EPCR SHORT JUDGMENT FORM

Match	Bristol Bears	Vs	Enisei -STM
Club's Country	Russian Federation	Competition	European Rugby Challenge Cup
Date of match	19th January 2019	Match venue	Ashton Gate Stadium
Rules to apply	**EPCR Disciplinary Rules 2018/19**		

PARTICULARS OF OFFENCE

Player's surname	Gargalic	Date of birth	7/3/1989
Forename(s)	Maxim	Plea	Admitted ☒ Not Admitted ☐
Club name	Enisei -STM		
SELECT: Red card ☒ Citing ☐ Other (specify) ☐			
Offence	9.13 Dangerous Tackling		
Summary of Sanction	3 weeks, and no cost		

HEARING DETAILS

Hearing date	24th January 2019	Hearing venue	Skype Call
Chairman/JO	Philippe Cavalieros (France)	Panel member 1	Sarah Smith (Scotland)
Panel member 2	John Caroll (Ireland)	Disciplinary Officer	Liam McTiernan
Appearance Player	Yes ☒ No ☐	Appearance Club	Yes ☒ No ☐

Player's Representative(s):	Other attendees:
Iurii Krasnobaev – coach	Andrey Makhu - interpreter Anastasiia Iuronina - interpreter

List of documents/materials provided to player in advance of hearing:

1. First Notice of hearing issued (in email format) to the Player and the Disciplinary Officer on 21th January 2019, including Red Card Report issued by Mr. Thomas Charabas of France ("**Referee**") on 19th January 2018 and Disciplinary Officer letter to the Disciplinary Committee Chairman, Mr. Mike Hamlin, dated 20th January 2019;
2. Second Notice of hearing issued (in email format) to the Player and the Disciplinary Officer on 23th January 2019, including Red Card Report issued by the Referee on 19th January 2018 and Disciplinary Officer letter to the Disciplinary Committee Chairman, Mr. Mike Hamlin, dated 20th January 2019;
3. Email from the Disciplinary Officer dated 20th January 2019 including Red Card Report from match referee referred to above, and;
4. Report from assistant referee, Arnaud Blondel (FRR) ("**AR2**");
5. A Club statement on the medical condition of Bristol Bear player Ryan Edwards ("**Statement**");
6. A Video clip via a Google Drive link: https://drive.google.com/file/d/1e3tSy4z-8u6qYRH7LkEat7wfm5CoWknL/view?usp=sharing
7. An email from the Player's representative dated 23th January 2019 ("**Player's Email**")

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

The Referee's report related to an incident, which occurred in the 2nd minute of the first half of the match when the score was 0-0 in the following terms:

« In open play, a BRISTOL BEARS player (winger) was running with the ball and No 8 ENISEI came to do a tackle. I had players in front of me so I didn't see contact point but at the end there is contact to the head (neck) with force. BRISTOL player was not injured. I spoke with my AR2 and I gave RC for HIGH TACKLE. »

AR2's report was as follows:

« In open play, a Bristol player was running with the ball and No 8 from ENISEI came to do a tackle with his fore arm straight to the neck with force/ Bristol player was not injured and continued the game. »

The video evidence was viewed at length during the hearing. In the opinion of the Disciplinary Committee, this showed the following:

1. The Player is slightly behind the line of defence when Bristol Bear's winger (or "**Victim Player**") carrying the ball changes direction.
2. The Player slightly loses balance as a result of the Victim Player's change of direction, and attempts to tackle and/or grab Bristol Bear's winger with his left arm.
3. The Player did not lower his body to any significant extent and the arm therefore reaches the upper shoulder/neck area of Bristol Bear's winger who is swung back, turns on himself and falls on the ground, arms and chest first.
4. The Player apologizes to Bristol Bear's winger.

ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

The Statement provides:

« Please see the email below regarding Ryan Edwards' condition from our Head of Medical Rory Murray; Ryan has suffered no specific injury due to the tackle and was able to complete the 80 minutes as well as full training today. Having spoken to Ryan today he felt that the initial contact was at the top of his chest and shoulders/lower neck area rather than the face. There was some force involved which resulted in him being momentarily sore but no lasting effects. The force was more of a grab and pull than a swinging arm strike ».

The Disciplinary Officer submitted that the Player did commit an act of foul play, that did not however cause serious injury to the Bristol Bear's winger, as he finished the entire 80' of the game and did not suffer post-game trauma. The Disciplinary Officer considered the attempt of the Player was more at grabbing than tackling, that the act was not intentional but reckless, and that the contact with the head was not clear, but rather seemed to concern the upper shoulder/lower neck area. The act was not violent and happened early on in the game (although no particular weight should be given to this point). The act was not premeditated but was however completed.

It was the Disciplinary Officer's position to enter at a low-end entry point under Article 9.13, and consider aggravating and mitigating factors. No cost request was made.

SUMMARY OF PLAYER'S EVIDENCE

The Player's Email states:

"Maxim Gargalyk want to appologize for this incident (red card). he firstful lost his position on defense after he was tryng to catch the player with the ball and not to tackle him but thing go a little bit wrong he try to squize and go low as much as he can and we can see that on the video his legs where squize less than 90 degrees we can prove that fact from footage. he also jus let his arm and do not have the intention to hit or to tackle and on the video we can see that in the fact there is no any hit or tackle. maxim want to appologize to the player that was involved in the incident we are happy that there was no injuryies and he was able to play full game .maxim feel very disapointed that he left his team in 14 men in the beggining of the game. we understand that for maxim was very difficilt to avoid that high tackle almost because of his size he is 2 meters tall , he recognize his fault complete. We help that the decision will be fair and not very tough." [sic]

During the hearing, upon questioning, the Player accepted the RC and accepted that the Referee's decision was not wrong under Article 7.8.23.

The Player explained that he lost his position in defence and had no real intention to tackle the Victim Player but just to stop him by grabbing him. He tried to go as low as he could but did not succeed as he is much taller than his opponent. He tried to grab him at the shoulder level. He is relieved that the Victim Player did not suffer injury. and he is also sorry that he had to leave his team early on in the game.

FINDINGS OF FACT

The Disciplinary Committee:

1. Acknowledged that the Player accepted the Referee's decision and the RC;
2. Found from the video evidence that the player did in fact appear to tackle and/or grab his opponent at the line of the shoulder/lower neck area; and that the footage does not clearly show that contact with the head was made;
3. Noted that the Victim Player suffered no injury;
4. Noted that the Disciplinary Officer and the Player both considered Rule 9.13 to be the appropriate applicable rule in this matter.

DECISION

Breach admitted ☒	Proven ☐ Not proven ☐ Other disposal (please state below) ☐
	Rule 9.13 provides: "A player must not tackle an opponent early, late or dangerously. Dangerous tackling includes, but is not limited to, tackling or attempting to tackle an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders." It is relatively unclear whether the incident occurred as a result of an attempt to tackle or to grab the victim player. Whereas both the Disciplinary Officer and the victim player have in their oral pleadings extensively referred to an attempt at grabbing, all concerned agreed that the applicable rule is Rule 9.13 which refers to dangerous "tackling". Under the Rules, "any act of foul play which results in contact with the head shall result in at least a mid-range sanction". In this instance, having due regard to the Referee and AR2's reports, the video of the incident, which was not relied upon by the Referee during the game, does not clearly

evidence contact with the head *per se*. This said, the video shows that contact with the neck area has been made, and usually therefore, under World Rugby's guidance note, as well as relatively well-established precedents, a mid-range entry point would be applicable.

However, in this case, given (i) both side's views that the incident involved an attempt at grabbing with which this Disciplinary Committee concurs, (ii) the Disciplinary Officer's position that a low-end entry point was warranted, and given the overall relatively nonviolent nature of the incident, that resulted in no injury to the Victim Player (whom also considers that contact "was at the top of his chest and shoulders/lower neck area rather than the face »), the Disciplinary Committee considers, having also due regard to the below assessment of seriousness, that a low-end entry point is appropriate.

In this regard the Disciplinary Committee wishes to reiterate that adopting such low-end entry point is guided by the specificities of this matter, and both sides' positions with which the Disciplinary Committee concurs.

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)
PLEASE TICK APPROPRIATE BOX Intentional/deliberate ☐ Reckless ☒
State reasons
The Disciplinary Committee considered that there was no deliberate intention to cause injury.
Gravity of player's actions – R 7.8.32 (c)
The Player's action was not particularly grave.
Nature of actions – R 7.8.32 (d)
Contact was made with the arm.
Existence of provocation – R 7.8.32 (e)
None
Whether player retaliated – R 7.8.32 (f)
No
Self-defence – R 7.8.32 (g)
No
Effect on victim – R 7.8.32 (h)
The victim received initial medical treatment but finished the game and reported no injury.
Effect on match – R 7.8.32 (i)
There was no effect on the match other than Enisei continuing the game reduced to 14 players and losing by a considerable margin. This was not relevant to the assessment of seriousness in the Disciplinary Committees' view.
Vulnerability of victim – R 7.8.32 (j)

The victim player was not particularly in a vulnerable position
Level of participation/premeditation – R 7.8.32 (k)
There was no premeditation, but clear involvement of the Player.
Conduct completed/attempted – R 7.8.32 (l)
The conduct was completed.
Other features of player's conduct – R 7.8.32 (m)
None.

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
Top end*	Weeks	Mid-range	Weeks	Low-end	Weeks
☐		☐		☒	2

*****If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.19.2(a), 17.19.2(h), and 17.19.2(i) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End
Not applicable

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 7.8.34 (a)
The Player was banned for 4 weeks by an EPCR Disciplinary Committee for a similar tackle under Rule 9.13, on 24th October 2018.
Need for deterrence – R 7.8.34 (b)

Not applicable
Any other off-field aggravating factors – R 7.8.34 (c)
None

Number of additional weeks: 2

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a)	Player's disciplinary record/good character – R7.8.35 (b)
The Player did acknowledge guilt.	Not applicable although the Player seems to show good character.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
Not applicable	The Player and his representatives' conduct was exemplary.
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)
The Player apologized on field to the victim player and showed remorse thereafter.	None

Number of weeks deducted: 1

Summary of reason for number of weeks deducted:
The Player acknowledged guilt, and his conduct was exemplary throughout, warranting mitigation, and consequently the Disciplinary Committee considered it appropriate to reduce the sanction by 1 week. No cost order was requested, and no order is made in this regard.

SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 7.2.5

Total sanction	3 Weeks	Sending off sufficient ☐
Sanction commences	At the conclusion of the hearing	
Sanction concludes	At 23.59 on Sunday 21st April 2019 (unless the Player shows an updated schedule of fixtures encompassing changes to the domestic Russian Championship evidencing official games in which the Player would be fit to play)	
Free to play	22nd April 2019	

Signature (JO or Chairman)		Date	25th January 2019

NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 8.1 AND 8.2 OF THE EPCR DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 8.2.1 TO 8.2.4 OF THE REGULATIONS