

Baja Portalegre 500 - 2020

05th – 07th November 2020



Date: **Saturday, 07th November 2020**
Subject: **STEWARDS DECISION NO 7 (BAJA POLAND)**

Time: **09:00 hrs**
Document No: **2.13**

From: *The Stewards*

To: *The competitor of car N° 203 Name: XRAID MINI JWC RALLY TEAM
Crew: Peterhansel/Boulanger*

Number of pages 4

Attachments: 0

The Stewards of the previous Cross Country Baja World Cup Event, Baja Poland (BP), have received a report (BP Doc.6.6) from the FIA Technical Delegate, regarding the routine fuel analysis. The Stewards of Baja Portalegre having received various documents, summoned, and heard the team representatives and a technical expert (Christophe Vely FIA), have considered the matter, determine the following:

As to the competence of present Panel of Stewards:

- (1) The decision for this matter must be made after *Baja Poland*.
- (2) The competitor received an Individual Communication No. 6 (Summon) on 16 September 2020 informing him on this matter and asking him for his preferred date and venue of the hearing.
- (3) The competitor agreed with email dated 18 September 2020 the hearing to be held at Baja Portalegre
- (4) The Stewards of *Baja Poland* authorized the Panel of Stewards of BAJA Portalegre to decide on the matter (ISC Art. 11.9.3.t)
- (5) The Polish Automobile Federation (ASN) authorized the FPAK (ASN) Steward of Portugal to decide on the matter (ISC Art. 11.9.3.t)
- (6) **The Stewards conclude that they have the authority to rule on this matter.**

Facts:

- (1) The FIA Technical Delegate in *Baja Poland* took fuel samples from the car of the XRAID MINI JWC RALLY TEAM (car no 203) in the post rally technical check.
- (2) The Stewards of *Baja Poland* declared the classification final on 06.09.2020 at 23.00 hrs (BP Doc. 5.24, 5.25) without any caveat.
- (3) On 15.09.2020 the Stewards of BP received a report from the FIA Technical Delegate with the result of the fuel analysis.
- (4) According to the test report no. 208424 of Intertek Caleb Brett Germany GmbH the fuel has a Sulphur content of 43,1 mg/kg which is higher than the allowed amount of 10mg/kg.

(5) The Stewards having considered that this report was a significant and relevant new element which was unavailable at the time of the competition concerned, agreed that this situation is under the prescriptions of article 14.1.1 of ISC and accordingly also the mentioned article 11.9.3 of ISC summoned the parties concerned to hear their explanations and to judge in the light of the facts and elements brought before them.

(6) The competitor was informed by the Stewards of BP about this matter and the competitor confirms the receipt of the Individual Communication No. 6 (summon) on 19.09.2020 at 10:30 hrs.

(7) The competitor agrees to have the hearing during the BAJA PORTALEGRE in Portugal.

Offence: Breach of International Sporting Code, Appendix J, Article 252.9.2

Decision:

The competitor #203, XRAID MINI JWC RALLY TEAM will be DISQUALIFIED from the classification of Baja Poland

However:

This Penalty will be SUSPENDED until the FIA Technical Working Group (TWG), of the Cross Country Commission, has investigated and taken possible decision to make any change in the regulation to follow the global availability of Diesel qualities.

-If the TWG will decide to update the regulation this penalty will be deleted.

-In case of a decision not to make any update, the disqualification will be applied with following actions:

(1) All competitors placed after the competitor #203, will move up by one place in the classification.

(2) The organizer of Baja Poland must change the final classification of Baja Poland 2020 accordingly.

(3) Thus, the distribution of points for the FIA Cross Country World Cup for Bajas must be amended accordingly.

(4) The competitor must bear the cost incurred for the procedures in the matter. Thus, they shall pay a fine of 500 €.

In accordance with Article 12.7 FIA International Sporting Code, the payment of the fines must be done online, within 48 hours of their notification, at the following address: <https://fiafines.fia.com>. Any delay in making payment may entail Suspension during the period a fine remains unpaid.

Reason:

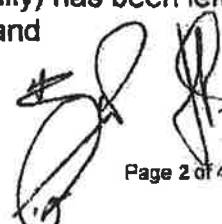
Attending the hearing by Zoom meeting on 05 November 2020, 18:00 hrs were:

Mr. Sven Quandt XRAID MINI JWC RALLY TEAM

Mr. Tobias Quandt XRAID MINI JWC RALLY TEAM

(1) Mr S Quandt explained that this specific car has been used in both Jordan Baja 2019 and in the Dakar Rally 2020 and has been stored since then, due to present Covid situation

(2) It can be expected that some residual fuel from Saudi Arabia (Dakar Rally) has been left in the fuel tank and then mixed with local Diesel from petrol stations in Poland



(3) It was shown as evidence that the Sulphur level outside Europe is concededly higher which makes it very risky to use a car in Europe that has been refueled in Middle East as it's almost impossible to completely empty a tank without completely remove or exchange the foam inside, exchange all possible filters and also the fuel lines.

(4) As a matter of consideration, the second XRAID car, that was tested and complied with the fuel regulation, has NOT been used in any Arabic Country

(5) For a team/driver to 100% sure he/she might also make a test of the local fuel before refueling which also is impossible time wise

Conclusions of the Stewards:

(1) Taking fuel samples from the competition car is essential to control the conformity of the fuel with the FIA regulations. This has only been done a few times during the last 5-6 years in any CCR, or Baja, event.

(2) The Team representative was present when the fuel samples were taken from the car.

(3) Art. 252.9.2 of the Appendix J is noticeably clear that the fuel must comply with the following specifications: **Sulphur max 10 mg/kg**. (ISO 20846, ASTM D5453)

(4) The fuel analysis report of the laboratory shows that the Sulphur in the sample from car no 203 are 43,1 mg/kg. As explained from the analysis laboratory the reproducibility limits (tolerance) that should be apply is 6,65 mg/kg. This will result in a minimum of 36,45 mg/kg. Even considering the tolerance, the content of Sulphur found in the sample is above the limit.

(5) According to Appendix J Article 282.9.2 in the General Prescriptions for Cross Country Vehicle 2020, the fuel standard must follow Appendix J Article 252.9.

(6) The Stewards conclude that the Sulphur content of 43,1 mg/kg is an infringement of the sporting and technical regulations. Recalling that Article 1.3.3 of the International Sporting Code expressly provides that **"it shall be no defense to claim that no performance advantage was obtained"**.

(7) It is to the competitor to ensure that its car is always in conformity (FIA Appendix J Article 282 Art. 1.1), and the competitor is also answerable for its supplier's compliance with the provisions of the Sporting and Technical Regulations.

(8) According to Art. 12.1.2 of the Code offences or infringements are punishable, whether they were committed intentionally or through negligence.

(9) In case of a breach of the obligation of compliance, a competitor's responsibility is causal. A sanction must be pronounced against it even in the absence of fault, and this sanction is, in principle, **disqualification** according to the jurisprudence in the past.

(10) Nevertheless, the International Court of Appeal has already deemed in the past that in **"exceptional circumstances"**, the objective responsibility of a competitor for a case of non-compliance of its car can lead to a less severe sanction than disqualification. According to the jurisprudence, clerical errors or mistakes in the homologation documents can constitute **"exceptional circumstances"**.



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(11) The Stewards conclude that, in view of the present regulations, it is not possible for any organizer in many FIA World Cup CC events (Jordan, Saudi Arabia, Dubai, Abu Dhabi, Kazakhstan, Morocco) to fulfill the FIA regulation without a waiver as it is not allowed to import fuel to most of these countries.

The waiver should not be used as a "normal" way to avoid the regulation, and because of this it is why the panel of Stewards will refer to the Technical Working Group (TWG) to investigate if the regulation for fuel in Cross Country Rally/Baja should be partly updated. As a result the panel of Stewards can see the possibility to consider this as an "exceptional circumstances".

(12) The second fuel sample of the FIA bottles that has not been analyzed as of now, and will be kept just to be used in the event of a request by the competitor.

(13) In case of an applied penalty, the Stewards leaves it to **XRAID MINI JWC RALLY TEAM** to bear the costs (payed as a Fine), in accordance with Article 11.2 of the Judicial and Disciplinary Rules of the FIA.

(14) The Stewards decided in application of Art. 11.9.1; Art. 11.9.3.a, Art. 11.9.3.g Art. 12.3.1.m and Art. 12.8 of the 2020 International Sporting Code.

(15) The Stewards will address the regulation issue to the TWG for possible investigation about Fuel regulations for Cross Country Rally/Baja.

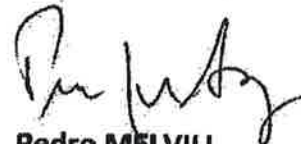
The Competitor is reminded of his right to appeal in accordance with Article 15 of the FIA International Sporting Code and Chapter IV of the FIA Judicial and Disciplinary Rules.



Raymond JOHANSSON
FIA Chairman of the Stewards



Manuel VIDAL
FIA Steward



Pedro MELVILL
ASN Steward

Received by:

Competitor: **XRAID MINI JWC RALLY TEAM** (Sven Quandt / Tobias Quandt)

Driver: **Stephan Peterhansel**

Car No: **203**

Codriver: **Edouard Boulanger**

Date: Time:

07/11/2020 @ 13:00

Signature:



Posted on Notice Board - Lodo BAJA PORTALSERE 500
ON NOVEMBER 7th AT 17:00