

Rally Dakar 2023

29. December 2022 - 15. January 2023



Date: **Wednesday, 4th January 2023**

Time: **13.00 hrs**

Subject: **STEWARDS DECISION N° 6**

Document No: **2.8**

From: *The Stewards*

To: The Competitor JANUS VAN KASTEREN of vehicle No. 502
Crew JANUS VAN KASTEREN / DAREK RODEWALD / MARCEL SNIJDERS

Number of pages: 4

Attachments: 0

PROTEST lodged by

The Competitor of vehicle No. 502 JANUS VAN KASTEREN (Crew JANUS VAN KASTEREN / DAREK RODEWALD / MARCEL SNIJDERS)

Against

The classification established at the end of the Stage No 1.

Procedure:

1. On Monday 02nd January 2023, the Clerk of the Course received at 23.55 hrs a protest lodged by the Competitor of vehicle No. 502 addressed to the Chairperson of the Stewards of RALLY DAKAR 2023.
2. Competitor No. 502 stated that it has been penalized 15 minutes for a breach of the Regulations for a missed way point (WP99).
3. Competitor No.502 stated that it never had the chance to indicate in writing, at scrutineering, which of the two GPS devices would be considered as the primary one.
4. Competitor No. 502 claimed in its protest that secondary GPS validated the above-mentioned way point.
5. Competitor No. 502 also stated that the penalty applied was the outcome of a GPS-NAV system failure, as only one of the two NAV-GPS devices validated WP99.
6. Competitor No. 502 noted the understanding of Art. 12.2.1 and 12.2.2 of the 2023 FIA CCR SR.
7. Competitor No. 502 requested the Stewards to consider the matter as a failure in one of the two GPS-NAV and cancel the penalty for missing a waypoint.
8. The Stewards summoned the Protester, the Clerk of the Course and the representative of the GPS device supplier (ERTF):

On behalf of Competitor No. 500: Janus VAN KASTEREN Driver

On behalf of ERTF: Cesar Rodrigues

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The hearing was held on Tuesday 03rd January 2023 at 22:00 hrs in the Stewards' Room with all Stewards present.

9. No objections were raised against the composition of the Stewards panel.
10. At the hearing, none of the parties submitted further evidence nor initiated the hearing of additional persons or asked to conduct further investigations.

On the Admissibility:

11. The Stewards examined the admissibility of the protest:
 - 11.1 The protest was lodged in due time, in accordance with Art. 13.3.7 of the 2023 FIA International Sporting Code and Art. 60.1.2 of the 2023 FIA CCRSR.
 - 11.2 The protest was lodged by a single competitor against the Classification established at the end of the Stage 1, as stipulated in the 2023 FIA International Sporting Code Art. 13.1.1.
 - 11.3 The subject of the protest was against the Classification established at the end of the Stage 1 (2023 FIA International Sporting Code Art. 13.2.1, Art. 60.1.2 of the 2023 FIA CCRSR).

(Since the Protester did not mention this in the protest text itself, the Stewards asked it at the beginning of the hearing)
 - 11.4 The protest was properly accompanied by the protest deposit of € 1000, as stipulated in Art. 13.4.2 of the 2023 FIA International Sporting Code, Art. 60.2.1 of the 2023 FIA CCRSR and in Art. 14.2 of the event Supplementary Regulations.

The Stewards find that the protest is admissible and that the requirements of the Code have been complied with.

Hearing of the Parties:

12. The Stewards asked the Protester to explain the reasons of his protest.
13. The Protester stated that he protested, wanting an investigation. First, the Protester stated that nobody asked him which of one the two GPS devices was to be considered as the primary one. Additionally, in his opinion, the primary device did not work properly. Following from Art. 12.2 of the 2023 FIA CCRSR, he notes that should there be an issue as seen from supplier, ERTF, with the primary accuracy, then the fact the secondary GPS validated the WP must be accepted, as written in the final sentence of article 12.2.1., If the primary NV-GPS is inoperative, the second NAV-GPS automatically becomes the primary one. Protester also raised the question of why both GPS devices were not validating the same information. For sporting fairness, the evidence that the primary device at WP99 was inoperative, and that WP99 was validated by the secondary device, must be taken into consideration.
14. The ERTF representative explained that there is no such evidence in the system that the Protester is talking about. He checked the data and sees that there are no such reports in the system that the primary device was inoperative. And if this (what the protester says) was true, i.e. if there were any signs of an inoperative or sending a false signal, the system would immediately report it. There is no such data in the system confirming the presence of the primary device in an inoperative state

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or the sending of false signals. When overcoming the track correctly, there should be no misunderstanding about the validation of WP. Both devices provide the same information. When it's too far away from WP (beyond radius), WP may not be validated. Due to the possible different operation of the devices, it is possible that even when the crew is too far from WP, the second device validates WP.

15. Since all concerned parties had finished their explanations, the Stewards had no further questions, the parties were given the opportunity to ask questions to each other.
16. Both the Protester and the ERTF representative reiterated what had already been said before.
17. There were no more questions for each other.
18. There were also no additional requests.

After the hearing was closed by the Chairperson, the Stewards took the following decision after due deliberation.

Decision:

19. **The protest is admissible.**
20. **The protest is rejected.**
21. **The protest fee will not be returned to Competitor N° 502.**

Reasons

22. The stewards decide that in this case it is important to note that Art. 12.2.1 of the 2023 FIA CCRSR clearly establishes in which case the second device automatically becomes the primary one. It can only be legal if the primary device is inoperative.
23. As can be clearly seen from the explanation given by the representative of the ERTF, there is no such data in the system that the primary device is inoperative. And there is not even data that the primary device sends the wrong signals. Therefore, there is no legal basis for declaring the Protester's claim to be founded.
24. The Protester, both in the text of the protest and in his explanations at the hearing, emphasizes the presence of both devices in close proximity to each other, but this does not in any way change the legal assessment of the situation.
25. When assessing the situation from a legal point of view, it is important not how close the two devices were to each other, but whether the crew correctly overcame the track.
26. The regulations do not provide for any preferences for those crews who use not one device, but two devices. Such exceptions would not be fair to other crews. This would not be in line with the sporting principles of competition. That would not be fair in terms of sports competition.
27. In the light of the explanations given by the parties at the hearing and the requirements of the regulations (Art. 12.2.1 of the 2023 FIA CCRSR, Art. 12.2.2 of the 2023 FIA CCRSR), the Stewards decide that there is no legal basis for declaring the Protester's claim to be founded.
28. The Art. 12.2.2 of the 2023 FIA CCRSR provides that only data from the primary NAV-GPS will be

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taken into account when applying penalties for missed waypoints and speeding violations.

- 29. The ERTF representative explained that when overcoming the track correctly, there should be no misunderstanding about the validation of WP. Both devices provide the same information. When it's too far away from WP (beyond radius), WP may not be validated. Due to the possible different operation of the devices, it is possible that even when the crew is too far from WP, the second device validates WP.
- 30. The fact that WP is validated by a second device does not change the legal assessment. Because the second device, based on the Art. 12.2.1 of the 2023 FIA CCRSR can become the primary only in the case provided for by in the said article.
- 31. Any premise that allows to theoretically reason what could be, if any, has no legal power. A contrary interpretation would negate the requirement of said regulations and fair competition between the crews. The regulations must apply equally to all crews. No one is given illegal preferences.

Competitors are reminded that they have the right to appeal certain decisions of the Stewards, in accordance with Article 15 of the 2023 FIA International Sporting Code and Chapter 4 of the FIA Judicial and Disciplinary Rules.

Arnas PALIUKENAS
FIA Chairperson of the Stewards

Patrick SUBERVILLE
FIA Steward

Hassan AL ABDALI
ASN Steward

Received:

Competitor: **JANUS VAN KASTEREN**

Vehicle No: 502

Crew: JANUS VAN KASTEREN / DAREK RODEWALD / MARCEL SNIJDERS

Date:

Time: 04-01-2023

Signature:

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