

**DECISION OF THE INTERNATIONAL DISCIPLINARY COURT
(CDI)**

09 September 2022

Fédération Internationale de Motocyclisme (FIM)

Rider: Adam RAGA (ESP)
FMN: RFME
Event: FIM Trial World Championship
Date: 10 July 2022
IMN: 302/05
Venue: Neunkirchen / Germany
Case concerns: Violation of Articles. 5.21^{5g)} and 2.10²² of the FIM Trial World Championship Regulations (the Regulations)

COMPOSITION OF THE CDI

Mr. Robert Hofstetter, LJI Director

JURISDICTION

Pursuant to Article 3.2.5 of the FIM Disciplinary and Arbitration Code, the Director, after having established that the procedures have been followed and/or that the case can be heard, will, in consultation with the Chief Executive Officer, appoint members to form the appropriate disciplinary or arbitration body.

Pursuant to Article 5.31⁴ of the Regulations, an Appeal against the decision of Race Direction may be made to the FIM Stewards Panel.

Pursuant to Article 5.31⁵ of the Regulations, an Appeal against the decision of the FIM Stewards Panel may be lodged before the CDI.

PROCEDURE

The LJI Director, acting in accordance with the provisions of the Regulations and the FIM Disciplinary and Arbitration Code (CDA), took into consideration all documents and statements presented in the case file.

Protests must be lodged with the Race Direction in accordance with Article 5.31¹⁺² of the Regulations and be accompanied by a fee of EUR 660 returnable if the protest is justified. A protest must be presented within 30 minutes of the results being signed and displayed by the Clerk of the Course and the FIM Race Director.

An appeal against the decision of Race Direction may be made to the FIM Stewards Panel pursuant to Article 5.31⁴ of the Regulations. This written appeal must be accompanied by a fee of EUR 660 or the equivalent amount in local currency, and be presented 30 minutes at the latest after notification of the decision taken by Race Direction.

In accordance with Article 5.31⁵ of the Regulations, an appeal against the decision of the FIM Stewards Panel may be made to the CDI. This appeal must be submitted no later than 5 days after notification of the decision of the FIM Stewards and be accompanied by a security deposit fee for the appeal of EUR 1,320.

MAIN INFRINGED PROVISIONS

Article 2.10²² of the FIM Trial World Championship Regulations

“Riders must ride in a responsible and disciplined manner, which does not cause danger to other Riders, Assistants, team members, spectators and any other person present at the Event. They must not ride at an excessive speed. Wearing a helmet is mandatory whilst riding a motorcycle at all times.”

Article 5.21^{5g)} of the FIM Trial World Championship Regulations:

“Any disqualification will automatically entail the invalidation of the results obtained by the Rider during the Competition in question, with all the resulting consequences including forfeiture of any points, prizes or medals. [...]

g) The Rider rides in the opposite direction, exits or re-joins the Course, Art. 2.10. Rider Behaviour and Assistance. Moreover, he will be subject to Art. 5.22 and 5.23 Financial Penalties.”

FACTS OF THE CASE

1. Mr. Adam RAGA is a Spanish professional Trial rider (the “Rider”).
2. The Rider is a multiple World Champion in the aforementioned discipline.
3. He is holder of a 2022 FIM rider Licence N° 302000011 and participates in the FIM Trial World Championship.
4. As a holder of a 2022 FIM licence, the Rider has confirmed that he was cognisant with and had accepted the FIM Statutes in force and the relevant FIM Regulations and Codes, including but not limited to the FIM Sporting Code, the FIM Disciplinary and Arbitration Code, the FIM Trial World Championship Regulations and has undertaken to submit, without reservation, to all provisions and consequences thereof.
5. The rider has also signed the Entry Form of the 2022 FIM Trial World Championships & FIM Prizes and recognized that he was cognisant with and had accepted the aforementioned regulations.
6. At the Trial GP of Germany, according to the Race Direction, the Rider exited the course and rejoined it between sections 11 and 12 on the first lap of the competition. Furthermore, the Rider rode between the spectators in an irresponsible and undisciplined manner, causing danger to spectators attending the Event.

PROCEDURE OF THE CASE

7. Consequently, the Race Direction disqualified the Rider of the Event and wrote a written “*Penalty Notification*” for the attention of the Rider, signed by the three Race Direction members at 16h08 on 10 July 2022.
8. According to the members of the Race Direction, thereafter they intended to hand over the Penalty Notification and to obtain the Rider’s signature acknowledging the receipt of the notification.
9. However, the Rider gripped the notification paper, crumpled it and threw it to the floor. He refused to sign the notification and left.
10. On 15 July, i.e. five days after the Event, the Rider sent by registered letter an “Appeal to CDI”, wrongly called in brackets “International Sports Committee” instead of International Disciplinary Court. A security deposit of appeal was paid to the FIM Administration on the same day, within the deadline of five days. This Appeal Brief was sent along with seven evidences. All the above-mentioned documents were duly received by the FIM on 22 July 2022 through registered letter and an acknowledgment of receipt was sent to the Rider.
11. The rider, in his Appeal Brief, quotes Article 5.31⁵: “*An appeal against the decision of the FIM Stewards Panel may be made to the CDI. This appeal must be submitted no later than 5 days after notification of the decision of the FIM Stewards and be accompanied by a security deposit fee for the appeal of EUR 1,320.*”

CLAIMS OF THE APPELLANT

12. As stated in his Appeal Brief, the Rider has formulated the following claims to the CDI:
 - “*That the race undertaken in Germany be annulled, or not being run according to the correct conditions of marking, visibility and safety required by the Regulation*”
 - “*In the case that the race is not annulled, it is requested that the penalty imposed on for me be lifted, consisting of my disqualification from the race of Sunday the 10th of July, proceeding with the return of the points obtained after participating in it*”

ASSESSMENT BY THE CDI

13. Competence of the List of the International Judges (LJI) Director. Pursuant to Article 3.2.5 of the FIM Disciplinary and Arbitration Code, the Director, after having established that the procedures have been followed and/or that the case can be heard, will, in consultation with the Chief Executive Officer, appoint members to form the appropriate disciplinary or arbitration body.
14. Therefore, when examining the case, and before the LJI Director appoints members to form the appropriate disciplinary or arbitration body, the duties of the LJI Director are to assess whether the appeal lodged by the rider against the decision of the Race Direction can be heard or not and if the correct procedure was complied with as provided for in the applicable regulations of the FIM discipline at stake.
15. For the avoidance of doubt, the specific regulations of the discipline (i.e. in this case the Regulations) shall prevail over any general principles laid out in the CDA when providing clear and specific rules of procedures in accordance with the Latin maxim “*specialia generalibus derogant*”.
16. Again, to avoid any ambiguity, if necessary, the present case shall not be dealt with under Article 3.3.2 para. 2 that states “*The CDI adjudicates in the first instance upon request of the International Jury, the Race Direction or the Referee or the Competent Bodies*” as the Race Direction did not lodge such request to the CDI and as the Race Direction did pronounce a decision on 10 July 2022.
17. Procedures. By the decision of the Race Direction pronounced on 10 July 2022, the Rider was disqualified from the Event. Against this decision, the Rider could have made an Appeal to the FIM Appeal Stewards as explicitly stated by Article 5.31⁴ of the Regulations: “*An appeal against the decision of Race Direction may be made to the FIM Stewards Panel. This written appeal must be accompanied by a fee of EUR 660 or the equivalent amount in local currency, and be presented 30 minutes at the latest after notification of the decision taken by Race Direction.*”.
18. However, the Rider lodged an appeal to the CDI against the Race Direction decision 5 days after the Event (point 10). Unfortunately, the Rider did not make good use of his right to be heard, as provided by the Regulations, which would have enabled him subsequently to lodge an appeal to the FIM Stewards Panel against the Race Direction decision as stated by Article 5.31⁴ and then, to the CDI, if necessary as described by Article 5.31⁵ of the Regulations.
19. Precisely, the LJI Director notes that the Rider never lodged an appeal to the FIM Stewards Panel against the decision delivered by the Race Direction within the 30 minutes deadline provided for in the Regulations. Instead, he lodged an untimely appeal before the CDI, which is not the competent appeal body at this stage of the proceedings, against the decision of the Race Direction, after the 30 minutes deadline.
20. Inadmissibility. Based on the foregoing, the Appeal must be declared inadmissible according to the procedure provided for under Article 5.31 of the Regulations.

DECISION

As a consequence of the foregoing, the LJI Director decides as follows:

- The Appeal lodged by the Rider before the CDI is inadmissible.
- The Disqualification from the Event of Mr. Adam Raga by the Race Direction on 10 July 2022 is upheld.
- The security deposit for Appeal of EUR 1,320 is retained by the FIM.
- The costs of the Decision shall be assessed by the FIM Administration and be supported by Mr. Adam RAGA.

Decision pronounced on 09 September 2022



Robert Hofstetter
LJI Director

After exhaustion of the FIM internal remedies, an Appeal may be lodged before the Court of Arbitration for Sport (CAS) in Lausanne/Switzerland within 5 days from the date of receipt of this decision of the International Disciplinary Court pursuant to Article 4.5 of the 2022 FIM Disciplinary and Arbitration. Moreover, Articles R47ff. of the Code of Sports related Arbitration shall apply.