



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

www.motorsport.co.za

2nd Floor, Meersig 1, Cnr. Upper Lake Lane & Constantia Boulevard, Constantia Kloof, Roodepoort
e-mail: msa@motorsport.co.za Telephone (011) 675 2220

MSA COURT OF ENQUIRY 1271

HEARING WAS HELD VIA ZOOM ON 29 FEBRUARY AT 17H30

Court:	Adv Francois Van Der Merwe	-	Court President
	Mr Wayne Riddell	-	Court Member
	Ms Carnita Low	-	Court Member
Attendance:	Mr Nicolaos Vostanis	-	Defendant and competitor
	Mr Chris Vostanis	-	Entrant and Father of competitor Vostanis
	Ms Denise Abrahams	-	Witness
	Mr Gary Lennon	-	Promoter – Africa Karting Cup
	Ms Cindy van der Laan	-	Promoter – Africa Karting Cup
	Mr Rodrigo Rocha	-	FIA Vice President for Sport (Africa)
	Mr Vic Maharaj	-	MSA Sporting Services Manager
	Ms Allison Vogelsang	-	MSA Circuit Sport Coordinator

JUDGEMENT

introduction

1. Motorsport South Africa (“**MSA**”) convened a formal enquiry in terms of the provisions of GCR 211 into the conduct of competitor Nicolaos Vostanis (“**the competitor**”) during the OKN race podium ceremony of the 2024 MSA Africa Karting Cup (“**AKC**”) held on 17 February 2024 at Zwartkops Raceway Kart Circuit.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA



sport, arts & culture
Department:
Sport, Arts and Culture
REPUBLIC OF SOUTH AFRICA

Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial),
Mrs. D Abrahams, Mrs. D. Ballington, K. Govender, Ms. T. Human, FC. Kraamwinkel, Mrs. S Labuscagne Jonck, M. Rowe, G. Waberski
Honorary President: R. Schilling

2. The enquiry was convened in terms of Rule 211 of the MSA General Competition Rules (“**GCR’s**”). The enquiry was held virtually on 29 February 2024, and no objections were raised to the composition of the Court.
3. It is alleged that competitor Vostanis’s conduct disrespected the FIA Karting President, thereby bringing MSA and motorsport into disrepute. The terms of reference of this enquiry are the following:
 - 3.1. To investigate whether competitor Nicolaos Vostanis, based on his conduct during the abovementioned podium ceremony, is guilty of breaching, *inter alia*, GCRs 172 iv), vi), x) and/or any part of the MSA Karting Code of Conduct;
 - 3.2. To investigate whether competitor Nicolaos Vostanis, in view of his conduct, should be entitled to represent Motorsport South Africa at the 2024 OKN World Cup;
 - 3.3. To determine what action to take in response to its findings regarding items 1 and 2 above.
4. GCR 172 states the following:

“Any of the following offences in addition to any other offences specifically referred to previously or hereafter, shall be deemed to be a breach of these rules.

iv) Any proceeding or act prejudicial to the interests of MSA or of motor sport generally shall be deemed a breach of the regulations and disciplinary action may be taken against offenders.

By way of clarification, it is confirmed that the following shall be included in the definition of “prejudicial acts” as per the above:

... Acts (including comments and or gestures) which would reasonably be considered by the general public to be offensive or inappropriate...

vi) Misbehaviour or unfair practice...

x) Abuse of officials by competitors and/or their family members and/or members of their pit crew. Such breach of the rules may result in the competitors concerned, if found guilty following a hearing, being suspended for a period of up to six months or for up to six events (whichever is more appropriate), for a first offence."

The evidence presented:

5. This Court was provided with three pictures and a video of the podium ceremony. The podium ceremony was attended by, *inter alia*, Mr Akbar Ebrahim, the FIA Karting President, Mr Rodrigo Rocha, the FIA Vice President for Sport (Africa), and the competitor who finished the event in second position.
6. The pictures and videos show that after the various trophies and prizes were awarded during the podium ceremony, Mr Ebrahim and Mr Rocha took up positions in front of the podium. The competitor can be seen standing on the second step of the podium, and Mr Ebrahim was standing in front and to the left of him.
7. As the various journalists started taking pictures and videos, the competitor raised his right arm, reached across and behind Mr Ebrahim's head, and stuck out his index and middle finger. The competitor's hand is positioned so that it is hidden behind Mr Ebrahim's head, with only his two protruding fingers visible from the front view.
8. The competitor elected to read a pre-prepared statement to the Court. The following is highlighted from his statement:

- 8.1. He was 16 years old and did not know what the court of enquiry was about. He believed that the conduct referred to was his use of the “*peace*” sign.
 - 8.2. That he made a “*peace*” sign behind Mr Ebrahim on the podium and that the act did not intend to bring disrepute to Mr Ebrahim and MSA as he did not intend to offend anybody and believes that he did not do so at the time.
 - 8.3. He alleged that it was common for him to express himself by making use of hand gestures and that it was not uncommon in other forms of motorsport for drivers to do so.
 - 8.4. Due to his short stature, he could not lift his hand any further up as this would block his face.
 - 8.5. He was looking at the camera, not Mr Ebrahim, so the sign was directed at the camera and not at Mr Ebrahim.
 - 8.6. He was also unaware that Mr Ebrahim was associated with the FIA.
 - 8.7. While making the gesture, Ms Abrahams informed him on the podium that Mr Ebrahim was the FIA Karting President. This, however, did not deter the competitor, as he thought he was making a “*peace*” sign. He continued to do so and expressed himself on the podium.
 - 8.8. He was not informed that what he had done was disrespectful.
 - 8.9. He was sorry if he disrespected or offended anyone, but if he had, he would be willing to write an apology letter.
9. Upon questioning by this Court, the competitor made the following statements:
- 9.1. He wanted to make the peace sign his “*new thing*”. He uses hand gestures to express himself, and he thinks it shows positivity.

- 9.2. He knew where the cameras were positioned during the podium ceremony. He placed his hand behind Mr Ebrahim's head because he did not want to block his face and didn't want his hand outside the shot (picture).
 - 9.3. He conceded that the entirety of his hand would not have been visible to the cameras.
 - 9.4. He was unaware that the gesture behind someone's head might be offensive.
 - 9.5. He referred to bunny ears as having curved fingers, not straight ones.
10. Ms Abrahams was called as a witness and can be seen standing to the right of the competitors on the podium. She stated the following:
- 10.1. She observed the competitor raising his fingers and putting them behind Mr Ebrahim's head. She informed him that Mr Ebrahim was the CIK president and that he should stop. Despite her admonishment, the competitor continued with his gesture.
 - 10.2. It didn't seem to her that the competitor was making a peace sign; he was deliberately sticking his fingers up against Mr Ebrahim's head, which she found to be disrespectful.
11. The competitor denied that Ms Abrahams told him to stop and further stated that nobody else at the prizegiving informed him that it was disrespectful. In his mind, he was doing nothing wrong and didn't need to stop.
12. Mr Rocha attended the enquiry in his capacity as the FIA Vice President for Sport (Africa). He was also present at the podium ceremony and can be seen in the pictures and video standing on the left of Mr Ebrahim. The following is highlighted from his evidence:
- 12.1. This event was the inaugural event of the MSA Africa Karting Cup, which the FIA wants to progress from a cup to a championship that will include several African

countries. His department started the project to allow all karters from the region to get international exposure and eventually compete at the top of the world at a CIK event.

- 12.2. It was a huge effort to get the event in place. He managed to convince Mr Ebrahim to attend the event to witness the quality and level of the event. All the competitors were introduced to Mr Ebrahim, who gave a speech at a dinner held two days before the event.
- 12.3. In addition to Mr Ebrahim, several other high-level dignitaries from the FIA and CIK attended the dinner and the event, including Robert Reid, the FIA Vice President for Sport.
- 12.4. He described the gesture made by the competitor to Mr Ebrahim as unfortunate.
- 12.5. He did not see the gesture but noticed something happening behind him. Several journalists and cameras were in front of him, and other competitors were taking pictures.
- 12.6. At a certain stage, people in the front row started to laugh. When he got off the podium, he asked one of the competitors why they were laughing. The competitor said Mr Ebrahim had “bunny ears” applied to him during the podium ceremony.
- 12.7. He immediately requested pictures of the podium ceremony and received the pictures presented to this Court. What he saw was total disrespect from the competitor towards the FIA and the CIK president.
- 12.8. He stated that he would have wanted to see recognition from the competitor that a mistake was made.

- 12.9. He described the movement of the competitor's right arm as disproportional and said it could not be anything other than "*bunny ears*" being applied to Mr Ebrahim's head.
- 12.10. The event is only finished when the podium ceremony is concluded; the podium is part of the event, and if an official is offended during that period, the reasons for that should be clearly understood.
- 12.11. He also explained that another competitor made a political statement after the podium ceremony had concluded but not during the ceremony itself.
- 12.12. He had to pass the information relating to this incident to all the other FIA officials present at the event, and every single one of them was quite embarrassed by the situation, which created a dot in the event that had everything to be remarkable.
13. In response to Mr Rocha's evidence, the competitor stated that he put the laughter down to a difference of interpretation by the other attendees at the podium ceremony. He also said that he was a first offender.
14. He then attempted to dispute Mr Rocha's evidence that the only dots on the weekend were the events on the podium. This court disallowed his attempt to introduce other issues that occurred during the race weekend into evidence as same was utterly irrelevant.
15. Mr Gary Lennon promotes the Africa Karting Cup. He was absent at the podium ceremony and mainly testified about his good working relationship with the competitor and his family.

Evaluation of the evidence:

16. The competitor's claim of being unaware of the reasons for this Court of Enquiry, despite being provided with the pictures and videos reviewed by the Court, is quite surprising, as there could have been no doubt in his mind that the Enquiry was convened to investigate the gesture he made during the podium ceremony.

17. The competitor claims that his gesture, a "peace" sign, was meant to project positivity and not to offend anybody. He further claims that his hand's positioning, allegedly influenced by his short stature, was such that he could not raise his arm higher without obscuring his face. He aimed to keep his hand within the photo frame as he was aware of the positioning of the camera.
18. The video and pictures show that the competitor intentionally positioned his hand behind Mr Ebrahim's head. The movement of his hand to the back of Mr Ebrahim's head was entirely disproportional for his stated intention of showing a "peace" sign. He could easily have made the gesture by merely lifting his right arm. There was no need to reach behind Mr Ebrahim's head.
19. The competitor knew precisely where the camera was positioned and that his entire hand would not be visible. This knowledge significantly undermines his claim of attempting to display a "peace" sign directed at the camera, as he knew that the entirety of his hand was not visible to the camera. His alleged attempt to keep his hand within the camera's frame is contradicted by his knowledge that the positioning of his hand behind Mr Ebrahim's head would not be visible to the camera.
20. Mr. Rocha's uncontested testimony indicates that he was informed by another competitor that laughter ensued during the podium ceremony because the competitor had made "bunny ears" behind Mr. Ebrahim. There would have been no reason for laughter if the competitor had displayed a "peace" sign, as alleged.
21. It is concerning that the competitor tried to deny any knowledge of Mr Ebrahim's identity despite uncontested evidence showing that the FIA delegate was introduced to the competitors before the event and that Mr Ebrahim delivered a speech to them beforehand. Regardless, it would have been evident to the competitor and anyone present at the podium ceremony that Mr Ebrahim was a dignitary of some sort. The competitor, in any event,

acknowledged that he was informed about Mr. Ebrahim's identity during the podium ceremony by Ms. Abrahams.

22. The FIA delegate perceived the gesture as disrespectful and embarrassing. Mr Rocha described the podium ceremony as the only dot on the event. The competitor's attempt to show that there were other issues with the event was perplexing.
23. This Court remains unconvinced that the competitor was attempting to display a "peace" sign. The assessment of the evidence strongly suggests that the competitor was, in fact, making "bunny ears" behind Mr Ebrahim's head. The competitor's conduct was disrespectful and embarrassing, and the general public would reasonably consider it to be offensive and inappropriate. The competitor's conduct was also abusive towards Mr Ebrahim in that it was offensive, inappropriate, insulting and amounted to misbehaviour.
24. This Court finds that the competitor's conduct was prejudicial to the interests of MSA and motor sport generally and breached the provisions of GCR 172 referred to earlier.
25. A consideration of GCR 172 x) reveals that abuse of an official is considered a serious offence as it carries a possible sentence of suspension. Mr Ebrahim is an official as envisaged in GCR 143 read with GCR 147. It is also stated in the AKC Sporting and Technical Regulations ("**AKC regulations**"), Section D, Rule 5(iii), that abusive language and behaviour carries a penalty of race or race meeting exclusion.
26. The competitor's overall impression during the hearing was unsatisfactory. His explanation for his conduct was implausible, improbable, and aimed to avoid liability. The competitor took little, if any, responsibility for his conduct and he offered an apology only if his behaviour was perceived as offensive. It is noted that the competitor is a first offender.
27. In terms of Section C, Rule 8 of the AKC regulations, the top three competitors in the OK-N class will earn a ticket to compete at the 2024 OK-N FIA Karting World Cup or equivalent at the discretion of the organiser. Given the competitor's conduct and the overall impression

created during the hearing, the Court finds that the competitor should not be entitled to represent Motorsport South Africa at the 2024 OKN World Cup.

Findings of this enquiry:

The Court accordingly makes the following finding:

1. The competitor is found to have breached GCRs 172 iv), vi) and x).
2. The competitor is excluded from the results of the OKN race meeting and is consequently barred from participating in the 2024 OKN World Cup in terms of GCR 192.
3. The competitor is suspended for a period of 6 months in terms of GCR 172 x) for a first offence.
4. The sanction outlined in prayer 3 is suspended for a period of 1 year, provided that the competitor does not violate GCR 172 iv), vi), or x) within this suspension period.

The date of this judgment is deemed to be 12 March 2024.

The parties are reminded of their rights as per GCR 212 B

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