

## **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	<b>EPCR Disciplinary Rules 2020/21</b>		

### **PARTICULARS OF OFFENCE**

Player's surname	Sarto	Date of birth	15.01.92
Forename(s)	Leonardo	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Benetton Treviso		
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 (reduced by one week for mitigation)		

### **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:

Marius Goosen – coach

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 accepting the charge (save for AR1's report that he punched SF6 in the face) and putting his account of the incident

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

The referee's report states that in the 44<sup>th</sup> 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 being cleared out at a breakdown by his opponent, SF6. SF6 then held the Player by his testicle area with his left hand. The TMO confirmed he was holding him there. This caused a reaction from the Player who swung his elbow to SF6's neck/head area and flashed his right hand to SF6's head area. AR1 referred to it as "*a punch in the face*".

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. SF6 rucks over the ball/player on the ground and, attempting to stop a counter ruck by the Player, reaches around the Player, grabbing the bottom of the right leg of his shorts towards the middle seam and pulling upwards into the Player's groin area. In a standing position, the Player responds by flailing his arm across into SF6 shoulder and neck area in an attempt to extract himself from the tussle. As both players let go of each other, the Player falls to the ground. Both players continue to participate in the game apparently unconcerned by the incident until the referee blows following AR1's 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 SF6 and gave both players the opportunity to ask questions of each other. SF6's evidence was that, in attempting to defend the Player's counter ruck, he grabbed the Player, believing that he had grabbed his shorts only. He said he did not think for a second that he had made contact with the Player's genital area and that, had he done so, he would have readjusted his grip or let go. He was shocked that Player reacted at all because he was confident that he had hold of his shorts only. As to the Player's reaction, SF6 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, the Player was simply trying to make him let go of his shorts.

During their evidence, both the Player and SF6 apologised to the other for their involvement in the incident.

## SUMMARY OF PLAYER'S EVIDENCE

The Player confirmed that he was attempting to counter ruck SF6 by getting underneath him. He said that he felt SF6 grab his genital area but said this was "*more to the shorts*". 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, which made him uncomfortable. He said he extended his arm "*trying to push him away*" but there was no force and any contact with his hand on the SF6 was "*to tell him to stop*". He disagreed with AR1's report that he had punched SF6 in the face, asserting the contact as with his elbow to the back of SF6's neck. This was an "*instant reaction*" to the pressure on his genital area.

## 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. SF6 reached around to grab the right leg of the Player's shorts, towards the central seam i.e. around the genital area;
2. Whilst reaching around forcefully, SF6 made contact with the Player's genital area. This is likely to have caused the 2 or 3 seconds of pain complained of by the Player;
3. After grabbing onto the Player's shorts, SF6 continued to pull upwards. This is likely to have caused the pressure that the Player felt in his genital area and why the Player's evidence was that the SF6 had grabbed "*more to the shorts*";
4. The reaction by the Player was not a punch or a strike, but more accurately described as a flailing arm. As is evident from a close analysis of the footage, the fleshy part of the Player's forearm (as distinct from the elbow) made contact with SF6's shoulder and then the Player's open hand made contact with SF6's neck area;
5. This was an instinctive response to the pain/discomfort he felt from his shorts being grabbed and pulled up into his genital area as well as the fear of injury to this vulnerable part of his body;
6. The Player was attempting to force SF6 to let go of his shorts;
7. Given the mechanism of the Player's action and the clear evidence from SF6 that this was not a punch or a strike, the DC did not find that this was "*physical abuse*" falling within the 9.12 category;
8. Nevertheless, the Player's forearm/elbow did make contact with SF6's shoulder and neck area, however fleeting, and on balance, the DC considered this was foul play which could more properly be categorised as falling within 9.11 i.e. conduct that is "*reckless or dangerous to others*";
9. 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 ☒ Proven ☐ Not proven ☐ Other disposal (please state below) ☐

### SANCTIONING PROCESS

### ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)

**PLEASE TICK APPROPRIATE BOX** Intentional/deliberate ☐ Reckless ☒

State reasons

The DC accepts that the Player 'flailed' his arm towards SF6 in an instinctive response to SF6's contact with his genital area as a result of discomfort he felt and fearing injury to a vulnerable part of his body.

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)

The DC accepts that the Player 'flailed' his arm towards SF6 in an instinctive response to SF6's contact with his genital area as a result of discomfort he felt and fearing injury to a vulnerable part of his body. This caused fleeting contact with SF6's shoulder and then neck area as the Player attempted to extricate himself.

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)

The Player's actions were as a result of the discomfort he felt, the fear that injury would be caused to his testicles and in an attempt to force SF6 to let go of his shorts.
Effect on victim – R 7.8.32 (h)
None.
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 neck/head area is 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					
Top end*	Weeks	Mid-range	Weeks	Low-end	Weeks
<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
<p>The DC are mindful of World Rugby's directive that any act of foul play which results in contact with the head and/or neck shall result in at least a mid-range sanction. However, the mechanism found by the DC as set out above does not involve what might be categorised as a punch or strike to SF6 (and this was confirmed by SF6 who accepted any contact by the Player was simply to extricate himself from the tussle) nor does it sit easily with the circumstances envisaged by the directive. The initial area of contact was with SF6's shoulder: any further contact with SF6's neck was incidental, very fleeting and without any force whatsoever. The DC's firm and unanimous view was that it would result in a perverse outcome if, having found there was foul play in the manner described and there being incidental and fleeting contact to the neck, we were nevertheless required to impose an entry point of at least mid-range. The DC therefore determined that a low end entry point was appropriate and proportionate in the circumstances of this particular case.</p>

### ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 7.8.34 (a)
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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)	Player's disciplinary record/good character – R7.8.35 (b)
The Player accepted the act of foul play at the first opportunity in his responses to the DC's standing directions.	The Player has a clean disciplinary record.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
The Player is 28 years old and an experienced player.	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)	Other off-field mitigation – R 7.8.35 (f)
The Player apologised to SF6 during the course of his evidence for reacting to SF6's role in the incident.	N/A

Number of weeks deducted: 1

Summary of reason for number of weeks deducted:
The DC took into account in particular the acknowledgment of foul play at the earliest opportunity as well as the other factors set out above and determined that the sanction should be reduced by the maximum 50% permitted.

## 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)	1	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 match 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