



***Presentation,  
decision and grounds***

***Case 02-2021***

***Appellant***

***against***

***Dansk Automobil Sports Unions Baneudvalg represented  
by Disciplinærudvalget***

21.08.2021



Medlem af  
Danmarks Idrætsforbund



Affiliated to FIA

The case has been dealt with by the three permanent members of Amatør- og Ordensudvalget (A&O) Søren Lyager, Benny Hall and Klaus Pedersen, as well as the two circuit racing experts Ole Bjørn Nielsen and Ulf Olsen.

**Parties to the proceedings:**

Appellant: -  
Defendant: Disciplinærudvalget (DIS) v/ Thue Hesselund on behalf of Dansk Automobil Sports Unions Baneudvalg

**The Parties' claims:**

Appellant: Reduction of the sentence imposed  
Defendant: Confirmation of the exclusion of the Appellant from heat no. 1 in Formel 4, 19 June 2021

**Presentation:**

During the first heat of a race in Formula 4 at Padborg Park on June 19, 2021, the Appellant hit starting number 77 Emerson Fittipaldi Jr. under braking. The Appellant could proceed and finished the heat as number 1, but starting number 77, was eliminated from the race. The Stewards opened an investigation into the matter and decided to exclude the Appellant from the heat, citing Regulation 5, point 55.401 and described it as an "Over optimistic overtaking of car No. 77. No respect for the other driver".

The "Stewards' decision" was notified to the Appellant at 5.59pm and appealed to A&O at 7.49pm asking for the appeal to be granted suspensive effect.

In the appeal, the Appellant stated, inter alia, the following:

" While the team recognizes that our driver, the Appellant, did make a mistake during her overtaking attempt on machine number 77 driven by Emerson Fittipaldi Jr. we feel that disqualification is a penalty that is not proportional to her actions on track."

Against this background and after a review of the video, the three permanent members of A&O refused to give the appeal suspensive effect, and it was notified to the Appellant at 9.45pm.

After the observance of formalities in connection with the appeal had been confirmed by the DASU Secretariat, A&O acknowledged receipt on 1 July 2021 and referred the matter to the parties' written exchange of views, which was concluded on 10 August 2021.

**Views of the Appellant:**

## Pleas:

- The Appellant agree that car no. 10 brakes too late. It was a bold attempt at winning a race after the car ahead did not adopt any defensive position, and the Appellant concede that there should be a penalty. In running wide, car no. 10 leaves too little space to car no. 77, but it is important to note that at no point running wide was an intentional move.
- Car no. 77 had several options. It was a motor race and the last corner of the race. Any racing driver would have been looking at their mirrors to protect their position. Seeing that car no. 10 was braking too late, car no. 77 could have braked earlier and let car no. 10 run wide alone, crossing the line and winning the race unhindered. Or it could have slowed down further, finished second and protested the move later. Instead, car no. 77 went off the track as a direct consequence of contact between both competitors, and this contact was 100% avoidable. The Appellant understand that the first option was more difficult to pull out. It is the second option, that made more sense.
- The Appellant points out, that car no. 77 driving off the track was a direct consequence of the avoidable contact. Of course, this situation arises after car no. 10 make its overtake attempt. Without contact, car no. 77 would not be forced to drive off the track. The first reaction of car no. 77 when spotting car no. 10 on the inside is to give space and turn right, only to later turn left into the other car. This was avoidable. The only intention of car no. 10 was to out brake car no. 77, never to squeeze it out.
- The championship is setting a dangerous precedent with penalties that vary too much despite being similar enough. During the same race in Padborg, another driver missed his braking point and hit a rival and was not penalized The penalties seem arbitrary and lack consistency
- As a reference, the Appellant refers to the 2016 Formula 1 Austrian Grand Prix. Nico Rosberg made an overtake attempt on Lewis Hamilton, never getting his car ahead and going wide on purpose in order to squeeze him out and gain the position. Contact here was thus unavoidable and the penalty issued by Race Direction was a 10 second time penalty. The Appellant consider F1 to be a good example of driving standards for professional drivers and this should be a good example of why the Appellant feels the exclusion is an excessive penalty.
- As another reference the Appellant refers to last year, in the first race of the last round of this same Danish F4 Championship at Ring Djursland, the driver of car no. 10 was hit from behind without there being even an overtake attempt. This was very clearly dangerous and reckless driving, as there was no justification for the contact. Yet, the 'offender' was given a penalty in the form of two penalty lanes, which allowed him to finish the race in fourth place. In the meantime, the driver of car no. 10 was tenth.
- Therefore, a disqualification will be incorrect.

The Appellant recognize the steward's authority and discretion and thank them for their work. It is precisely because of that respect, that the Appellant bring up their concerns that the penalty was simply not consistent with what the Appellant have experienced before. Therefore, an exclusion in this case sets a bad precedent because drivers (all of them) cannot have a clear understanding of how certain actions are punished, based on the stewards' decisions for the past 3 events.

## Views of the Respondent:

### Supplementary presentation:

The Appellant was during most of the race 1-2 seconds after car no. 77. At the last lap, approximately 100 meters before the end of the long straight of Padborg Park, the Appellant tried to overtake car no. 77. The Appellant locked the wheels due to braking too late, and she was following this unable to do the turn in a normal way. This caused car no. 77 with no possibility to make a normal turn, and car no. 77 had to drive off the track, where the car was beached. The Appellant was able to continue and won the race. Following the race, the stewards talked to both the Appellant and the driver of car no. 77, and the stewards decided to exclude the Appellant from heat no. 1.

### Pleas:

- The Appellant brakes far too late and leaves no space for car no. 77
- Following this, car no. 77 has no other options than to drive off the track
- The attempt to overtake is reckless driving and dangerous for both drivers
- The attempt to overtake is to be considered as an attempt to unlawfully squeeze in where there is not enough space (“forcing another car of the track”)
- The stewards have the authority to exclude any driver from any heat when the drivers don’t comply with the relevant regulations, cf. Regulation 5, section 50.401
- The exclusion is not a disproportionate consequence of the reckless driving
- The stewards have a wide discretion, and the Appeals Committee should only change this discretion where absolutely necessary
- Following, the Defendant finds that Appeals Committee should confirm the exclusion of the Appellant from heat no. 1 in Formel 4, 19 June 2021

### Appendix:

Appendix	Date	Text	Pages
1	19-06-2021	Appeal.pdf	1
2		Video clip	video
3	19-06-2021	Mail from the steward pdf.	1

4	19-06-2021	Stewards' decision	1
5	19-06-2021	Mail to the Appellant	1
6	20-06-2021	Mail from the Appellant	2
7	01-07-2021	A&O receipt for delivery (DK)	2
8	01-07-2021	A&O receipt for delivery (EN)	1
9	02-08-2021	Response from DIS	3
10	02-08-2021	Mail from the Appellant	2
11	05-08-2021	Reply from the Appellant	3
12	10-08-2021	Mail from DIS	4

After acceptance by the parties, the five members of Amatør- og Ordensudvalget considered the appeal submitted based on the written material, and settled the case as follows:

**Decision:**

The appeal is dismissed, and the Stewards exclusion of the Appellant from heat no. 1 in Formel 4, 19 June 2021 is in force.

The appeal fee is forfeited, and the Appellant pays an additional DKK 3,000 to cover the costs associated with the processing of the case in Amatør- og Ordensudvalget.

**Pleas:**

Decisions such as the present will always be based on Steward's discretion, and by the nature of the case, the Steward's must be granted a reasonable margin in the discretion exercised.

On the basis of the available material, including in particular the video presented, the Steward's, in A&O's opinion, have acted within the framework of the freedom they shall have to assess and judge what they experience on the track.

No two situations are exactly alike, and it cannot be expected, that different stewards have a personal knowledge bank which includes the treatment of all similar situations on racetracks in Denmark or the rest of the world for that matter.

The cost decision is lower than normal, taken into account that the case has been decided on a written basis without holding a meeting with the parties' participation.

**Re-treatment:**

In very special circumstances, Amatør- og Ordensudvalget may exceptionally resume an adjudicated case for reconsideration and decision when new information has emerged in the case.

Cases of a principled nature may, however, be brought before the Supreme Court of Appeal of DIF Sports, which according to the regulations has the task of deciding all cases using amateur rules, rules of order and exclusion, on violation of regulations and the like, or on unsportsmanlike or indecent behavior.

However, cases that only concern the application of competition rules, including tournament rules and the like, may be rejected by the committee.

Cases that are to be brought before the committee are forwarded to DIF's secretariat via the Danish Automobile Sports Union's secretariat, Idrættens Hus, 2605 Brøndby no later than 4 weeks after the publication of this ruling.

Studstrup, 21 August 2021

Søren Lyager

Chairman of the A&O

The present decision is sent to the parties, the chairman of Disciplinærudvalget, the members of Amatør- og Ordensudvalget and the Secretariat of the Union today