

EPCR SHORT JUDGMENT FORM

Match	Stade Francais	Vs	Benetton Treviso
Club's Country	France	Competition	Challenge Cup
Date of match	11.12.20	Match venue	Stade Jean Bouin, Paris
Rules to apply	EPCR Disciplinary Rules 2020/21		

PARTICULARS OF OFFENCE

Player's surname	Rorke	Date of birth	03.12.99
Forename(s)	Charlie	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Stade Francais		
SELECT:	Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other (specify) <input type="checkbox"/>		
Offence	Red card report stated 9.12 - dangerous play. Disciplinary Committee found 9.11 - dangerous play		
Summary of Sanction	Two weeks' suspension		

HEARING DETAILS

Hearing date	16.12.20	Hearing venue	Conducted remotely via Zoom
Chairman/JO	Samantha Hillas QC (Eng)	Panel member 1	Frank Hadden (Sco)
Panel member 2	Anthony Wheat (Ire)	Disciplinary Officer	Liam McTiernan
Appearance Player	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appearance Club	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Player's Representative(s):

Other attendees:

Thomas Lombard – CEO

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

- Red card report
- Video footage of the incident
- Emailed submissions on behalf of the Player disputing any foul play and attaching (a) confirmation of the Player's fitness to play, (b) fixture lists and (c) a photograph of the video footage showing the Player grabbing BT14's shorts

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

The referee's report states that in the 44th minute of the game, AR1 flagged and asked the referee to stop the game to check with the TMO for potential foul play. The footage showed the Player clear out his opponent (BT14) at a breakdown and then with his left hand, hold BT14 by his testicle area. The TMO confirmed he was holding him there. AR1's report says the Player "catches the testicles" of BT14. This caused a reaction from BT14.

The video footage is clear and shows the incident from a number of angles and at different speeds. An SF player in possession of the ball goes to ground. The Player rucks over the ball/player on the ground and, attempting to stop a counter ruck by BT14, reaches around BT14, grabbing the bottom of the right leg of his shorts towards the middle seam and pulling upwards into BT14's groin area. In a standing position, BT14 responds by flailing his arm across into the Player's shoulder and neck area in an attempt to extract himself from the tussle. As both players let go of each other, BT14 falls to the ground. Both players continue to participate in the game apparently unconcerned by the incident until the referee blows following AR1s flagging of the incident. Both players are red carded for their participation in the incident.

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

Having determined (with the consent of all parties and on the basis both red cards arose from the same incident) that it would be sensible to hear both matters together, the Disciplinary Committee ("DC") also heard from BT14 and gave both players the opportunity to ask questions of each other. BT14 confirmed that he was attempting to counter ruck the Player by getting underneath him. He said that he felt the Player grab "*more to the shorts*", but that he felt pressure to the area of his testicles which made him uncomfortable. He immediately felt some pain for 2 or 3 seconds in the testicle area but thereafter he mainly felt pressure on his genital area from the way in which the Player was gripping his shorts. BT14 said he extended his arm "*trying to push him away*" but there was no force and any contact with his hand on the Player was "*to tell him to stop*".

During their evidence, both the Player and BT14 apologised to the other for their involvement in the incident.

SUMMARY OF PLAYER'S EVIDENCE

The Player confirmed the written submissions which had been forwarded to the Panel on his behalf. The Player denied any foul play offence, stating that it was a simple clean out action and that he was attempting to defend the counter ruck from BT14. He said he did not see where he had grabbed BT14, any contact with his genital area was accidental and his belief was that he had grabbed his shorts only. Following questions from the Panel, the Player said he felt the only way he could stop BT14 counter rucking was to grab hold of him. He confirmed that he grabbed "*low*" because he could not see where he was grabbing and did not want to "*aim high*". He said he did not think for a second that he had made contact with BT14's genital area and that, had he done so, he would have readjusted his grip or let go. He did not feel that he had hold of any body parts with his hands, "*just material*". He was shocked that BT14 reacted at all because he was confident that he had hold of his shorts only. As to BT14's reaction, he would not characterise this as a punch or a strike, there was no force at all behind it, he did not believe it was intentional and that in his view, BT14 was simply trying to make him let go of his shorts.

FINDINGS OF FACT

Over the course of over 3.5 hours, the DC carefully analysed the evidence of both players and the submissions made on their behalf and by Mr McTiernan. An absence of reference to some part of the evidence or submissions does not mean that such evidence or submission was not taken into account by the DC. This was not a straightforward case, certainly not as straightforward as the video footage initially suggests. On the balance of probabilities after taking into account the evidence that was heard and an equally careful analysis of the video footage, the DC finds as set out below:

1. The Player reached around to grab the right leg of BT14's shorts, towards the central seam i.e. around the genital area;
2. Whilst reaching around forcefully, SF6 made contact with BT14's genital area. This is likely to have caused the 2 or 3 seconds of pain complained of by BT14;
3. After grabbing onto BT14's shorts, he continued to pull upwards. This is likely to have caused the pressure that BT14 felt in his genital area and why BT14's evidence was that the Player had grabbed "*more to the shorts*";
4. The Player did not grab, twist or squeeze BT14's genitals, so no offence contrary to 9.27 was made out;
5. There was nonetheless an offence of foul play: the Player grabbed BT14 far too low, making contact with BT14's genital area and causing him pain, even if momentarily. By continuing to clutch BT14's shorts and pulling upwards, this would have caused not only discomfort to BT14, but a fear on BT14's part of injury to his testicles;
6. On balance, the offence of foul play could more properly be categorised as falling within 9.11 i.e. conduct that is "*reckless or dangerous to others*";
7. The Player's actions were reckless.

There is no criticism of any of the match officials in this case. The DC reiterates that this case is more nuanced than the video footage initially suggests and the findings set out above are made following close and detailed examination of all the available evidence.

DECISION

Breach admitted <input type="checkbox"/>	Proven <input checked="" type="checkbox"/>	Not proven <input type="checkbox"/>	Other disposal (please state below) <input type="checkbox"/>

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)
PLEASE TICK APPROPRIATE BOX Intentional/deliberate <input type="checkbox"/> Reckless <input checked="" type="checkbox"/>
State reasons
The DC accepts that the Player did not look where he was grabbing and that he believed he had a hold only of BT14’s shorts. However, in doing so, the Player ought to have known there was a risk of foul play: grabbing any player’s shorts in the groin area understandably risks injury to that player’s testicles.
Gravity of player’s actions – R 7.8.32 (c)
The DC took the view that, on a cursory view of the footage, the incident looked more serious than it was. However, considering the footage frame by frame and listening carefully to both player’s evidence, it was clear that this incident was not as serious as the footage suggests. Neither player considered either their conduct or the other’s conduct was of a serious nature, the incident was over in seconds and both continued to participate in the game apparently unconcerned by what had occurred.
Nature of actions – R 7.8.32 (d)
As set out above, the Panel did not find that the Player grabbed, twisted or squeezed BT14’s testicles. There was likely to have been a glancing blow to BT14’s genitals in the initial ‘grab’, thereafter the Player continued to clutch BT14’s shorts, pulling upwards and putting pressure on BT’s genitals and causing him to feel discomfort.
Existence of provocation – R 7.8.32 (e)
N/A
Whether player retaliated – R 7.8.32 (f)
N/A
Self-defence – R 7.8.32 (g)
N/A
Effect on victim – R 7.8.32 (h)
Apart from 2-3 seconds of pain upon the original ‘grab’ and continued discomfort as his shorts were being pulled in an upwards direction, there was no effect on BT14
Effect on match – R 7.8.32 (i)
None save that both parties to the incident were red carded. BT were ahead by 17 points at the time of the incident and went on to win the game 20-44.
Vulnerability of victim – R 7.8.32 (j)
The genitals are a vulnerable part of a player’s body.
Level of participation/premeditation – R 7.8.32 (k)
None.
Conduct completed/attempted – R 7.8.32 (l)

Completed.
Other features of player's conduct – R 7.8.32 (m)
N/A

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Low-end</u>	<u>Weeks</u>
<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>	2 WEEKS

*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

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 has a clean disciplinary record.
Need for deterrence – R 7.8.34 (b)
N/A
Any other off-field aggravating factors – R 7.8.34 (c)

N/A

Number of additional weeks: 0

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a) The Player did not accept he had committed an act of foul play or that the red card was warranted.	Player’s disciplinary record/good character – R7.8.35 (b) The Player has a clean disciplinary record.
Youth and inexperience of player – R 7.8.35 (c) The Player is young (he has just turned 21). This game was his first start for the team and he wanted to impress.	Conduct prior to and at hearing – R 7.8.35 (d) The Player was polite, made every effort to assist the Panel and conducted himself extremely well.
Remorse and timing of remorse – R 7.8.35 (e) The Player apologised to BT14 during the course of his evidence for any pain and discomfort caused.	Other off-field mitigation – R 7.8.35 (f) N/A

Number of weeks deducted: 0

Summary of reason for number of weeks deducted: The DC felt unable to reduce the Player’s sanction due to his refusal to accept he had committed an offence of foul play or that the red card was warranted. The Panel was also mindful that the Player’s actions had caused the incident.

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 (weeks)	2	Sending off sufficient <input type="checkbox"/>	
Sanction commences	Forthwith. In the event the rugby season in the Player’s home country or league is suspended due to the Covid-19 pandemic before the expiry of his suspension, the suspension will be	Costs	£0 – not claimed due to being heard remotely
Sanction concludes	paused and recommence to take into account the next matches which he is expected to play to ensure the		

	suspension is meaningful. In the event of any disagreement between the
Free to play	Player and the EPCR's disciplinary officer as to the operation of this sanction shall be referred to the DC chair for clarification/determination.

Signature (JO or Chairman)	SAMANTHA HILLAS QC	Date	16.12.20
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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