

DECISION OF THE INDEPENDENT JUDICIAL PANEL

EPRC /Champions Cup, Season 2022/2023

Remote hearing held by Zoom on 14 December 2022

In respect of:

Sébastien Piqueronies (the "Manager General" and "MG")

and

A misconduct complaint brought against the Manager General following the Game in the Champions Cup match between Section Paloise (Pau) and Toyota Cheetahs played on 10 December 2022.

Disciplinary Panel (the "**Panel**") appointed to hear the case:

Jeremy Summers (England) (Chair)
Gordon Black (Ireland)
David Humphreys (Ireland)

Decision of the Panel

The MG is suspended for a period of 10 weeks. The suspension will operate by way of a prohibition on all match day coaching involvement for 10 matches. This prevents the MG from entering the team room, changing room, technical zone and coaching box or from having access to the team's communication network on match days during the period of suspension.

Introduction

1. The Panel was appointed by Michael Hamlin, Chairman of the EPCR's Independent Disciplinary Panel pursuant to the Disciplinary Rules (the "**Disciplinary Rules**" and "**DR**") as set out at Schedule Four of the Participation Agreement of the Champions Cup 2022/2023.
2. This is the reasoned decision of the Panel. Each member contributed to it, and it represents our conclusions. It is necessarily a summary. It is reached after appropriate consideration of all the evidence, submissions and other material placed before us. Nothing is to be read into the absence of specific reference to any aspect of the material or submissions before us. We considered and gave appropriate weight to it all.

The Parties at the Hearing

3. In addition to the Panel, present during the video conference were the following persons:

Pau:

The Manager General
Benjamin Peyrelevade – legal representative for the MG

Bernard Pontneau – President
Pierre Lahore - Chief Executive
Marie Anglade - Administrative and legal manager

EPCR :

Liam McTiernan
Maria Gyolcsos – secretary to the Panel
Danny Rumble – observer

Others:

Joe Armitage – Interpreter
George Elliston, Trainee Solicitor Osborne Clarke LLP - observer

4. The parties confirmed that there were no other persons present and that no recording (audio and/or video) would be made other than the official EPCR audio recording.

Preliminary Matters

5. This matter initially came before the Panel as a citing complaint issued against the MG.
6. In the response the Standing Directions served on behalf of the MG, the jurisdiction to bring a citing complaint was challenged.
7. DR 7.4.1 provides:

*In respect of any Match for which EPCR appoints a Citing Commissioner pursuant to clause 5.6, above, the Citing Commissioner will be entitled to cite a **Player** for any act or acts of Foul Play that in the opinion of the Citing Commissioner warranted the Player being shown a red card.... (Emphasis added)*

8. Player is defined by the DR as:
any person who is named in a Club's Tournament squad.
9. Given that the MG was not a Player, the Panel chair issued a preliminary response to the parties indicating, that subject to submissions from EPCR, he was minded to direct that the proceedings should not proceed by way of a citing but should continue as a misconduct complaint¹.
10. At the hearing Mr McTiernan on behalf of EPCR indicated that a "liberal" interpretation of the DR had been applied in the interests of expediency and to avoid any delay being necessitated whilst misconduct proceedings were brought.
11. However, if the Panel considered that such a liberal approach was not permissible, then EPCR was content to proceed on the basis of a misconduct complaint.
12. In so doing, Mr McTiernan also advised that other matters relating to the game were currently under consideration and, if these resulted in further complaints being

¹ In accordance with DR 3.2 and 3.3 (p)

brought, it might be desirable to hold a consolidated hearing, in which case the Panel was invited to remit the matter back to EPCR.

13. On further inquiry by the Panel, it appeared that any further matters, if they were to be progressed, did not relate directly to the current misconduct and might not, in fact, involve the MG in any event.
14. The Panel noted that although EPCR had wanted to proceed with the citing to assist the MG by avoiding delay, to do so would in fact be prejudicial to the MG in that there was greater discretion in relation to sanction afforded by the misconduct regime rather than the citing regime.
15. The Panel deliberated in private and determined that it was not open to EPCR to apply a liberal interpretation of the DR as it had sought to do, and that the current matter should be heard immediately by way of a misconduct complaint provided that:
 - a) The MG formally waived his right to be served with a written notice of the misconduct complaint; and
 - b) The MG acknowledged that, by proceeding today, there could be no guarantee that further proceedings would not be brought against him or others in the future.
16. On behalf of the MG, M. Peyerlevade confirmed that his client was willing to proceed on that basis.
17. In light of that, and at the suggestion request of EPCR, the citing request was formally dismissed.
18. There was then discussion as to the conduct that should be the subject of the misconduct complaint. The Panel noted that MG had denied physically abusing the Referee and asked for the EPCR position in this regard. Mr McTiernan advised that, having reviewed the evidence fully, EPCR did not assert that the MG had in fact physically abused the Referee.
19. In its view, the proper characterisation of the offence was one of using threatening actions or words against Match Officials. Although this is also contrary to Law 9.28, it carries a lower tariff in terms of sanction.
20. In response, M. Peyerlevade submitted that the conduct should be further downgraded to the offence of making physical contact with Match Officials, and it accordingly fell to the Panel to make a determination on this point.
21. For wholly understandable personal reasons, the Referee was not able to give live evidence at the hearing, and the MG confirmed that he was willing to proceed in any event.

Evidence Considered

22. The Panel Considered the following:
 - i. The Citing Commissioner's Report.
 - ii. The Match footage.
 - iii. A recording of an interview with the Referee conducted by the Citing Commissioner on 11 December 2022.
 - iv. Statements by emails from the Assistant Referees and TMO dated 13

- December 2022.
- v. Statement from Mr Bernard Pontneau, CEO of Section Paloise Rugby Pro.
 - vi. Statement from Mr Geoffrey Lanne-Petit, coach of Section Paloise Rugby Pro.
 - vii. Statement from Mr Lucas Rey, Captain of Section Paloise Rugby Pro.
 - viii. Statement from Mr Franck Macielo, National Technical Director of Refereeing for the FFR.
 - ix. Zip file containing six requests made by Mr Sébastien Piqueronies to the FFR to obtain the appointment of referees to meet the players of the Section Paloise Rugby Pro (untranslated).
 - x. Statement from the FFR concerning the disciplinary record of M. Piqueronies.
 - xi. Statement from the LNR concerning the disciplinary record of M. Piqueronies.
 - xii. M. Piqueronies' CV.
 - xiii. Statement from M. Piqueronies.
 - xiv. Statement from Jerome Garces.
 - xv. Statement from Olivier Lievremont.
 - xvi. Statement from Romain Bourdiol.
 - xvii. Statement from Frederic Cassora.

The Citing Complaint

23. As indicated this matter commenced as a citing and the Citing Commissioner's (Csaba Priskin, Czech Republic) Report was utilised as the basis of the misconduct complaint:

" MT: after the final whistle; end of the game

Act by Sébastien Piqueronies the manager of Section Paloise

There is a restart kick after a penalty goal by the Cheetahs No10 (Siya Masuku) at MT78:50. After 9 phases the match clock runs down and the C22 player (Rewan Kruger) kicks out the ball.

The Referee (Sam Grove-White) blows the whistle at the end of the game because the ball is dead at MT80:13. During the phases, both team players shout and complain about different infringements. The game ends in the Cheetahs 22m areas close to the touchline of Section Paloise, about 10m in front of the bench. After the final whistle first the P20 player (Reece Hewat) steps to the Referee and complains. The Referee answers him and steps away. More players and team staff from Pau's team speak to the Referee at this time.

At that moment Section Paloise's manager, Sébastien Piqueronies steps to the Referee and grabs his hand. He also grabs the right elbow of the Referee with his left hand and says something to him. The Referee leans closer to hear what the Manager tells him and immediately tries to pull out his hand from the handshake with force. One person from Section Paloise steps between the Referee and the Manager. Finally, 4 people support the Referee to leave the field of play.

As a result of this incident, I conducted an online interview of Sam Grove-White the following day in the presence of his referee manager, Andrew Macpherson in relation to the incident which was recorded.

Having taken into account this statement and studied all the additional footage and angles, I assess that Sébastien Piqueronies squeeze Sam Grove-White's hand with

a force which intimidated him and caused him to feel threatened. When he tried to pull away his hand, he grabbed his arm with his left hand and the referee felt further threatened in this action. Because of the action by Section Paloise manager, Sébastien Piqueronies action, I take into consideration physical abuse of a Match Official. Because the Referee, Sam Grove-White did not understand and remember what the Sébastien Piqueronies told him during the incident, I do not take into consideration verbal abuse.

Having taken into account this statement I believe that this incident is an act of physical abuse of a Match Official (Sam Grove-White) by Section Paloise's manager, Sébastien Piqueronies.

When any member of the rugby community is subjected to or engages in abuse or harassment, it is inconsistent with the values of the Game of Rugby and undermines the unique character of our sport. All forms of harassment and abuse are prohibited by World Rugby's Code of Conduct, laws of the game and Integrity Code; therefore, I issue a full citing to Section Paloise's manager, Sébastien Piqueronies."

24. As evident, the incident occurred after full time, with the final score being 16-21.
25. As above, the nature of offence was specified as Law 9.28, "*physical abuse of a match official*", but this allegation was no longer pursued by EPCR.

Video Evidence

26. The Panel gave careful consideration to the available footage.
27. The initial footage which accompanied the request for the citing sent by way of a letter dated 11 December 2022 from the EPCR Disciplinary Officer contained 40 seconds of footage.
28. From an initial angle, the footage commences with the Referee being spoken to by a (previously substituted) Pau player who is in a pitch side coat. The MG then comes into sight walking at some pace towards the Referee. As he gets closer to the Referee, his eyes open wider staring with some intent at the Referee (0:03). [Image 1]



Image 1

29. The Referee appears to move to his left to get out of the path of the MG. The MG follows the Referee's movement and brings his left hand up to take hold of the Referee's upper right arm (0:05). Although the footage is then somewhat obstructed, the MG looks down and appears to have hold of the Referee's right hand with his right hand.
30. As he does so, he is saying something to the Referee before the Referee then pulls away from the contact with some force arching his back away to do so (0:08). At this point the MG's left hand still seems to have some firm contact with the Referee's upper right arm, before the Referee pulls away. [Image 2]. The MG retains eye contact with the Referee and appears to say further words as the Referee moves away (0:09). There is some concern evident on the face of an EPCR official who is accompanying the Referee.



Image 2

31. From a further angle, the Referee is seen to signal for full time. He is spoken to by P20 and then goes to the near touch line to await the end of match formalities. The contact between the MG and the Referee as set out in paragraphs 14 and 15 is seen from a reverse position, and it appears that the Referee has to step back and away from the MG with some effort to release himself from the MG's grip, as stated arching his back as he does so. [Image 3]. There is a degree of alarm evident on the Referee's face as he moves away and the EPCR official move closer to the Referee in a way that appears to be protective.



32. In light of the brevity of the initial footage, the Panel inquired as to whether further footage was available and were provided with two additional aspects being a *Wide-angle footage* and *End of game context TV footage*.
33. The wide-angle footage (1:26) additionally showed the final phases of the game in which Cheetahs wound down the clock with a series of close quarter rucks on their own 22. The final phase collapses and Pau appear to have believed that a penalty should have been awarded in their favour. In the event, the ball is kicked to touch, and the Referee blows for full time.
34. The Referee then walks to the near touch line about 10m inside the Pau 22 (0:43) and is followed by P20.
35. From the right-hand side of the screen the MG can be seen walking down the touch line at some pace towards the Referee. From the footage he has walked at least 15m to reach the Referee, but, assuming he started in the technical zone, that distance is likely to have been greater.
36. By the time the MG reached the Referee, the Referee has moved up field and at the point of contact he is about 5m inside the 22. The MG's left arm makes almost immediate contact with the Referee's right arm (0:49).
37. The Referee moves in field towards the 22, and is followed closely by the MG. The MG then takes hold of the Referee's right hand. The Referee is seen to look briefly

down before making a clear movement to break free of the MG's grip. His upper body can be seen to arch backwards to exert leverage with which to break the grip, and he forcefully pulls his right arm away (0:53). At this juncture, an EPRC official moves in to put himself between the Referee and the MG. The Referee and the official continue to walk in-field away from the MG. After a few paces, at a distance of about 5m, the Referee is seen to turn his head and look back towards the MG.

38. The End of game footage (2:31) included a lengthier passage of play prior to the incident, but otherwise did not appear to contain anything to add materially to the narrative set out above.

Further Evidence

39. The Panel also gave careful consideration to the video and audio recording of an interview with the Referee conducted remotely on Zoom by the Citing Commissioner (11.12.22- duration 5:02)². Set out below is a detailed summary, but not a verbatim record of that interview.
40. The Referee is asked to describe the incident. He stated that after the final whistle Pau had been unhappy with the previous breakdown and there had been a lot of shouting. The (MG) had approached him and had *grabbed my hand and almost to shake it but not shake it - held my hand and squeezed it pretty tightly – when I tried to pull away he used his other arm to grab my arm at the same time and gave that a squeeze as well.*
41. He was asked about the degree of force used and replied that it was *significant force – not just a normal squeeze – enough to intimidate me – when I pulled away it didn't clearly give – there was enough force that he still had hold after pulling away.*
42. The Referee stated clearly that he had felt threatened. There had been no contact from the MG, or anyone from Pau, after the game. He had been escorted to the dressing room and had stayed there.
43. He could not recall what had been said during the incident, but the MG had been shouting in a mixture of French and English. There had been some swearing, but he could not remember any words used.
44. The Referee was asked why he had pulled his hand away from the MG. He replied saying *because he had squeezed my hand with force – it was an instinctive reaction – when you feel threatened you want to get away – as he squeezed harder it was an abnormal experience and I wanted to get away from that situation.*
45. Short statements were also in evidence from both ARs, which indicated that they could not provide any detail about the incident.
46. A statement by email, dated 13 December 2022, from the TMO (Andrew McMenemy) stated as follows:

In my role as the TMO on Saturday I saw the altercation between the Pau Head Coach and the match referee Sam on the TV footage. At this point I had taken my headset off and did not hear any verbal communication between any party.

² Andrew Macpherson, SRU High Performance Referee Manager was also on the conference call.

From the TV footage the Pau Head Coach could be clearly seen approaching Sam near to the point of the final whistle which was near to the 22m line inside the Cheetahs half of the field. This in my opinion is a completely inappropriate place and time for a Head Coach to approach a match official and shows that he has actively pursued Sam onto the field of play in order to confront him.

As the Head Coach approached Sam he could be seen to present his right hand to Sam in what I initially thought was a polite gesture however he also grabs Sam using his left hand to Sam's right forearm. The Head Coach could be seen to be posturing towards Sam leading with his shoulders and head and communicating in such a way that I interpreted as being intimidating and aggressive.

From Sam's reaction to the confrontation I could see that he was feeling threatened by the actions of the Head Coach. As Sam tries to pull his right hand away he has to use a more significant amount of force to do so. From Sam's actions it suggested to me that the Head Coach was unwilling to release his grip on Sam and may of been using more force than would be necessary.

From speaking to Sam post match in the changing room he confirmed this and stated that the Head Coach started to use progressively stronger force in his hand shake and left hand which became uncomfortable. Sam also stated to myself that the coach was verbally abusive and due to the Head Coaches actions he felt threatened and intimidated due to his aggressive nature and use of excessive physical force.

47. The Panel also carefully considered the many statements served in support of the MG, and nothing should be inferred from the fact that these are not set out in the body of this decision.

Evidence from the MG

48. The MG gave oral testimony and came across as a credible and sincere witness.
49. He explained that the past 48 hours had been extremely stressful for him. His first thought was for the Referee, and he appreciated that the Referee has seen things in a different way from him. He wanted to express his sincere apology to the Referee. He felt the situation in a different way.
50. The match had finished near the touchline and technical area. He is used to going over and shaking hands with referees. He noticed that the Referee did not recognise or look at him, and he has a very strong handshake.
51. He had stopped just before the Referee who was showing his back and had then grabbed his hand.
52. The incident had been very brief, and the Referee was not looking at him. He thought he had perhaps been upset that the Referee had not looked him. He had maintained his grip but had done so with the same level of force throughout.
53. The Referee had then freed his hand and as far as the MG was concerned the situation had ended. He had turned away and made his way to the changing rooms

54. The Referee had not recognised him and there had been a misconception of his interpretation of events. 48 hours later, looking back at the footage, and reading the words of the Referee he had the utmost compassion for what the Referee felt in the moment. The MG had his own feelings, but his priority was for the Referee and what he had experienced, and he was saddened by this. He had not intended to induce that feeling or to act in the way the footage had showed.
55. He had walked about 18-20 metres (from the TZ) to approach the Referee. He had seen that a few of his players were questioning the Referee and noticed a few match officials close to the Referee. He had gone to discuss the situation and advanced towards the Referee. His only intention was to put a close on the match and give his regards to the Referee and to make the most of his position as a leader. To put an end to the match in a punctual and final way. He thought the Referee had stopped him before he could shake his hand.
56. He accepted that he had been very much caught up in his emotions of the final decision. He knew his job very well and is someone who is very committed, someone who has good values, who has always respected Referees and would continue to respect them. He had enough self-control to be able to thank the Referee in a professional way regardless of his emotions.
57. He reiterated his position that it had been a friendly handshake. He acknowledged that the Referee felt that he had to use force to break away and was saddened by that. In 44 years no one had ever felt threatened by him before. He had wanted to capture his attention and have a frank and sincere regard with him. He had been clumsy and inappropriate in being upset.
58. He did not accept that an EPCR official had felt the need to intervene and protect the Referee. He acknowledged that he had appeared wide eyed and intense but said this was only for his players not the Referee. His only intention in approaching the Referee had been to conclude the game as he usually did by speaking to the official and shaking his hand.

Submissions

59. The Panel was greatly assisted by the helpful submissions from both parties, and no discourtesy is intended to either advocate in not setting these out in detail; they were all given careful consideration.
60. In summary on behalf of EPCR Mr McTiernan submitted that the Referee's evidence should be preferred. He did not accept that there had been any misinterpretation as the MG claimed. In the view of EPCR, he had gone to confront the Referee about his decisions. The MG had a higher duty as a coach to respect the authority of Match Officials, but had used both threatening actions and words against the Referee.
61. In EPCR's submission, although the Panel had a discretion in regard to the sanction it imposed, it should adopt the sanctioning process for foul play, and in its view the offending should be assessed as being mid-range in terms of its seriousness.
62. In summary on behalf of the MG, M. Peyerlevade stressed the MG's entirely clean record over a lengthy career in rugby and his considerable work with Match Officials over many years as reflected in the character references sent in on his behalf.
63. The MG had not intended to threaten or intimidate the Referee simply to extend a

friendly handshake. As was apparent from the evidence, this was his normal match day practice.

64. The Referee had reacted as he had because he had not recognised the MG and, had he done so, the misunderstanding that had followed would not have arisen.
65. It was noted that the Referee had not issued a Red Card, nor had he submitted a Match Official Abuse report. In M. Peyerlevade's view, had the Referee had felt this was necessary he would have done so.
66. The incident had only been very brief and had not been intentional. The Referee had not felt any pain. In his submission, the Panel should find the misconduct to have been limited to physical contact with the Referee and be assessed as being a low-end offence.

Findings of fact

67. Having reviewed all the evidence and submissions in detail, the Panel made the following findings:
 - 1) Shortly after the final whistle, the MG walked purposefully and at some pace towards the Referee.
 - 2) As he approached the Referee his facial expression was seen to be in an animated if not aggressive state.
 - 3) He stopped shortly before reaching the Referee, at which point the Referee stepped to his left and over the touchline to move away from the MG and was immediately followed by the MG.
 - 4) As the Referee continued to move slightly in-field, the MG placed his left hand on the Referee's right upper arm.
 - 5) The MG then took hold of the Referee's right hand with his right hand.
 - 6) Although the contact was only brief, the Referee had to arch his back away from the MG and pull his hand away with force to break the grip.
 - 7) There was seemingly some alarm showing on the Referees face as he did so.
 - 8) An EPCR official, who also appeared concerned, moved in towards the Referee, although no intervention was necessary.
 - 9) The Referee and the official continued to move away from the MG. The MG maintained eye contact for a short while and said something in the direction of the Referee whilst still appearing in an agitated or aggressive state before then turning away.
68. In light of those findings, the Panel rejected the MG's assertion that he had simply intended to give the Referee a friendly handshake and bring a close to the game. As the MG seemed to accept, the footage did not lend itself to that interpretation.
69. The Panel found the Referee's testimony (given in the interview with the Citing Commissioner) to be compelling. It accepted his evidence that the MG had applied

significant force and that this had caused him to feel both intimidated and threatened.

Decision

70. On the MG's own admission, the Panel formally found that the MG had committed an act of misconduct.
71. The Panel was unable to accept the submission on behalf of the MG that the misconduct should be found to be at the least serious end of the offences that exist contrary to Law 9.28 and so be limited to a finding of having unlawfully made physical contact with a Match Official.
72. In the finding of the Panel, the misconduct had involved the use of threatening actions by the MG against the Referee.
73. In so doing, it had regard to the distance the MG travelled to advance upon the Referee, which was wholly unnecessary, the demeanour in which he did so, the level of force needed by the Referee to break the MG's grip and the Referees' own evidence of how he felt at the time of the contact.
74. The Panel was not however able to also accept EPCR's submission that it should find that the MG had additionally used threatening words against the Referee. There was no evidence available as to what was said from which such a finding could be made.
75. Whilst the Panel could see some merit in Mr McTiernan's submission that the Panel should follow the foul play sanctioning regime when determining the sanction to be imposed upon the MG, it was not minded to do so.
76. Pursuant to DR 7.8.41, the Panel has a full discretion as to sanction when dealing with misconduct cases and, whilst a disciplinary panel can adopt the foul play regime, it is not obliged to do so.
77. In the finding of Panel, the appropriate entry point for this misconduct was one falling between the low end (12 weeks) and mid-range (24 weeks) entry points for the use of threatening actions or words towards Match Officials³.
78. Having considered all relevant facts, the Panel determined that entry point should be one of 20 weeks. In doing so it had particular regard to the following:
 - a) Given the MG's demeanour as apparent from the footage his conduct had been highly reckless, if not intentional. At the very least, in the Panel's view the MG had intended to "get in the Referee's face" even if he had not consciously intended to threaten and intimidate the Referee.
 - b) The level of force applied by the MG as reflected in the Referee's evidence and the force needed by the Referee to break the grip.
 - c) The MG's conduct was wholly unnecessary, inappropriate and in direct contradiction to the core values of the game.
 - d) To the extent that the MG covered some distance to approach the Referee

³ Law 9.28.

there appeared to be a degree of premeditation.

e) As to some extent are all Match Officials at the end of a game, the Referee was somewhat vulnerable. It is for that reason that individuals in leadership positions such as the MG should exercise great care when approaching Match Officials on the pitch. The MG failed to do so.

79. The Panel noted the MG's plea, and in particular his willingness to submit to the procedure in circumstances where he could have chosen not to, his previously unblemished record, the powerful evidence submitted in his support and the manner in which he participated in the hearing.

80. In light of those mitigating factors, the Panel reduced the entry point suspension by 50% and imposed a suspension of 10 weeks.

81. No aggravating factors were present that necessitated any increase in the sanction arrived at.

Suspension

82. As above, the suspension is directed to operate so as to prevent the MG undertaking any coaching functions on any match day during the period of suspension. This means that the MG is not allowed to enter any team room, changing room, coaching box or technical zone on any match day during the period of suspension, and he is further prohibited from being able to access the team communications network on match days during that period.

83. The sanction is directed to commence on Friday 16 December 2022 and end on Monday 27 February 2023.

84. By reference to the MG's match schedule provided to the Panel, the period of suspension will include the following games:

- 17/12 - Dragons - CC
- 24/12 - Bayonne -T14
- 31/12 – Stade Francais - T14
- 7/1 – Lyon - T14
- 13/1 – Dragons – CC
- 22/1 – Cheetahs - CC
- 28/1 – Toulon - T14
- 4/2 - Racing 92 - T14
- 18/2 - Perpignan - T14
- 25/2 – Toulouse -T14

Comment

85. The core principles of the game, including respect and discipline, are well known and regularly publicised. Match Official abuse will not be tolerated, and as this decision is intended to reflect, those who offend against those principles should expect to be met with robust and condign sanction.

Appeal

86. The MG has the right of appeal against this decision pursuant to DR 8.1 and 8.2. Attention is specifically drawn to the time limits and directions requirements prescribed in DR 8.2.1 to 8.2.4.

Jeremy Summers

Chair

December 2022