



INTERNATIONAL COURT OF APPEAL (ICA)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

Appeal brought by the Automobile Club of Syria

against the

**FIA email dated 23 November 2022 addressed to Mr Hani Shaban, President of
the Automobile Club of Syria**

Case ICA-2022-07

Hearing of 5 December 2022

Decision of 5 December 2022¹

¹ The operative part of this decision has been notified to the parties on 5 December 2022, the full decision (with grounds) on 14 December 2022.



The FIA INTERNATIONAL COURT OF APPEAL (“the Court”), which comprised Mr Rui Botica Santos (Portugal), who was designated President, Mr Xavier Bone Matheu (Spain), Mr David Casement KC (United Kingdom) and Mr Kyle Novak (USA), held a hearing by way of videoconference, on Monday, 5 December 2022.

Prior to the hearing, the Court received and considered submissions and attachments thereto made by the Automobile Club of Syria (ACS) and the FIA.

The following persons attended the hearing:

On behalf of the Appellant, Automobile Club of Syria (ACS) :

Mr Hani Shaban, ACS President
Mr Mark Gay, Solicitor
Ms Imogen Hughes, Solicitor

On behalf of the FIA:

Mr Pierre Ketterer, Head of Governance, Integrity & Regulatory
Affairs
Ms Alejandra Salmerón García, Senior Legal Counsel

Also attending the hearing:

Mr Jean-Christophe Breillat (Secretary General of the FIA Courts)
Mr Nicolas Cottier (Clerk of the FIA Courts)
Ms Sandrine Gomez (Administrator of the FIA Courts)



The Parties filed written submissions and, at the hearing on 5 December 2022, 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. 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.

I. REMINDER OF THE FACTS

1. On 23 November 2022, Mr Hani Shaban, President of the Automobile Club of Syria (“the ACS”) received an email from an FIA Officer who suggested him not to attend the FIA General Assembly, indicating further that Mr Shaban should not make *“any necessary travel arrangements since your access to any official FIA meeting or event will be denied.”*
2. On 30 November 2022, i.e. during the course of these proceedings, the same Officer wrote a second email to Mr Shaban explaining notably that the FIA had *“in no way taken a decision to prohibit the presence of this Club [the ACS], which obviously has the right to attend the GA in the same way as any other Member with the same status.”*

II. PROCEDURE BEFORE THE COURT

3. The Appellant filed its Notification of Appeal on 29 November 2022, and its Grounds for Appeal on 30 November 2022, against the alleged decision contained in the email dated 23 November 2022.
4. The FIA sent its Grounds in Response to the Grounds for Appeal on 2 December 2022.
5. In its Grounds in Response, the FIA explains notably that the email sent on 23 November 2022 to the Appellant was not a decision and argues that its Officer had clarified through his second email, dated 30 November 2022, that the ACS and Mr Shaban could attend the FIA’s General Assembly. Basically, the FIA contests the admissibility of the appeal and states that the Appellant has no legal interest to appeal. The FIA has also contested the ICA jurisdiction.

III. THE HEARING

6. At the outset of the hearing, given the content of the FIA’s Grounds in Response and of the email sent to the Appellant on 30 November 2022, the Court asked the Appellant whether it was satisfied with the explanations given by the FIA and considered that the



appeal could be withdrawn, or the Appellant's request satisfied, without the need for discussion and decision on the legal issues raised by FIA.

7. The Appellant stressed that the second email sent by the FIA Officer did not clarify whether its President was allowed to attend not only the FIA General Assembly but also any other FIA event or meeting.
8. Upon request of the Court, the FIA then confirmed that as at the date of the hearing, there is no restriction whatsoever to the participation of Mr. Hani Shaban in the 2022 FIA General Assembly nor to any other FIA events or meetings.
9. The Appellant explained that he was satisfied by this confirmation and that he would therefore not advance the appeal subject to the question of the costs.
10. On this issue, the Appellant claimed that the FIA's emails had not left any other option to the Appellant but to notify an appeal to the Court. Therefore, the costs should be borne by the FIA, including the legal defence expenses.
11. The Appellant however took good note that according to Article 11.2.1 of the Judicial and Disciplinary Rules (JDR), each party must bear its own expenses or legal defence fees, notwithstanding the outcome of the proceedings.
12. Given the above, the Court decided to take acknowledgement in the operating part of its decision, of the confirmations issued by the parties and, for the rest, to issue a decision on costs.

IV. COSTS

13. The Court notes that in the email dated 23 November 2022, the FIA Officer mentioned that the FIA and "*its senior governing body*" were of the opinion that Mr Shaban "*should not attend any official FIA meeting or event, including the Annual General Meeting, until further notice*". The FIA Officer then added "*your access to any official FIA meeting or event will be denied.*"
14. In the email dated 30 November 2022, that was supposed to clarify the situation, the same FIA officer did indeed confirm that "*the FIA has in no way taken a decision to prohibit the presence of the Club*" but the Court finds that the FIA Officer did not sufficiently clarify the personal situation of Mr Shaban.
15. The Court concludes that the Appellant had to notify the Appeal asking for a decision from the Court as there was still a doubt on whether a FIA governing body had denied the President of the ACS the right to attend the FIA General Assembly or, more generally, any FIA meeting or event.



16. It is only after the notification of the Appeal that the FIA finally clarified the situation, in particular during the hearing.
17. Considering the above, the Court leaves it to the FIA to bear all the costs, in accordance with Article 11.2 of the JDR. As a consequence, the deposit paid to the Court shall be fully reimbursed to the Appellant.



ON THESE GROUNDS,

THE FIA INTERNATIONAL COURT OF APPEAL:

- 1. Acknowledges that the FIA confirmed that, as at the date of this decision, there is no restriction whatsoever to the participation of Mr. Hani Shaban in the 2022 FIA General Assembly nor to any other FIA events or meetings;**
- 2. Acknowledges that, given the above-mentioned FIA confirmation, the Appellant in return has confirmed that it does not advance the appeal;**
- 3. Leaves it to the FIA to bear all the costs, in accordance with Article 11.2 of the JDR and orders the full reimbursement of the appeal deposit to the Appellant;**
- 4. Orders that each party shall bear its own expenses or legal defence fees, in accordance with Article 11.2.1 of the JDR;**
- 5. Rejects all other and further conclusions.**

Paris, 5 December 2022

The President

Rui Botica Santos