



The Federation of Motor Sports Clubs of India

2009 FMSCI Disciplinary & Arbitration Code

Member of



Federation Internationale
de l' Automobile



Federation Internationale
de Motocyclisme



Indian Olympic Association

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This is part of the FMSCI Road Racing Championship Regulations 2009

3. DISCIPLINARY AND ARBITRATION CODE

3.1 Principles

The obligations incumbent upon the participants, officials and organisers are set out in the Regulations published by the FMSCI. Proven violation or non-observance of these obligations will be subject to the penalties laid down in this chapter.

3.2 Penalties

The penalties are:

- warnings
- fines
- ride through
- change of position
- time penalties
- disqualification
- withdrawal of Championship points
- suspension
- exclusion

3.2.1 Definition and application of penalties

- warnings: can be made privately or publicly.
- fines: cash penalty from INR 500 up to INR 5'00'000.
- ride through see Art. 1.19 –penalty for anticipation of start.
- change of position see Art. 1.22.2 – Flags which convey Information and Instructions
- time penalties: the imposition of time affecting the rider's actual result up to 2 minutes and the cancellation of time.
- disqualification: disqualification from an event, practice sessions (black flag, black flag with orange disc), race (black flag, black flag with orange disc) or from its results
- withdrawal of the loss of points from the Championship

- Championship points: races already run
- suspension: the loss of rights to participate in the Championship may be applied to one or more races.
- exclusion: the final and complete loss of all rights of participation in any activity under FMSCI control.

3.2.2 Plurality of penalties

Any offender may have several penalties pronounced against him according to the circumstances.

3.3 The Disciplinary and Arbitration Bodies

The disciplinary and arbitration bodies of the FMSCI, qualified to deal with disciplinary and arbitration matters, are:

- The Race Direction
- The FMSCI Stewards
- The Indian Motor Sports Appeal Court (IMSAC)

3.3.1 The Race Direction

3.3.1.1 Constitution

The Constitution of the Race Direction is in accordance with the requirements laid down in Article 1.6. of **FMSCI Road Racing Championship Regulations 2009**

3.3.1.2 Authority and Competence

The Race Direction has the authority to penalise automatically riders, teams' personnel, officials involved in any capacity whatsoever in an event or in the Championship for:

- Infringements of the Regulations.
- any voluntary or involuntary action or deed accomplished by a person or a group of persons during a meeting, contrary to the current Regulations or instructions given by an official of the meeting.
- any corrupt or fraudulent act, or any action prejudicial to the interests of the meetings or of the sport, carried out by a person or a group of persons occurring during an event.

- The Race Direction is competent to adjudicate upon a protest relating to infringements of the Regulations.

3.3.1.3 Penalties that may be pronounced by the Race Direction

The following penalties may be pronounced by the Race Direction:

- a warning
- a fine
- a ride through
- a change of position
- a time penalty
- a disqualification
- a withdrawal of Championship points
- a suspension

Furthermore, the Race Direction can refer the case to the Indian Motor Sports Appeal Court in order to impose a higher penalty than the Race Direction is empowered to do.

3.3.2 The FMSCI Stewards Panel

3.3.2.1 Constitution

The Constitution of the FMSCI Stewards Panel is in accordance with the requirements laid down in Article 1.7. of **FMSCI Road Racing Championship Regulations 2009**.

3.3.2.2 Competence

The FMSCI Stewards Panel will hear any appeals against decisions taken by the Race Direction.

3.3.2.3 Penalties that may be pronounced by the FMSCI Stewards Panel

only following an appeal:

- a warning
- a fine
- a time penalty
- a disqualification
- a withdrawal of Championship points
- a suspension

Furthermore, the FMSCI Steward Panel can refer the case to the Indian Motor Sports Appeal Court in order to impose a higher penalty than the FMSCI Stewards Panel is empowered to do.

3.3.3 The Indian Motor Sports Appeal Court

3.3.3.1 Procedures

The names of the members appointed must be communicated to all interested parties in the case, who have the right to make a duly documented objection to the composition of the Court, either in total or in part, within three days after having received the information. If the Executive Board of the FMSCI considers that a reasonable objection is made, he must appoint the necessary replacements. Otherwise he rejects the objection and fixes the date for the hearing.

The court may request the opinion of an expert or summon a witness who it considers useful.

3.3.3.2 Authority and Competences

The Indian Motor Sports Appeal Court will hear any appeals against decisions taken by the FMSCI Stewards.

The Indian Motor Sports Appeal Court adjudicates upon request of the Race Direction or the FMSCI Steward Panel.

3.3.4 The FMSCI as a Party in the Legal Proceedings

3.3.4.1 Function

For all the appeals to the Indian Motor Sports Appeal Court, the FMSCI is entitled to assert its interests or to explain its position by means of a prosecution address.

3.3.4.2 Appointment

The Executive Board shall appoint in each case, the person who will represent the FMSCI.

3.3.5.3 Procedure

The intervention of the FMSCI is optional and is left to the appreciation of the Executive Board. As a party, the FMSCI enjoys the same rights and obligations as the other parties.

The FMSCI may be present in person at a hearing or may present its claims in writing.

3.4 Protests and Appeals

3.4.1 Right of protest

Any **legal entity** or **any individual**, rider, team, manufacturer, official etc. affected by a decision taken under the authority of the FMSCI, has the right to protest against that decision.

No protest may be lodged against a decision of the Race Direction entailing or not:

- a change of position.
- a ride through.
- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane.

No protest may be lodged against a decision of the Race Direction based on a photo finish.

3.4.2 Right of appeal

The rules concerning appeals against FMSCI disciplinary decisions are:

Against a decision of the Race Direction, to the FMSCI Stewards.

No appeal may be lodged against a decision of the Race Direction entailing or not:

- a change of position.
- a ride through.
- a disqualification from the practice sessions or races by means of a black flag or black flag with orange disc.
- a fine for speeding in the pit lane.
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No appeal may be lodged against a decision of the Race Direction based on a photo finish.

No appeal may be lodged against a decision of the FMSCI Stewards if they confirm the previous decision of the Race Direction. Their decision is final.

Against a decision of the FMSCI Stewards if they do not confirm the decision of the Race Direction, to the FMSCI Court of Appeal. The decision of the FMSCI Court of Appeal shall be final.

3.4.3 Procedure and time limit for protests

All protests must be submitted and signed only by the person directly concerned. Each protest must refer to a single subject only and must be presented within half hour at the latest after the publication of the results. Protests must be handed to a responsible official (Clerk of the Course, Race Director or Secretary of the Meeting) together with the security deposit of INR 2000. No protest will be entertained unless a fee of Rs. 2000/- in cash accompanies it. For a protest involving a clearly defined part of the Motorcycle Rs. 3000/-. For a protest involving the whole vehicle Rs. 10,000/-

A protest against the eligibility of a rider, team or a motorcycle entered, must be made before the start of the official practice.

3.4.4 Hearing of a protest

After a hearing, the Race Direction must make a decision on any protest presented. The protest has to be judged according to the provisions of the Regulations.

3.4.5 Effect of the decision upon a protest

The decision of the Race Direction of determination of penalty is immediate.

3.4.6 Time limits for the lodging of an appeal

The time limit for lodging a statement of appeal is:

- against a decision of the Race Direction – 30 Minutes
- against a decision of the FMSCI Stewards – 2 days

The time limits shall be taken from the date and time of receipt of the decision by the appellant.

3.4.7 Lodging of an appeal

To be admissible, the statement of appeal must be submitted by letter (appeal before the FMSCI Stewards) or sent by registered letter or special courier to the FMSCI Executive Secretariat and postmarked (appeal before the Indian Motor Sports Appeal Court).

The correct security deposit for appeal must be handed to the FMSCI Chief Steward (appeal before the FMSCI Stewards) or paid in to the FMSCI Executive Secretariat (appeal before the Indian Motor Sports Appeal Court), as the case may be. Within 10 days following the statement of appeal before the Indian Motor Sports Appeal Court, the appellant assigns to the FMSCI Executive Secretariat a brief of appeal stating the facts.

If the appeal was not lodged and/or the security deposit for appeal not paid within the dead line specified in article 3.4.6, the appeal will be declared inadmissible without hearing.

3.4.7.1 Security deposit for appeals (For National Championship)

The amount of the security deposit for the appeal to the Chief Steward is Rs.5,000/= and to the IMSAC is INR 10,000./- for Intention to Appeal and INR 15,000/- towards Bond Money.

3.4.7.2 Security deposit payable upon an adjournment

If an adjournment to call further witnesses is ordered upon the request of one of the parties involved, this party must provide an additional financial guarantee within a time limit to be fixed by the disciplinary body. The hearing will not be continued until this guarantee has been paid. In case of no provision of the guarantee within the time limit, the disciplinary body will make a determination on the appeal based on the evidence of the original witness.

3.4.7.3 Time limits to be observed for appeal hearings

The FMSCI Stewards must be convened to examine an appeal immediately after the brief of appeal is received. The Indian Motor Sports Appeal Court must be convened to examine an appeal not later than 6 weeks after the brief of appeal is received. The FMSCI Stewards and the CDI must in all cases pronounce a decision.

3.4.8 Effect of an appeal

On request of the appellant, the FMSCI Stewards Panel may decide a stay of the provisional execution adjudicated by the Race Direction by injunction or in its decision. On request of the appellant, the Indian Motor Sports Appeal Court may decide a stay of the provisional execution adjudicated by the FMSCI Stewards Panel by injunction or in its decision.

3.5 Procedure before all the Disciplinary and Arbitration Bodies

3.5.1 Right to a hearing

It shall be the unquestionable right of any person or body charged with any offence under the Regulations to defend themselves, either in person or by proxy. Any party convened before a disciplinary or arbitration body has the right to be represented by one defense counsel of its own choice and at its own expense. Adequate notice of this intention must be given in order that this may also be notified to all other parties in the case. Failure to do so may result in the disciplinary or arbitration body upholding an objection to such representation. If any of the parties duly convened do not appear, judgment can be rendered by default. The disciplinary or arbitration bodies may decide that the hearing take place by means of a telephone conference call or through any other means of communication using a telephone or electronic device. Such a method of conducting a hearing shall only take place with the consent of all parties involved.

3.5.2 The hearing

The hearing shall be public unless the disciplinary or arbitration body itself decides otherwise in exceptional circumstances. The hearing shall be conducted in English. Should one of the parties wish to use another language, it shall provide the necessary interpreters at its own costs. The appellant must be present or duly represented, failing which, the protest will not be admissible and the costs shall be borne by the appellant.

Once the President has opened the proceedings, he will invite the parties involved to state their respective cases without the witnesses being present. After statements of the parties concerned, the disciplinary or arbitration body shall hear the various witnesses and experts in order to complete the evidence. The parties involved in the case shall have the right to question all witnesses and experts on their evidence.

Any member of the disciplinary or arbitration body may, at any time during the hearing and with the President's approval, question any of the parties involved, the witnesses and experts.

3.5.3 Witnesses and Experts

Each party is responsible for the convening and appearance of its own witnesses, as well as their expenses unless decided otherwise by the Court. The disciplinary or arbitration body has no authority to oblige the witnesses to swear on oath; therefore, testimony shall be given freely.

The witnesses may only testify to the facts they know and shall not be allowed to express an opinion, unless the disciplinary or arbitration body should regard them as experts on a particular subject and should ask them to do so.

After having made their statements, the witnesses may not leave the Courtroom and shall not be allowed to speak to any other witness who has still to give evidence.

The Court may summon experts.

3.5.4 Judgement

Decisions of all disciplinary or arbitration bodies will be reached by a simple majority of votes (exception: See Art. 1.6.4 "Race Direction"). All members will have equal voting rights which must be exercised when a decision is required. Abstention is not permitted.

Each member of the disciplinary or arbitration body binds himself to keep all deliberations secret.

3.5.5 Notification of judgements

The decisions of the Race Direction or of the FMSCI Stewards must be notified directly at the event venue, or failing that, addressed by registered letter with acknowledgement of receipt.

All judgements of the Indian Motor Sports Appeal Court must be notified, in writing, by registered letter with acknowledgement of receipt in order to inform all the parties concerned.

3.5.6 Publication of judgements

The disciplinary or arbitration body imposing a penalty or adjudicating a protest or an appeal must have its findings published and quote the names of all parties concerned. The persons or bodies quoted in these statements have no right of action against the FMSCI nor against any person having published the statement.

Furthermore, final decisions will be published in the Media Centre and in the FMSCI Magazine/ Circular / website unless the Court itself decides otherwise.

3.6 Costs of procedure

The costs of a disciplinary or arbitration decision will be assessed by the FMSCI Executive Secretariat and will be awarded against the losing party, unless the Court decides otherwise.

3.6.1 Payment of fines and costs

If the penalty is definitive, all fines must be paid into the Benevolent Fund before the beginning of the first practice of the event following the final decision. The costs must be paid to the FMSCI Executive Secretariat within 30 days of notification of the judgement decision according to Article 3.5.5. The person or body affected by the decision shall be automatically suspended from participation in all FMSCI activities, until such time as full payment has been received.

3.7 Reciprocity of penalties (Applicable only for international events)

As a consequence of the agreement of reciprocity concluded on April 30th, 1949 between the 4 organisations controlling motorised sports internationally, i.e. in addition to the FIM, namely:

- the Fédération Internationale de l'Automobile (FIA)
- the Fédération Aéronautique Internationale (FAI)
- the Union Internationale Motonautique (UIM)

penalties of suspension or exclusion may also be applied to one or another of the sports represented by the above organisations, upon request of the FIM.

3.8 Law of Mercy

The Management Council of FMSCI, after consultation with the Indian Motor Sports Appeal Court, may mitigate or completely forgive the penalty of a person or group of persons after having exhausted all the appeal procedures.

3.9. Arbitration Clause

Final decisions made by the race direction or the stewards of the FMSCI may be submitted exclusively to the Court of Arbitration for Sport (IMSAC) by way of appeal within the time limit as laid down in article 3.4.6, which shall have exclusive authority to impose a definitive settlement in accordance with the Code of Arbitration applicable to sport.

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