

EPCR SHORT JUDGMENT FORM

Match	CA Brive	Vs	Connacht Rugby
Club's Country	France	Competition	EPCR Challenge Cup
Date of match	16 December 2022	Match venue	Stade Amedee Domenech
Rules to apply	EPCR Disciplinary Rules 2021/22		

PARTICULARS OF OFFENCE

Player's surname	Ratuva	Date of birth	8 May 1995
Forename(s)	Tevita	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	CA Brive		
SELECT: Red card <input type="checkbox"/>	Citing <input checked="" type="checkbox"/> Other (specify) <input type="checkbox"/>		
Offence	Law 9.13 – Dangerous tackle		
Summary of Sanction	4 weeks		

HEARING DETAILS

Hearing date	21 December 2022	Hearing venue	By video
Chairman/JO	Gareth Graham	Panel member 1	Valeriu Toma
Panel member 2	Andrea Caranci	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:

Neil Robertson (Avocat Associé & Solicitor)	Simon Gilham (CA Brive) Xavier Ric (CA Brive)
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List of documents/materials provided to player in advance of hearing:

<p>The Player was provided with the following documents:-</p> <ul style="list-style-type: none"> - Notice of Hearing - Citing Report - Statements from the Match Officials; - A video interview with David Hawkshaw (Connacht 10) - Video footage of the tackle
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SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

<p>The essential elements of the Citing Report, completed by the Citing Commissioner, Chris Sharp, on 17 December 2022, reads as follows:-</p> <p><i>“Connacht 10 is in possession, and advances, he steps to his left, and moves into contact.</i></p> <p><i>Brive 5 makes a tackle, he is upright, and he has his arms low and in front of him.</i></p> <p><i>The point of contact is shoulder on top of the ball carriers shoulder, into neck, and there is direct head contact, causing the head of The ball carrier to move suddenly backwards, indicating high force.</i></p> <p><i>The tackle is then completed, and the ball carrier can be seen showing that he is hurt by the impact.</i></p> <p><i>There is insufficient sudden and significant lowering in height to give any mitigation, and the level of danger is high.</i></p> <p><i>Brive 5 is always high, with a clear line of sight, with time to change height and/ or his angle of attack and his tackle is rising at impact.”</i></p>
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ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

The Player was given an on-field yellow card by the Referee, Adam Leal. The Referee provided the Panel with a statement (by way of email dated 19 December 2022), which read as follows:-

'I saw the tackle live and requested that the TMO have a look in the background to see whether we needed to consider sanction. After the game stopped he confirmed we needed to review formally. Once at the screen it was clear that we had head contact and that there was foul play (an upright tackler). Initially I felt that this was not direct contact (it is not great quality on the screen at Brive and I felt it was shoulder first) so I was initially entering at not high danger, the TMO corrected me showing a clear angle of neck contact first. We then discussed that this was high danger and looked at possible mitigation, the TMO directed me to the rear angle which showed a brace for contact and a dip. We applied this as a mitigating factor and issued a YC.'

The tackled player, David Hawkshaw, ("C10") did not suffer any particular injury. In his interview, he said that he was "a bit stiff" from the incident.

SUMMARY OF PLAYER'S EVIDENCE

The Player provided a statement to the Panel which said as follows:-

"I accept that I committed foul play in breach of rule 9.13 by tackling Connacht #10 dangerously. However, I do not agree that the incident warranted a red card and that I should have been subject to a citing complaint. My recollection of the incident is that:

- *In the 32nd minute of the match, Connacht was winning 14-3.*
- *Connacht was leading the attack on the open side, and the ball was moving fast.*
- *I anticipated the pass to Connacht #10, and I tried to stop him before he could pass the ball.*
- *I moved forward at a controlled speed to avoid being surprised by Connacht #10.*
- *I went down as low as I could in the tackle with my legs bent, and wrapped Connacht #10.*
- *Connacht #10 is small (1.78m) and was himself low as he came towards me.*
- *On the impact, I felt my shoulder on the #10's shoulder.*
- *I immediately lowered my arm under his shoulders and continued my tackle.*
- *Connacht #10 and I fell together when completing the tackle. My arms were wrapped around him.*
- *Neither of us was injured in the tackle and we both got up immediately.*
- *I was very disappointed to receive a yellow card as I felt that I had done everything possible to make a low tackle.*
- *I was concerned by the Connacht #10 and was relieved to see that he was not injured at all and was able to play on.*
- *I apologised after the match to Connacht #10, and he confirmed he was not injured."*

In answer to questions from the Panel, the Player said that he thought there had been one or two phases of play in the build-up before the incident. He said that most games he tried to line up in defence opposite the opposition forwards. On this occasion, the Player was lined up against a set of three forwards. However, the ball was then passed behind them to C10. The Player said that when C10 caught the ball, he could see him. As he approached C10, the Player said that he was worried C10 might sidestep him or otherwise go between him and his nearest teammate. The Player said his target was to use his shoulder around the hip area of C10. He said that when C10 approached him, C10 did not try to sidestep but dropped his shoulder and head. The Player said this took him by surprise. The Player said that he tackled C10 on the shoulder first but then his shoulder slipped up to C10's neck. The Player accepted that there was a high degree of force in the tackle. After the match, the Player said he apologised to C10 who smiled and said "it's ok, it's rugby."

The Player's representative made the following submissions in writing which were then amplified by way of oral submissions:

- Brive are defending approximately in the middle of the field. The ball is moving fast between Connacht players and Mr. Ratuva tries to anticipate the ball coming to Connacht #10
- Mr. Ratuva was low with his legs bent. The #10 is significantly shorter than him.
- Mr. Ratuva is moving forward at a controlled speed to avoid being surprised by Connacht #10.
- When starting the tackle, in a good tackle position, Mr. Ratuva's right shoulder impacts the Connacht #10's shoulder. The contact of Mr Ratuva's arm with #10's neck area is a secondary contact resulting from the initial contact that had been made by him.
- #10 clearly dips considerably into the tackle and, as a result, Mr Ratuva's arm moves towards his neck area as he is not able to adjust his position due to the late movement of #10
- If it hadn't been for #10's dip, the tackle level would have been ball/sternum of #10.
- There is a very significant size and height difference between the two players, which makes the impact look worse than it actually is.

- His arms move down under Connacht #10's line of shoulders when completing the tackle, and they fall together. Mr. Ratuva wraps his arms around Connacht #10 with legal tackle technique as they both fall.
- Mr Leal, the match referee, who is quite close to the action and had reasonable sight of it, does not stop the action, since the impact is not significant enough to injure Connacht #10.
- Mr Ratuva admits that his act was unfortunate and reckless but considers that it only warranted the yellow card that he was given.
- Mr Ratuva agrees with the HCP assessment that the Match Officials made at the time.

In his oral submissions, the Player's representative said the Player accepted this was a high speed impact, with high force. Mr Robertson said that he was not denying that there was head contact and accepted that the correct starting point under the Head Contact Process was at the level of a red card. However, Mr Robertson said that the red card was correctly reduced to a yellow card by the Referee on account of the change in height of C10 just before contact.

FINDINGS OF FACT

The Panel considered carefully the evidence and submissions it had heard and made the following findings of fact on the balance of probabilities:

1. The Player was positioned in the Brive defensive line opposite a group of 3 Connacht forwards.
2. One of those forwards received the ball and then passed the ball behind him to C10, who continued Connacht's attack.
3. The Player's attention shifted towards C10. The Player's line of sight to C10 was not blocked.
4. The gap between the two players closed quickly and the Player made a tackle on C10, using his right shoulder to make contact with C10. The Player wrapped his arms around C10 as he made the tackle.
5. The point of impact appeared to the Panel to be in the area on top of C10's right shoulder, including around the neck area. As the tackle developed, there may also have been contact to the right side of C10's face / head.
6. The Player made a limited attempt to lower himself into the tackle. However, he did not lower his tackle height sufficiently and he remained too high.
7. As the Player had candidly accepted, this was a reckless, dynamic tackle which involved a high degree of force and a high degree of danger.
8. C10 appeared to brace for impact; as he did so, there was a drop in his height. However, the Panel concluded that the drop in height was not sudden and significant.
9. There was no injury caused to C10, aside from a little stiffness.

DECISION

Breach admitted <input type="checkbox"/>	Proven <input checked="" type="checkbox"/> Not proven <input type="checkbox"/> Other disposal (please state below) <input type="checkbox"/>
	<p>This was a reckless, dynamic tackle that constituted an act of foul play involving a high degree of force and a high degree of danger. At all times, the Player simply remained too high to make a safe, legal tackle on C10. In making this reckless tackle, the Player made contact above the line of C10's shoulder, where such contact included making forceful contact with C10's neck area.</p> <p>The Panel concluded that the correct starting point under the World Rugby Head Contact Process ("HCP"), for this act of foul play was a red card, as the Player himself had accepted. However, contrary to the Player's stated position, the Panel concluded that any drop in height by C10 could not properly be described as sudden and/or significant. Rugby is a dynamic sport and ball-carriers routinely change their movements into contact to avoid being tackled or otherwise to attempt to avoid a dominant tackle. C10's actions into the tackle were nothing out of the ordinary and did not constitute the type of change of direction or height that could be characterised as mitigation under the HCP. As such, any drop in height that may have occurred was not sufficient to reduce this act of foul play to a yellow card. The Panel also concluded that there were no other mitigating factors present that would otherwise warrant reducing this tackle to a yellow card.</p> <p>Such a conclusion does not undermine the integrity of the match officials; the Panel had the advantage of being able to view the footage of the incident in considerable detail in the relative</p>

comfort of a disciplinary hearing, compared to the Referee who had to make a decision in short order and then continue the match.

The Panel rejected EPCR's submission that this was a highly reckless tackle.

In all the circumstances, the Panel was satisfied that the Player had committed an act of foul play that passed the red card threshold.

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 Player had attempted to make a legitimate tackle but simply did not reduce his tackle height sufficiently.
Nature of actions – R 7.8.32 (c)
As set out above.
Existence of provocation – R 7.8.32 (d)
There was none.
Whether player retaliated – R 7.8.32 (e)
He did not.
Self-defence – R 7.8.32 (f)
Not applicable.
Effect on victim – R 7.8.32 (g)
There was no injury caused to C10, aside from a little stiffness.
Effect on match – R 7.8.32 (h)
There was none.
Vulnerability of victim – R 7.8.32 (i)
C10 braced for impact and was not overly vulnerable.
Level of participation/premeditation – R 7.8.32 (j)
There was no premeditation.
Conduct completed/attempted – R 7.8.32 (k)
The tackle was completed.

Other features of player's conduct – R 7.8.32 (l)
There were none.

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	6	<u>Weeks</u>	<u>Low-end</u>
<input type="checkbox"/>		<input checked="" type="checkbox"/>			<input type="checkbox"/>

*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>This was a reckless, dynamic tackle which involved a high degree of force and a high degree of danger. At all times, the Player simply remained too high to make a safe, legal tackle. In making this reckless tackle, the Player made contact above the line of C10's shoulder, including around the neck area. However, no injury was suffered by C10, aside from a little stiffness after the match.</p> <p>In accordance with World Rugby Sanctions for Foul Play, any act of foul play resulting in contact with head/neck shall warrant at least a mid-range sanction. Here the starting point is therefore a minimum 6-week ban. The Panel concluded that there were no features present that would cause this act of foul play to be elevated to a top-end entry point.</p>

RELEVANT OFF-FIELD MITIGATING FACTORS

The presence and timing of an acknowledgement of the commission of foul play by the player – R 7.8.34(a)	Player's disciplinary record – R7.8.34 (b)
The Player denied the charge in that he did not accept that he had committed an act of foul play that passed the red card threshold. However, the Player had accepted at the earliest opportunity that he had committed an act of foul play that warranted a yellow card.	The Player received a red card in 2019/2020 for which he received a three-week ban.
Youth and/or inexperience of player – R 7.8.34 (c)	Conduct prior to and at hearing – R 7.8.34 (d)
The Player is 27 years old and has played 34 matches as a professional.	The Player's conduct was exemplary.
Remorse and timing of remorse – R 7.8.34 (e)	Other off-field mitigation – R 7.8.34 (f)
The Player expressed his remorse at the match and apologised directly to C10.	When the Player returns home to Fiji, he regularly coaches children in his local village.

Number of weeks deducted: 2

Summary of reason for number of weeks deducted:

The Player accepted he had committed an act of foul play that merited a yellow card, his conduct at the hearing was exemplary and he had apologised directly to C10. To that end, the Player was entitled to some form of reduction by way of mitigation. However, the Player has one recent red card on his disciplinary record and the Panel concluded that the Player was not entitled, in the circumstances, to the maximum 50% reduction.

The Panel concluded it was proportionate to reduce the 6-week starting point by two weeks on account of the mitigating factors present.

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 7.8.36 (a)

Not applicable.

Need for deterrence – R 7.8.36 (b)

Not applicable.

Any other off-field aggravating factors – R 7.8.36 (c)

Not applicable.

Number of additional weeks: 0

SANCTION

The Player will miss the following matches:

- Brive v Clermont Auvergne (23 December 2022)
- Brive v Lyon (31 December 2022)
- Brive v Toulon (7 January 2023)
- Connacht v Brive (14 January 2023)

The Panel understands that the Player intends to apply to World Rugby to complete a Coaching Intervention Programme. In the event that such an application is accepted, and the Programme completed, the Player's ban will be reduced by one week and he will be eligible for selection for the match against Connacht.

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)	4	Sending off sufficient <input type="checkbox"/>	
Sanction commences	17 December 2022	Costs	n/a
Sanction concludes	15 January 2023		
Free to play	16 January 2023		

Signature (JO or Chairman)	Gareth Graham	Date	22 December 2022
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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