

Date: **Monday, 15th January 2024**

Time: **15.45 hrs**

Subject: **STEWARDS DECISION N° 9**

Document No: **2.11**

From: *The Stewards*

To: The Competitor **TOYOTA GAZOO RACING** of Car No. **206**
Crew **LUCAS MORAES / ARMAND MONLEON HERNANDEZ**

And

The Competitor **NASSER RACING BY PRODRIVE** of Car No. **200**
Crew **NASSER AL ATTIYAH / MATTHIEU BAUMEL**

Number of pages: 4

Attachments: 0

PROTEST lodged by

The Competitor of car No. 206 **TOYOTA GAZOO RACING** (Crew **LUCAS MORAES / ARMAND MONLEON HERNANDEZ**)

Against

The Competitor of car No. 200 **NASSER RACING BY PRODRIVE** (Crew **NASSER AL ATTIYAH / MATTHIEU BAUMEL**)

Procedure:

1. On Saturday January, 13th 2024, the Clerk of the Course received at 18.04 hrs a protest lodged by the Competitor of car No. 206 addressed to the Chairperson of the Stewards of RALLY DAKAR 2024.
2. Competitor No. 206 claimed in their protest that Competitor No. 200 received prohibited service by the truck No. 638 during selective section 6. Truck No 638 was allegedly not anymore in the competition of SS6 at the time they provided assistance.
3. Both parties were summoned and heard together by the Stewards. The following persons were present at the hearing:

On behalf of Competitor No. 206:	Alain DUJARDYN Uwe SCHMIDT	Team Representative Team Representative
On behalf of Competitors No. 200 & 638:	Virginie SOULAIRE Gustavo BETELI	Team Representative Team Representative
Requested by the FIA Stewards:	Jérôme ROUSSEL	FIA Category Manager

The hearing was held on Sunday 14th January 2023 at 17:55 hrs in the Stewards' Room with all the Stewards present.

4. No objections were raised against the composition of the Stewards panel.

5. At the hearing the parties referred to the documents previously submitted. None of the parties submitted further evidence nor initiated the hearing of additional persons or asked to conduct further investigations.

On the Admissibility:

6. The Stewards examined the admissibility of the protest:
 - 6.1 The protest was lodged in due time, in accordance with Art. 13.3 of the FIA 2024 International Sporting Code.
 - 6.2 The protest was lodged by a single competitor against a single competitor as stipulated in the FIA 2024 International Sporting Code Art. 13.1.1 to 13.1.3, Art. 13.7.3 and Art. 13.7.4.
 - 6.3 The subject of the protest was against an alleged breach of the regulations during the competition, as stipulated in the FIA 2024 International Sporting Code Art. 13.2.1 and Art.13.4.1
 - 6.4 The protest was properly accompanied by the protest deposit of € 1000, as stipulated in Art. 13.4.2 of the FIA 2024 International Sporting Code, Art. 60.2.1 of the FIA 2024 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:

7. The Protester stated that in his opinion, Art. 49.1.3 of FIA 2024 CCRSR alone cannot be applied in this case. In his view, in order for a truck to be able to provide assistance, it must meet not only the requirement laid down in Art. 49.1.3 (***to be considered on the competition of a Stage/SS may assist each other at any time, other than where this is specifically prohibited. To be considered in the competition of a Stage, the crew must have started to the Stage according to Art. 31.2. To be considered in the competition of a Selective Section the crew must have started the SS according to Art. 42***)

The Protester stated that the opposite interpretation of the regulations "*that cannot be the intention of the regulations and it will be against the spirit and principles of this marathon*".

In the opinion of the Protester, the fulfilment of the requirement laid down in that article (Art. 49.1.3) cannot be held to be sufficient for the Competitor to be regarded as still in competition. This, in the opinion of the Protester, would be unfair. Because there are other articles in the regulations that must be applied in this case.

The Protester asked stewards to take into account the regulation laid down in Art. 14.2.8. In the opinion of the Protester, in the application of this article, no further action is required on the part of official persons, including the CoC. However, during the hearing, when the interested parties explained the purpose of Art. 14.2.8, as well as the moment from which the crew is deemed to have retired, in the context of the application of this article, the Protester, in response to steward's question as to whether, in his opinion, a competitor who has been retired from the competition is entitled to a protest if the CoC applies Art. 14.2.8, the protester agreed that yes, of course, the competitor has such a right. And pointed out that the time limit for a protest begins from the moment the provisional classification (which contains the stage penalty applied) is published.

Thus, even the Protester had no doubt that a certain legal fact is important (therefore, even in the application of Art. 14.2.8, although in the opinion of the Stewards in this case it is not applicable). That legal fact is the publication of a provisional classification based on the CoC's notification for the application of stage penalty.

8. Representatives of the Competitor car No. 200 asked for the protest to be rejected.

They explained that there was no dispute as to the fact that truck No. 638 provided assistance to the Competitor of car No. 200. Their position differs from that of the Protester only in that they understand the regulations differently from the Protester. They do not agree that the Competitor car No. 200 violated the rules and could therefore be punished. They explained that at that time, many of their assistance trucks were already stuck in the dunes. They told how it all happened. They also explained that they received confirmation from HQ via WhatsApp for their actions. The network was very poor at the time, so it was not always possible to quickly contact the official persons of the event, but nevertheless received confirmation from the HQ that their actions were in accordance with the regulations.

The stewards were provided with screenshots of the aforementioned communication with HQ.

9. Since the content of the protest referred to the intention of the regulations (the Protester relied on the intention of the regulations, seeking to justify his position), the Stewards decided to invite the FIA Category Manager to the hearing as well, in order to clarify the true intention of the regulations.

Therefore, the Protester's position on the intention of the regulations was not confirmed from the FIA Category Manager's side. On the contrary, in his explanation, he pointed out that this case it is not even about any of the competitors, but specifically about the truck. The FIA Category Manager, while presenting the objectives pursued by incorporating some articles into the regulations, drew attention to Art. 58.2.7, which is specifically designed to regulate the notifications of the CoC confirming the retirements of trucks.

And this rule additionally confirms that in the event of a retirement of the truck, such retirement is confirmed by the notification of the CoC.

10. The protest also asked for witnesses to be interviewed and for data to be demanded from the ERTF. However, since it was found at the very beginning of the hearing that the dispute was limited to a different understanding and interpretation of the requirements of the regulations, but that there was no dispute as to the facts, the Protester did not support his request at the hearing.

After the hearing was closed by the Chairperson at 18h25, the Stewards took the following decision after due deliberation.

Decision:

11. **The protest is admissible.**
12. **The protest is rejected.**
13. **No further action against Competitor No. 200.**
14. **Protest fee is not to be returned to the Protester.**

Reason

The Stewards find that Art. 14.2.8 cited by the Protester, as well as other articles of the FIA 2024 CCRSR, which refer to the fact that the Crew/Competitor *is deemed to have retired* (e. g., 27.1.9 - *considered as having retired* and others) are intended to enable stage penalty to be applied in the application of these articles. But they are not intended to regulate other areas of the regulations.

Regulations are made up of many separate parts designed to regulate individual situations.

In law, there is a *lex specialis* rule (more specific rules will prevail over more general rules).

In this particular case, *lex specialis* is Art. 49.1.3, which clearly defines what requirements a crew must meet in order to be recognized as capable of providing service assistance. This part of the regulations (Art. 49) is called "SERVICE", section 49.1 is titled "Performing of service". The rules described here that should be considered *lex specialis* in relation to other articles contained in the regulations. And it is precisely compliance with these requirements that can be demanded from Crews/Competitors when it comes to service.

The Protester's observation that the regulations might need to be amended because of their imperfection does not affect the decision of the Stewards in this case. Changes in regulations are not within the limits of the powers of Stewards.

Competitors are reminded that they have the right to appeal certain decisions of the Stewards, in accordance with Article 15 of the 2022 FIA International Sporting Code and Chapter 4 of the FIA Judicial and Disciplinary Rules.



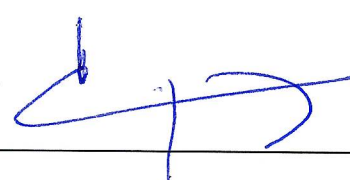
Arnas PALIUKENAS
FIA Chairperson of the Stewards

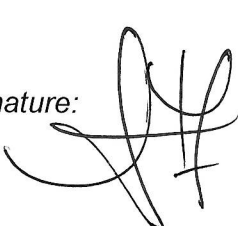


Omar ZAROOUR
FIA Steward



Saleh ALEM
ASN Steward

Competitor: TOYOTA GAZOO RACING Vehicle No: 206
Crew: LUCAS MORAES / ARMAND MONLEON
Date: 15/01/2024
Time: 16.18 Signature: 

Competitor: NASSER RACING BY PRODRIVE Vehicle No: 200
Crew: NASSER AL ATTIAH / MATTHIEU BAUMEL
Date: 15/01/2024
Time: 16.19. Signature: 

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