



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

Appeal brought by Mr Luca Corberi

Against the

**Decision No. IT-2021-01 issued by the International Tribunal of the FIA on 19
April 2021 (the "IT Decision")**

Case ICA-2021-01

Hearing of 22 June 2021, Paris

Decision of 19 July 2021



The FIA INTERNATIONAL COURT OF APPEAL (“the Court”), which comprised Mr Harry Duijm (Netherlands), who was designated President, Mr Michael Grech (Malta), Mr Philippe Narmino (Monaco) and Mr Erich Sedelmayer (Austria), held a hearing at the FIA headquarters in Paris on Tuesday 22 June 2021.

Prior to the hearing, the Court received and considered submissions and attachments thereto made by Mr Luca Corberi on one side and by the FIA on the other side.

The following persons attended the hearing:

on behalf of the Appellant, Luca Corberi:

Mr Luca Corberi, Appellant
Mr Marco Baroncini, Legal Counsel

on behalf of the FIA:

Mr Pierre Ketterer (Head of Department – Governance, Integrity & Regulatory Affairs, FIA)
Mrs Alejandra Salmerón García (Senior Legal Counsel, FIA)
Ms Marianne Saroli (Senior Legal Counsel, FIA)
Mr Adam Baker (Safety Director, FIA)
Mr Pasquale Lupoli (Deputy Race Director, FIA, witness, attending via videoconference)
Mr Karl Janda (Technical Coordinator, FIA, witness, attending via videoconference)

Also attending the hearing:

Mr Jean-Christophe Breillat (Secretary General of the FIA Courts)
Mr Nicolas Cottier (Clerk of the FIA Courts, attending via videoconference)
Mrs Sandrine Gomez (Administrator of the FIA Courts)



The parties filed written submissions and, at the hearing on 22 June 2021, set out oral arguments and addressed the questions asked by the Court. The hearing took place in accordance with the adversarial principle, with the aid of simultaneous translation in French and English, as well as, at the request of the Appellant, in Italian. None of the Parties raised any objection, in relation either to the composition of the Court or to the manner in which the proceedings and the hearing were conducted, notably concerning the respect of the adversarial principle or the simultaneous translation.

The FIA's witnesses (Messrs. Pasquale Lupoli and Karl Janda) did not make any intervention and in the end were not questioned.

I. REMINDER OF THE FACTS

1. The South Garda Karting Circuit in Lonato, Italy, hosted the 2020 FIA Karting World Championship-KZ, which is run over a single competition, between 1 and 4 October 2020 (the "Championship").
2. Mr Luca Corberi (the "Driver" or the "Appellant") currently holds a Grade B Senior International Karting Licence issued by the Automobile Club d'Italia-Sport (the "ACI-Sport"), which is an FIA member and the National Sporting Authority (the "ASN") for Italy. The Driver has been holding different types of karting licences since at least 2010.
3. In order to participate in the Championship, on 21 September 2020 the Driver signed the necessary entry form declaring that he had "*read the Supplementary Regulations issued for this competition and [agreed] to be bound by them and the FIA International Sporting Code in force*".
4. During the final phase of the Championship, held on 4 October 2020, the Driver was involved in three successive incidents.

The 1st incident

5. During lap No. 9 of the final phase, the driver No. 22 Paolo Ippolito pushed the Driver off the track. While the Driver had to retire from the race, Mr Ippolito was able to continue until the end of the race. Mr Ippolito was, however, subsequently disqualified by the Stewards.

The 2nd incident

6. Having ended up with his kart against the barriers, the Driver tried first to extricate his kart from the barrier and then, although the integrity of his kart was not compromised despite the impact, he disassembled the front fairing of the said kart.
7. After having removed the front fairing of his kart, a process which took some time, the Driver then walked towards the track with the front fairing still in his hands and

waited by the side of track, until he could see Mr Ippolito, who was continuing the race, approaching.

8. Then, while the race was still ongoing, the Driver intentionally threw the front fairing of his kart, which weighs at least 1.350 kg, in the direction of Mr Ippolito, whose speed, as well as that of his direct followers, was of approximately 100 km/h.
9. While Mr Ippolito was not hit by the front fairing thrown at him, Mr Millel, who was driving kart No. 31, was the only one among a group of four drivers who were following Mr Ippolito to be hit by the front fairing. Luckily, no physical injury nor damage resulted from this.
10. Subsequently, the Driver intentionally crossed the track, during an ongoing race, disobeying the instructions given to him by the officials and risking his own and other participants' and official's physical integrity.
11. Mr Lupoli, the FIA Deputy Race Director, who had seen the Driver standing at the edge of the track with his front fairing, urged him, by means of gestures, not to cross the track and to go to a safe position. The Driver simply refused to follow those instructions and no one was able to prevent him from crossing the track.

The 3rd incident

12. After having crossed the track several times at different spots, the Driver then reached the parc fermé where he sat down for a while and subsequently moved away from the parc fermé.
13. Once the race ended, i.e. 16 laps after the 1st incident, and all the karts arrived at the parc fermé, the Driver returned to the parc fermé and ran violently towards Paolo Ippolito and pushed him to the wall and ground. The two drivers then started to fight. At least 4 drivers or mechanics tried to separate them.
14. Mr Marco Corberi, the Driver's father, then attacked Mr Ippolito and hit him in the head, while Mr Ippolito's father joined the fight a few seconds later.
15. The fight reached a point where fathers and sons were hitting each other.
16. After the intervention of Mr Karl Janka, FIA Technical Coordinator, Mr Paolo Ippolito stepped back, while Messrs Corberi, father and son, continued to fight with Mr Giuseppe Ippolito. It then took several minutes more before Mr Janka managed to separate the three protagonists and to send everyone to the Finish Park.
17. The Judge of fact (Incident No. 2) and the technical delegate (Incident No. 3) reported those incidents to the Stewards.
18. The Driver and his team were summoned to a hearing. After the hearing, the Stewards decided to disqualify the Driver from the competition by issuing their Decision No. 236 based on the Judge of fact's report related to Incident No. 2.

19. The Driver did not appeal against this Decision No. 236, which did not make any reference to Incident No. 3.
20. On 5 October 2020, the Driver published an apology on social media and mentioned that he had decided not to *“take part to any other motorsport competition for the rest of my life, that’s no[t] a self justice, it’s simply the right thing to do”*.
21. On 7 October 2020, the FIA received an email from Mr Marco Corberi, the Driver’s father, stating the following:

“We have been overwhelmed and crushed and we are sorry that we are writing to you just now to give our humblest apologies. There is no way to express our feeling now, the Corberi family is a family that has made their passion for karting their lifelong work, we have had the honor of taking this sport to the highest recognised levels, beating every record, and we could never have foreseen that just from us, and act so horrendous and so negative for the discipline could arise. It breaks our hearts to see the same images shared in every corner of the world knowing that this will bring bitterness and regret to the industry. Unfortunately, there is no way to prevent this from happening and allow Karting to show itself to the world for what it really is, a beautiful sport. We know that the whole sector will suffer for our attitude, and we are devastated for this. We are writing to you with the most regret feeling possible.”

22. On the same day, Mr Lackman, a member and chairman of the panel of stewards of the competition, requested the FIA to *“take further action on this driver also asking his ASN to take actions and bring him to the Sporting and Disciplinary Court”*.

II. PROCEDURE BEFORE THE FIA INTERNATIONAL TRIBUNAL (IT)

23. On 14 October 2020, the FIA notified Mr Corberi of the launch of a disciplinary inquiry under the FIA Judicial and Disciplinary Rules (the “JDR”) concerning Incidents No. 2 and No. 3.
24. After having gathered the evidence that it deemed necessary, the FIA sent a Notification of Charges to Mr Corberi and to the President of the IT on 1st February 2021.
25. In its Notification of Charges, the FIA asked the IT to:

“7.1.1 find that Mr Luca Corberi has breached Article 2.3 of the Statutes, Article 5.2 (i) a) of the JDR [the FIA Judicial and Disciplinary Rules], Articles 12.1.1.c, 12.1.1.d, 12.1.1.h and 12.1.1.i of the ISC, the Code of Good Conduct (Appendix B to the ISC) and Article 2 of the FIA Karting World Championship Sporting Regulations-KZ.”

7.1.2 impose such sanctions for these breaches as the FIA International Tribunal deems just and proportionate; and

7.1.3 order Mr Luca Corberi to pay the costs referenced in JDR Article 8.2.”

26. In his Observations to the Notification of Charges, received by the IT on 24 February 2021, Mr Luca Corberi concluded that the IT should:

“reform the judgment under appeal (sic) and, as a result, impose on the dismissed Luca and Marco Corberi (sic) a disciplinary sanction, determined within the limits of the laws referred to in article 227.4 RSN, without any aggravation of the same, with the benefit of the conditional suspension of its effects ex Article 230 RSN.”

27. The FIA put forward in essence the following grounds before the IT, in support of its Notification of charges:

In relation to Incident No. 2

- a. Mr Corberi breached Articles 12.1.1.d and 12.1.1.h of the 2020 International Sporting Code (the “Code”) and the Code of Good Conduct together with Article 2.3 of the FIA Statutes as the Driver endangered his own safety and that of other drivers;
- b. He breached the Code of Good Conduct by deliberately throwing the front fairing of his kart at another driver, thus failing in his duty of his respect and of fairness by acting in an unsportsmanlike manner; and
- c. Mr Corberi also breached Article 12.1.1.i of the Code as he completely disregarded the instructions and directions given by the officials.

In relation to Incident No. 3

- d. Mr Corberi breached the Code of Good Conduct as he violently assaulted another driver and licence-holder, acting once again in an unsportsmanlike manner.

In relation to Incidents No. 2 and No. 3

- e. The FIA asserted that Mr Corberi’s actions, which were streamed worldwide, showing a very negative image of drivers, karting and motor sport in general, were simply disrespectful. This attitude was prejudicial to the interests of the FIA as a custodian of the sport in general and to the FIA Karting World Championship in particular. This attitude allegedly constituted a breach of Article 12.1.1.c of the Code and Article 5.2 (i) d) 2 JDR 2020.
- f. As a consequence of (a) to (e) above, the FIA claimed further that the actions of Mr Corberi were of the “*utmost seriousness*” as they adversely affected the safety of the competition and the integrity of the participants. Safety, respect, fair play, justice and honesty are principles that drivers are always expected to promote. This should of course be expected of Mr Corberi, who is furthermore an experienced driver.

- g. Not only did Mr Corberi put himself and the other competitors in great danger, but he also initiated a fight with another driver, which ended up as a brawl involving other persons.
 - h. On top of the gravity of the facts, the FIA stressed that it was undeniable that Mr Corberi perpetrated both incidents deliberately and intentionally.
 - i. The FIA added that no mitigating circumstances could be put forward by Mr Corberi whereas the facts that he is an experienced driver, that he is an adult, that he did not apologise after having thrown the front fairing and that he acted in such a manner during a prestigious event which was transmitted worldwide, constituted, each individually, aggravating circumstances.
 - j. According to the FIA, the nature and the impact on the public of those incidents required a harsh sanction, and it therefore proposed that a suspension for a duration to be fixed by the IT could be an appropriate sanction, stressing that the IT had full discretion in this respect.
 - k. The FIA then provided precedents of suspensions, such as a 3-year suspension for having verbally and physically assaulted two officials and one driver; a 10-year suspension for the unauthorised presence of a vehicle on Forestry Commission Land and for calling into question on social media the actions of officials and organisers; a 3-year suspension for having tried to obtain a licence illegally; and an 8-year suspension for having tested positive for alcohol while exercising duties as an official.
 - l. Based on all the above, the FIA considered that *“only a life ban in accordance with Article 5.2 (ii) b) JDR or a suspension in accordance with Article 12.3.2.n of the Code might constitute an appropriate and proportionate sanction that meets the gravity of the numerous violations committed by [Mr Corberi]”* and concluded by asking the IT to *“impose such sanctions for those breaches as the FIA International Tribunal deems just and proportionate”*.
28. Mr Luca Corberi, for his part, contended in his Observations on the FIA Notification of Charges, in essence as follows:
- (i) Mr Corberi argued first that by virtue of the principle *“ne bis in idem”*, the fact that the Italian disciplinary authorities issued a decision on Incidents No. 2 and No. 3 excludes that the FIA International Tribunal can sanction Mr Corberi a second time for the same facts.
 - (ii) Referring to various parts of a judgement issued by the Italian disciplinary authorities in separate proceedings, Mr Corberi, who did not dispute before the IT the facts as described by the FIA, put forward that his actions were caused in *“reaction, in a state of anger, determined by the unjust fact of others”*, namely Mr Ippolito, as Mr Corberi was – as he alleged before the IT – hit at around 140

km/h by the latter, Mr Corberi's body being "*arched, extending backwards, due to the violent collision*".

- (iii) The worldwide streaming of the images linked to the incidents should not be considered as an aggravating circumstance.
 - (iv) A precedent in cross-country skiing, where an athlete was suspended for only one competition after having assaulted a competitor, excludes that a harsher sanction than disqualification from the competition could be imposed on Mr Corberi.
 - (v) It is Incident No. 1 which provoked Incidents No. 2 and No. 3, and this series of incidents should be taken as a whole and Mr Corberi should be sanctioned upon consideration of his state of anger, which was constant from Incident No. 1 until the end of Incident No. 3.
 - (vi) Mr Corberi claimed further that Incident No. 1 had actually been ignored by the FIA.
 - (vii) In essence, the Driver concluded before the IT that if any sanction should be imposed by the IT, it should be suspended during a probation period.
29. Having considered the circumstances of the case and the submissions made by the parties, the IT decided to sanction the Driver as follows:
- (a) Confirming Decision No. 236 issued by the Stewards which disqualified him from the competition;
 - (b) Imposing a 15-year suspension within the meaning of Article 12.3.1. n) of the Code; and
 - (c) Imposing a 15-year ban within the meaning of Articles 5.2.2, b) and d) of the Judicial and Disciplinary Rules (JDR).
30. Reference is made otherwise to the full Decision issued by the IT.

III. PROCEDURE AND REQUESTS OF THE PARTIES

- 31. The Appellant notified its appeal to the ICA on 23 April 2021 whereas the FIA did not file an appeal with the 7-day time limit provided under Article 10.3.2 JDR.
- 32. A convening notice was sent to the Appellant and to the FIA on 30 April 2021.
- 33. On the same day, the ACI-Sport was informed of the proceedings and filed its written observations on 1 June 2021. It did not take part in the hearing.
- 34. The other competitors in the 2020 FIA Karting World Championship-KZ were informed of the proceedings before the Court and that they could submit a request for being heard as a third-party. None of them did.

35. The Appellant asked the Court in its Grounds for Appeal, received by the Court on 17 May 2021, in essence:
- *“to ascertain the violation of art.4 of Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms for the Protection of Human Rights and Fundamental Freedoms by the Italian ASN and so definitively declare the exclusive jurisdiction of the Organs of Justice of the FIA and*
 - *to annul the disciplinary sanctions of suspension and ban for the duration of 15 years and replace them with a less “distressing one”, to be chosen among those indicated in art. 12.4 of the Code, or, at least, reduce their period of application within the time limit of five years, provided for by art. 5.3 JDR.”*
36. In its Grounds in response, received by the Court on 7 June 2021 (English version) and 10 June 2021 (French version), the FIA requests that the Court:
- “i. further to Article 10.9 of the JDR, dismiss the Appellant’s appeal, and confirm the IT Decision in its entirety; and*
- ii. order the Appellant to pay ICA costs of the appeal referenced in Article 11.2 of the JDR of the FIA.”*
37. In its Written observations dated 1 June 2021, the ACI-Sport concludes that the Appeal should be rejected by the ICA.
38. At the outset of the hearing, the Court decided that the new documents produced by the Appellant on 15 June 2021 would not be admitted to the file as they were filed outside the time limits set in the calendar of proceedings in accordance with Article 10.6 JDR, the Appellant having in addition not filed any formal request and therefore having given no valid grounds for this belated filing of documents which were available to him within the set deadlines.
39. The Appellant confirmed, also at the outset of the hearing, that he did not dispute either the facts or the breaches of the regulations established by the IT in the appealed Decision. The Appellant confirmed further that he did not dispute the jurisdiction of the Court and that he did not dispute the IT Decision with regard to the application by the IT of the principle “*ne bis in idem*” as developed under No. 63 *et seq.* of the IT Decision.

IV. ADMISSIBILITY OF THE APPEAL BEFORE THE COURT

40. The Court notes that the Appellant brought its appeal in accordance with the provisions of the JDR.
41. The Court also considers that it is competent to hear this appeal.

42. Therefore, the Court deems the appeal admissible, which is contested neither by the FIA nor by the ACI-Sport.

V. ON THE SUBSTANCE

a) *Arguments of the parties*

43. The Appellant puts forward in essence the following 5 grounds in support of his appeal:

Ground No. 1

44. The Appellant first claims that the IT should have established that the Italian court of the ACI-Sport had infringed the exclusive jurisdiction of the FIA Courts which, allegedly, does not allow national courts to judge on the same facts and to take actions against the same persons in view of the principle "*ne bis in idem*". The Appellant further claims that the IT should have "*ascertained the violation of art. 4 of Protocol 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms by the Italian ASN, declared the exclusive jurisdiction of the Bodies of the FIA (...).*"

Ground No. 2

45. The Appellant then claims that the IT did not, or not sufficiently, consider facts that, to the Appellant's view, constituted mitigating circumstances. Allegedly, the IT should have thus taken into account the reaction of the Appellant after the facts and his admission of their gravity considering notably that the Appellant had, allegedly, fully compensated the "material and non material" damage that he had caused by offering an amount of 50,000 euros and the "*exclusive availability in favor of the Italian Federation ACI and the [FIA] of the sports facility (sic), just in order to organize safety courses and sports discipline for young people.*" The Appellant argues in that context that "*the compensation was paid by a third party that is the legal entity that holds the special licence of the sports facility and it is also the company of the Corberi family.*"

Ground No. 3

46. The Appellant then contends that the IT "*held that the attenuating circumstance of the provocation did not exist*" and wrongly attributed it "*as an aggravating circumstance*".

Ground No. 4

47. The fourth ground of appeal put forward by the Appellant relates to the alleged lack of limitation of the sanctions in the Code or the JDR, notably Article 12.4.1.n of the

Code and 5.2.2 lit. b) and d) JDR, which would violate Article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the principle “*nulla poena sine previa lege*”. Considering the above, the Appellant argues that the sanction issued by the IT should not have exceeded five years, citing Article 5.3.1 JDR which provides that “*the time limit on the prosecution of infringements is five years.*”

Ground No. 5

48. The fifth and final ground of appeal is the alleged violation by the IT of the principle of proportionality provided under Article 5.2.2 JDR. Given the circumstances of the case, the Appellant claims that the period of suspension should start on 8 October 2020 and run until the date on which the Court issues its decision. In addition the Appellant contends that the costs of the proceedings should be borne by the FIA.
49. The FIA, for its part, contends in its Grounds in response, in essence, as follows:
- (i) The FIA notes first that the Appellant’s first ground of appeal is in contradiction with the Appellant’s position adopted before the IT when he asked for a suspension of the proceedings until the national courts had issued their final decision. The FIA then argues that the principle “*ne bis in idem*” is not applicable in this case as the Appellant is an ACI-Sport license holder and therefore also subject to the ACI-Sport’s jurisdiction which can only deal with the Appellant’s authorisation to compete at the Italian level and cannot prevent the Appellant from applying for another national licence which would allow him to compete in another country. The FIA alleges further that the jurisdiction of the FIA courts deals with international competitions which are organised by the FIA or which take place under its authority. In a nutshell, the ACI courts and the FIA courts have distinct yet complementary objectives. The FIA adds that it is in any event not the competence of the Court to decide on the competence of another body.
 - (ii) As to the alleged compensation of the damage caused by the Appellant, the FIA contends that it never signed any agreement in this respect and that the payments and offers were made not by the Appellant but by his father and the company belonging to his family, neither of them being party to these disciplinary proceedings. As the FIA prosecuting body never reached an agreement with the prosecuted party to terminate the procedure as provided under Article 4.2 JDR, the Appellant’s submission on this topic is irrelevant according to the FIA.
 - (iii) The FIA then rebuts the argument of the provocation being a mitigating circumstance arguing that Incident No. 1 does not justify the other incidents caused by the Appellant, whose reaction cannot be considered as “*a reflex of the heat*”. In that context the FIA finds that the examples submitted by the Appellant to the Court cannot be compared to the incidents caused by the Appellant.

- (iv) As to the alleged violation of the principle of legality, the FIA submits that the disciplinary sanction imposed by the IT was based on regulations and provisions which (i) emanated from a duly authorised body, (ii) were adopted properly and (iii) are clear and accessible to any one, all those three criteria not being contested by the Appellant. The FIA submits further that those same regulations and provisions (iv) clearly connect the incriminated behaviour with the sanction to be imposed and (v) are not contradictory. The FIA is therefore of the opinion that the applicable regulations and provisions do not violate the principle of legality. As to the maximum limit of 5 years put forward by the Appellant, the FIA stresses that such limit does not apply to the duration of the sanctions but is a time limit for the prosecution of a breach.
- (v) Coming then to the proportionality of the sanction imposed by the IT, the FIA explains that the IT took all mitigating and aggravating circumstances into consideration and that the sanction finally imposed was proportionate given the gravity of the breaches committed by the Appellant, bearing in mind that the FIA prosecuting body had suggested a life ban, whereas the IT decided to sanction the Appellant for 15 years, taking into consideration various mitigating circumstances. In this respect, the FIA again finds irrelevant the various examples put forward by the Appellant to support his submission on the alleged disproportionate sanction imposed by the IT.

50. The ACI-Sport puts forward, in essence, the following arguments in its written observations:

- The principle “*ne bis in idem*” does not apply to the present case as the national courts apply the Italian regulations and not the FIA regulations.
- The ACI-Sport qualifies Incident No. 2 as a criminal act and the payment and offer made by the company owned by the Corberi family are covering the strict liability of this company which owns the track where the incident took place.
- There is no justification for the Appellant’s reaction following the incident No. 1. It was disproportionate, premeditated and deliberate.

b) Applicable Regulations

51. As mentioned by the IT, the applicable rules are the FIA regulations in the version in force at the moment when the 2020 FIA Karting World Championship-KZ took place, namely between 1 and 4 October 2020.
52. As a result, the applicable regulations relevant to the merits of the present case are the 2020 Edition of the Code and the 2020 Edition of the FIA Statutes.

53. As to the Procedural Rules, and since the FIA sent the Notification of Charges to the IT and to Mr Corberi on 1 February 2021 (initiating the procedure at that time), the applicable regulations are the 2021 Edition of the JDR.
54. Neither the Appellant nor the FIA disputes the above decisions, which were already made by the IT in its Decision and which are herewith confirmed by the Court.

c) Conclusions of the Court

55. Having carefully examined the various submissions made by the Appellant and the FIA, whether in writing or at the hearing, the Court rules as follows.

a. On the question of the principle “ne bis in idem”

56. The Court first notes that the Appellant’s position before the Court on the issue of the principle “*ne bis in idem*” is completely different, in fact it is even the opposite position, from the one he adopted before the IT. Indeed, the Appellant claimed that the procedure before the IT should be suspended until a final decision was taken by the Italian courts. Now, before the Court, the Appellant does not contest that the FIA courts, whether the IT or the ICA, are competent to decide on the case and are not bound by the principle “*ne bis in idem*”, the national proceedings having no impact on the proceedings before the Court. The Appellant now claims that the IT should have stated that the Italian courts had no jurisdiction on the case and therefore invites the Court to state it in the present decision.
57. Given these new submissions from the Appellant, the Court refers first to the IT Decision and formally confirms the conclusions of the latter when it comes to the issue of the principle “*ne bis in idem*” with respect to the Court’s competence to decide on the present matter, independently of the currently pending national proceedings.
58. The Court refers in this respect to Article 12.2.5 of the Code, quoted under paragraph 49 of the IT Decision, which provides that:

“Independently from the prescriptions of the following Articles, the prosecuting body of the FIA may upon the proposal and report of the FIA observer, upon the joint report of the two international stewards designated by the FIA, or on its own initiative in pursuance of the FIA Judicial and Disciplinary Rules, bring a matter before the International Tribunal (...) to have it directly inflict one or more penalties which will take the place of any penalty which the stewards may have pronounced on any one of the above-mentioned parties.”
59. When it comes to the competence of the national courts, the Court then stresses that Article 12.2.5 of the Code does not mean that national courts may not issue decisions

based on their own national regulations. It means even less that the FIA courts have any competence to decide whether the national courts, which apply their own national regulations, have jurisdiction on a case or not.

60. The materials provided in the present proceedings with respect to the Italian national proceedings shows that the Italian disciplinary courts decided that they were competent on the basis of their national regulations and not on the basis of the FIA regulations. The Italian courts found also that the Appellant had breached national regulations. They did not refer to the FIA regulations when they issued their proposed sanction against the Appellant. In other words, the national courts recommended to the ACI-Sport committee to pronounce a life ban against the Appellant, only on the basis of the breaches of the national regulations which those national courts found that the Appellant had committed.
61. Notwithstanding the foregoing, the Court stresses that it is not competent to decide on the objection based on the principle "*ne bis in idem*" raised by the Appellant. This issue must indeed be dealt with by the national courts, and, as the case may be, the relevant national appeal bodies, in the framework of the relevant national proceedings.
62. Besides, it appears that the decision of the Italian appeal court is not binding and is merely a pure recommendation of a sanction to the ACI-Sport committee and the Appellant did not put forward and even less provide any evidence that the ACI-Sport committee had issued any final decision as yet.
63. The Court also notes that Article 4 of Protocol 7 on which the Appellant grounds its submission on the violation of the principle "*ne bis in idem*" applies to criminal proceedings whereas the current proceedings, and the national ones as well, are disciplinary proceedings conducted by an international and a national sporting association.
64. Based on all the above, the Court finds that the fact that two procedures are being conducted in parallel regarding the same facts, that is to say one before the ACI-Sport jurisdictions and one before the FIA courts, does not violate the principle "*ne bis in idem*" and this in view of the fact that the competences and attributions of the two jurisdictions are distinct.
65. Based on all the above, the Court concludes that, if the principle "*ne bis in idem*" should at all apply to the national proceedings, it is not within the Court's competence to decide on the competence of the ACI-Sport's relevant bodies. This is a matter for the national authorities which are dealing with the case at national level and which have to apply the relevant national regulations.

b. On the question of the payment of the damage

66. The Appellant claims that his family company, namely So.Fin.Pa. Srl, paid an amount of 50,000 euros and offered free use for two days of the track it owns in order to organise safety courses and sports discipline for young people. According to the Appellant, this should lead the Court to mitigate the sanction pronounced by the IT.
67. The Court rejects this argument.
68. First, the Court refers to pages 10 and 11 of the Italian Federal Court's decisions, which show that the payment and the offer made by So.Fin.Pa. Srl were linked to the objective liability borne by this company as organiser of the Championship. The payment and offer cannot therefore benefit the Appellant who is a third party in that context.
69. Second, the FIA initiated the disciplinary proceedings against the Appellant and not against So.Fin.Pa. Srl or even the Appellant's father, who apparently owns this company. The FIA never signed an agreement or received any compensation from the Appellant or any third party. Eventually, the FIA did not enter into any settlement agreement as provided under Article 4.2 JDR, otherwise these proceedings would not have taken place.
70. The Court finds therefore that the amount paid and the offer made by So.Fin.Pa Srl are irrelevant to assess the proper sanction to be imposed on the Appellant.

c. On the question of the provocation

71. The Appellant contends that the IT "*held that the attenuating circumstance of the provocation did not exist*" and wrongly attributed it "*as an aggravating circumstance*".
72. The Court notes that the Appellant's statement is not at all confirmed by the clear wording of the IT Decision.
73. Indeed, the IT did assess the circumstances of Incident No. 1 and considered, rightly, that this could not be considered as a "*provocation*" but merely as an incident, as defined under the FIA regulations, notably the Code.
74. The IT also explained that the Appellant's reaction was disproportionate and that, in any event, Incident No. 1 could not be considered as a mitigating circumstance which would allow a reduction of the sanction to be imposed on the Appellant.
75. After having reviewed the videos, the Court fully shares the conclusions of the IT and therefore finds that there is absolutely no reason to see Incident No. 1 as a provocation which would be seen as a mitigating circumstance.

76. The Court stresses further that the Appellant does not contest the various breaches of the Regulations found by the IT and admitted in a joint statement made with his father after the race that “*it breaks our heart to see the same images shared in every corner of the world knowing that this will bring bitterness and regret to the industry.*”
77. In another statement, the Appellant himself admitted that he should no longer compete after what happened during Incidents No. 2 and No. 3.
78. The Court then finds that the Appellant did not react spontaneously to Incident No 1. Quite on the contrary, Incidents No. 2 and No. 3 took place at a moment when the Appellant had had enough time to calm down and take the only legitimate and obvious measure which was to raise a protest against Mr Ippolito, who in the end was actually disqualified following Incident No. 1.
79. Based on all the above and after due consideration of all the circumstances of the case, the Court firmly concludes that the utmost gravity of the Appellant’s attitude during Incidents No. 2 and No. 3 does not leave any room for a mitigation of the sanction based on an alleged “state of rage” as recognised in some cases by the French Cour de Cassation, which the Appellant tries, without success, to refer to.
80. In that context, the Court finds that the various examples put forward by the Appellant are totally irrelevant, either because they relate to completely different sports and therefore different regulations or because the facts related to those examples are not at all comparable, in terms of gravity, to the ones which are the object of the current proceedings.

d. On the question of the principle of legality

81. According to the Appellant, Article 12.4.1.n of the Code and Article 5.2.2 lit. b) and d) JDR violate the principle of legality provided under Article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the principle “*nulla poena sine previa lege*”.
82. The Court notes first that Article 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the principle “*nulla poena sine previa lege*” which is embodied in that Article, apply to criminal proceedings and not to disciplinary proceedings conducted by international sport federations, as in the present case.
83. However, French law, which applies subsidiarily, provides that the principle “*nulla poena sine previa lege*” has to be considered when it comes to disciplinary sanctions issued by Sport Federations.
84. According to French jurisprudence (notably Conseil constitutionnel, 25 November 2011, No. 2011-199 QPC; Conseil d’Etat, 7 July 2004, No. 255136), there is no violation of this principle when it comes to disciplinary proceedings if (i) the

applicable regulations provide for a description of the types of breaches which may lead to sanctions and (ii) they provide a description of the various types of sanctions that can be imposed by the competent bodies in case of such breaches. French law does not require that each breach is linked to a specific sanction and that each sanction is circumscribed by a minimum and maximum duration.

85. It is undisputed that the applicable FIA regulations were issued by the competent authority within the FIA, following the proper procedure. It is also undisputed that the regulations are clear and accessible.
86. The Court notes further that the Appellant does not contest the breaches found by the IT. Article 12 of the Code sets the principle of responsibility (Article 12.1.1 of the Code) in case of breaches and provides for a list of possible breaches (Article 12.2 of the Code) and a clear catalogue of the applicable penalties (Article 12.4). The JDR indicate as well, under Chapter 3, as far as the IT is concerned, and Chapter 4, when it comes to the ICA, the list of possible breaches and possible sanctions, whether directly or by reference.
87. Having duly considered the French jurisprudence mentioned above, the Court thus concludes that the applicable FIA regulations, notably the Code and the JDR, do not breach the principle of legality and that, as a consequence, the sanction imposed on the Appellant by the IT was well grounded.
88. The Court stresses also that the Appellant confuses the concept of time limitation of the prosecution with the concept of limitation of the duration of a sanction, when he refers to Article 5.3.1 JDR, which corresponds to Article 12.1.5 of the Code and deals with the *"limitation on the prosecution"*.
89. In terms of time limitation of the duration of a sanction, the Code and the JDR do not impose any limit on the IT, and by way of consequence on the ICA, Article 5.2.2 paragraph 6 JDR providing merely that *"subject to the principle of proportionality, the IT shall take into account the gravity of the facts, the degree of culpability, and past record and character of the person in order to determine the nature and severity of the sanction"*.
90. The Appellant's submissions based on an alleged violation of the principle of legality are thus rejected by the Court.

e. *On the question of the principle of proportionality*

91. As mentioned under letter d, the "ceiling" of five years put forward by the Appellant is linked to the time limits of the prosecution and not to a time limit of a sanction. This submission repeated by the Appellant under its Ground No. 5, is thus rejected when it comes to the question of the principle of proportionality.

92. The Appellant claims further that the sanction imposed by the IT was of an “exemplary” or “punitive” nature. To support his claim, the Appellant refers to other cases, some of them related to motor sports, some of them to football. Those examples were considered by the IT as irrelevant, either because they were related to other regulations or because they did not at all have the same level of gravity as the facts submitted in the current proceedings.
93. First of all, the Court notes that the Appellant did not bring any new argument about those other cases that he would not have brought forward before the IT. In that context, the Court does not see any element that would lead it to draw conclusions other than those drawn in first instance. Indeed, those examples, which the Appellant relies on, cannot be compared to the circumstances of the present case. As the Court already found earlier in the present decision, Incidents No. 2 and No. 3 were of extreme gravity and therefore not at all of the same level as the various cases mentioned by the Appellant.
94. Meanwhile, the various cases mentioned in the IT Decision and in the FIA’s Grounds in response, show that the sanction imposed on the Appellant is indeed proportionate.
95. As mentioned under paragraphs 95 and 96 of its Decision, the IT considered first a life-time ban combined with a life-time suspension but admitted that *“even though Incidents 2 and 3 are extremely serious, there are elements and circumstances that, when duly considered, indicate that the Driver deserves a second chance, namely:*
- *The age of the Respondent [the Appellant] (although he is not a minor, he is a young adult aged 23 years old);*
 - *The experience of the Respondent (about 10 years of karting experience);*
 - *The Respondent has never before engaged in this kind of behaviour and this was a first-time offence;*
 - *A public acknowledgement of the facts and their gravity, as well as a public apology, was issued by the Respondent on the following day; in addition to that, through a family letter, he also expressed regret for his behaviour directly to the FIA; and the fact that*
 - *The other drivers have not made any formal complaint against the Respondent.”*
96. The IT then put into the balance the above mitigating circumstances against what happened during Incidents No. 2 and No. 3 and the following aggravating circumstances, which the Court fully shares with the IT :
- The Appellant premeditated his actions. During his continuous and violent behaviour, the Appellant had more than enough time to “calm down” as was reasonably expected of him. Instead, he carried on and clearly premeditated

- Incident No 3; this was clearly not an “emotional” or a “heat of the moment” reaction;
- Incident No 2 put the drivers on track at very serious risks, since it could have resulted in the occurrence of a disastrous accident. According to the FIA, should the level of energy resulting from the throw of the front fairing (521 J) be impacted directly on an approaching driver’s helmet and considering that the seat in a kart does not extend beyond shoulder height, it is highly probable that this could lead to serious (but not fatal) neck injuries, which is not disputed by the Appellant. The second risk associated with the Driver’s action is that a driver might suddenly change direction to avoid the impact with the front fairing, leading to a collision between two or more karts at the approximate speed of 100 km/h. Such a collision would represent a risk of injury due to the potential for one or more karts to become out of control and, in the worst case, become airborne due to wheel-to-wheel contact. The Driver did also not dispute this; these risks were completely ignored by the Appellant; and
 - The Appellant did not hesitate to fiercely attack Paolo Ippolito in an aggressive manner which could have resulted in serious injuries, during Incident No 3.
97. Based on all the above, the IT suspended and banned the Appellant for a period of 15 years.
98. The Appellant claims that the IT expressed clearly that its decision would not only sanction the Appellant but would also send a clear message to the motor sport community. The Appellant sees this as proof that the sanction imposed on him was “exemplary” and, as a consequence, allegedly illegitimate.
99. The Court rejects this claim.
100. The fact that a severe sanction sends a strong message does not mean, as such, that the sanction is disproportionate and does not fit with the gravity of the facts at the origin of the sanction.
101. In the present case, the Court decides that there is no reason to reduce the sanction, which is absolutely proportionate to the gravity of the breaches committed by the Appellant, as reflected above.
102. Contrary to the statements made by the Appellant in the written proceedings and before the Court, the IT did take into consideration various mitigating circumstances. This led the IT to exclude a life-time ban and a life-time suspension, which had been suggested by the FIA and originally contemplated by the IT.
103. Based on the above, the Court decides that far from being disproportionate, the sanction imposed by the IT is therefore quite favourable to the Appellant, who should now draw the consequences of his actions, whether at the sporting level or otherwise.



104. The Court concludes that the sanction imposed by the IT for the undisputed breaches of Articles 12.1.1.c, 12.1.1.d, 12.1.1.h and 12.1.1.i of the Code (version 2020), of the FIA Code of Good Conduct (version 2020) as well as of Article 5.2 (i) d) 2 JDR (version 2020) must be confirmed.
105. The appeal is thus rejected and the appealed Decision is fully upheld.

VI. COSTS

106. Considering the outcome of the proceedings, the Court leaves it to the Appellant to bear all the costs, in accordance with Article 8.2 JDR.



ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Rejects the appeal;**
- 2. Upholds the IT decision;**
- 3. Leaves it to Mr Luca Corberi to bear all the costs, in accordance with Article 8.2 JDR;**
- 4. Rejects all other and further conclusions.**

Paris, 19 July 2021

The President

Harry Duijm