIC HEARING OF NOVEMBER 12, 2024

The RACB Sport National Court pronounces the following decision in the case:

EMIL FREY RACING

Appellant

Represented by : Dr Lucien W.Valloni, attorney at law – Mauricio Pinheiro, Team Manager –
Jürg Flach, Technical & Operations Director

Considering the Steward's decision n°30 on October 12, 2024, 18:50;

Considering the appeal introduced on October 12, 2024 20:30;

Considering the convocation of the Appellant ;

Considering the opinion of the Sport Prosecutor;

Considering the Appellant's pleadings and exhibits and atwo written notes ;

Having held a hearing in English on November 12, 2024, the National Court of Appeal, presided by Mr Umberto Stefani and attended by Mr Hervé de Liedekerke and Mr Louis Derwa has passed the following.

1. DECISION SUBJECT TO APPEAL

1.

The dispute occurred following Race 1 of the Fanatec GT World Challenge Europe powered by AWS event at Barcelona on Saturday 12th of October 2024.

2.

Following Race 1, the Stewards received a protest from Team WRT against the classification of Race 1 concerning an alleged irregularity in the pit window opening during safety car procedure (article 20.5.2 of the Sporting Regulations).

The decision subject to the appeal is the decision n°30 of October 12, 2024, 18:50 (hereafter, the "Decision") by the Panel of Stewards.

Decision :

DECISION No: 30

From: The Stewards

Date: 12 October 2024

To: All Teams

Time: 18:50 hrs

The Stewards, having received a protest from Team WRT against the classification of Race 1, summoned and heard from the Race Director and the competitor's representative(s), have considered the following matter and determine the following:

Session: Race 1

Fact: Team WRT submitted a protest against the classification of Race 1 concerning pit window during Safety-Car procedure.

Offense: Alleged Breach of Article 20.5.2 of the Fanatec GT World Challenge Europe powered by AWS Sporting Regulations

Decision: The protest is rejected. Pursuant to International Sporting Code Article 13.10.1 the protest deposit will be retained in its entirety.

Reason:

The protest was lodged against the Provisional Classification.

The Stewards first considered if the protest was admissible.

The Stewards determined that as it was lodged on time and complied with the requirements of Chapter 13 of the FIA International Sporting Code, it was an admissible protest.

Hearing Procedure:

On October 12, the Race Director was heard at 16h00 and Team WRT was summoned to declare at 16h15 (Document 54).

On behalf of Team WRT:

- Vincent Vasse*
- Pierre Dieudonne*
- Maxime Bonnefoy*

At the hearing there were no objections against the composition of the Stewards panel. At the hearing the parties referred to the documents submitted. None of the parties submitted further evidence or initiated the hearing of additional persons or conducting further investigations.

The Race Director arguments:

The Race Director decided not to delay the pit window open during safety car procedure due to safety reasons. Due to the bad weather conditions and some incidents on track even with the presence of the safety car, he decided to keep the safety car on track and not to delay the pit window opening because it was uncertain when it would be possible to call the safety car in. In his opinion, if the pit window open would have been delayed it would have affected the fairness and the safety of everyone involved in the competition.

After receiving requests from several teams, the Race Director decided to clarify through a message in the timing monitors "WE CONFIRM PIT WINDOW IS OPEN".

The claims of Team WRT:

Team WRT alleged that there was an irregularity in Race 1 regarding article 20.5.2 of the Fanatec GT World Challenge Europe powered by AWS Sporting Regulations. According to Pierre Dieudonne, the situation was confusing and it was not clear when the pit window was a en. He continued and claim that the result did not reflect fairly and the race classification was not correct. In Team WRT perspective, the pit window will not be open after 25 minutes since the start of the Race due to the safety car procedure, as stated in article 20.5.2 of the mentioned regulations. Vincent Voss stated that it was the team's responsibility to be aware of the applicable regulation and they felt penalized in this instance by having followed it. He considered that could have been at least useful to have the clear information that the pit window will be open even under safety car procedure. In the end, they raised the question if we were able to cancel the race.

Conclusion of the Stewards:

Having considered the various statements made by the parties, the Stewards determine that although the stated in article 20.5.2 of the Fanatec GT World Challenge Europe powered by AWS Sporting Regulations, the safety reasons presented by the Race Director support the decision made of keep the pit window opening without delay.

After having reviewed the Pit Stops Timekeeping Report, it was possible to see that car #32 pitted at 14h25:01.190 and changed the driver, being the fifth car to do so. Also, car #30, from the same Team, pitted at 14h25:05.622, being the tenth car to do it. There is no way of knowing if and how much they were affected or benefited from the fact that pit window opening was not delayed. The Stewards agree that at this point, any attempt to rectify a possible unfair situation could create another one to other competitor and so on.

Accordingly, the Protest is dismissed and the Protest Deposit is not refunded.

Competitors are reminded that they have the right to appeal certain decisions of the Stewards, in accordance with Article 15 of the FIA International Sporting Code, within the applicable time limits.

<i>Luis ROBY</i>	<i>Yves BACQUELAINE</i>	<i>David FUENTES</i>
<i>Steward (Chairman)</i>	<i>International Steward</i>	<i>ASN Steward</i>

Received by the Comptitor

Date: 12/10/2024

Time: 19h14

Signature : Pierre DIEUDONNE

2. PROCEDURE

a) Hearing

3.

The appellant has been convoked in accordance with Art. 3 and 18 of the National Sporting Code 2024 (Judicial Procedure).

The hearing of the parties took places on November 12, 2024. The Sport Prosecutor's opinion was heard.

The Appellant appeared assisted by Mr Dr Lucien W.Valloni, attorney at law, who set out the Appellant defense.

b) Sport Prosecutor's opinion

4.

The Sport Prosecutor argued that the appeal is out of time, so that the appeal must be dismissed.

c) Position of the Appellant

5.

Asked about the validity of his appeal in time, the appellant maintains that he was only able to introduce the appeal when it was possible. He maintains that no one can be forced to stand 7 hours in front of a screen to check whether a decision has been published. The Appeal deadlines are indicative and must be interpreted broadly according to the principle of fairness and the fact that Emil Frey Racing was not an initial party to the protest.

d) Decision of the National Court of Appeal

6.

The Court is the appellant competent court according to the FANATEC GT World Challenge Europe règlement. There is no dispute on this point.

7.

Before examining the merits of the case, the Court must consider whether or not the appeal has been lodged within the time limit.

The Court noted that:

Decision no. 30 was taken at 18:50 PM and received by competitor including Emil Frey Racing at 19:14 PM.

At 19:49, 12th of October 2024, the Stewards received from the Team WRT representative the Intention of appeal. The competitor received one signed copy and the original was sent together with all the event files.

At 20:30, 12th of October 2024, the Stewards received from the Emil Frey Racing representative the attached intention of appeal. The competitor received one signed copy and the original was sent together with all the event files.

8.

According to the FANATEC GT World Challenge Europe règlement, art. 14.1 and 14.3 :

14.2 All classifications, starting grids, and results of practice and the race, as well as all decisions issued by the Officials, are posted on the Digital Notice Board for the Fanatec GT Challenge Europe powered by AWS.

14.3 All Teams must be connected and are required to monitor the Fanatec GT Challenge Europe powered by AWS Team Messaging System at all times during each Event.

According to FIA International Sporting Code (2024), article 15.4.2.a :

15.4.2.a They must, however, under pain of forfeiture of their right to appeal, notify the stewards in writing of their intention to appeal within one hour of the publication of the decision.

The Decision n°30 was notified to Emil Frey Racing at 19:14 and Emil Frey Racing lodged its intention of appeal at 20:30, 16 minutes beyond the hour set by the regulations.

From the application of these rules, it appears that participants are obliged to be connected and are required to monitor the Fanatec GT Challenge powered by AWS Team Messaging System at all times during the race. Emil Frey Racing cannot invoke non-compliance to this provision to justify its failure to lodge its intention of appeal within the one-hour time limit.

Consequently, the appeal is dismissed.

e) Costs of the Appeal

9.

Pursuant to article 23.c. of the 2024 National Sporting Code, the defendant is ordered to pay legal costs in the sum of € 500.

For these reasons, the Court decides :

- The Appeal is dismissed;
- The Appellant is ordered to pay the Appeal costs in the amount of € 500 in accordance with article 23.c. of the 2024 National Sporting Code.

The National Court of Appeal, Brussel, November 28th 2024.

M. Umberto STEFANI

M. Louis DERWA

Mr Hervé de LIEDEKERKE