



DECISION FORM

PARTICULARS OF OFFENCE			
Player's Name	LALLI GASPARD		
Player's Union	BELGIUM		
Match	BELGIUM v ISRAEL		
Competition	Men 7s Trophy		
Date of match	20.06.2021		
Match Venue	Zagreb, CROATIA		
Rules to apply	Regulation 17 World Rugby Handbook; or Tournament Disciplinary Program; or Other		
Referee Name	JONATHAN TEPLER	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	9.12 A player must not physically abuse anyone, whereby physical abuse includes, but is not limited to (...) punching or striking with hand or arm	<input checked="" type="checkbox"/> Red card <input type="checkbox"/> Citing <input type="checkbox"/> Other If "Other" selected, please specify:	

HEARING DETAILS			
Hearing date	23.06.2021	Hearing venue	NSC Stjepan Spajic Zagreb, CROATIA
Chairperson/JO	Irina PETRE, Judicial Officer of the Tournament		
Other Members of the Disciplinary Panel			
Appearance Player	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Appearance Union	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Player's Representative(s)	Manager Belgium Rugby 7s Men - Bertrand Billi Head Coach of Rugby 7s Men - Youssef Driss CEO Belgium Rugby - Salvatore Zandona	Other attendees	David Baird-Smith - Rugby Europe
List of documents / materials provided to Player in advance of hearing	<ul style="list-style-type: none"> - Assistant Referee's Report on an Ordering off - Referee's Report on an Ordering off - Pictures of the incident, - Video Clip of the incident 		

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

1. Referees' Reports

« Belgium player place hands on ball in ruck. Israel cleans him out, but continues to hold him in ruck. Belgium 7 strikes with closed fist to his body (Arm) and head of Israel 3 (in top of his head) »

2. Assistant Referee's written statement before hearing

« A ruck situation has arisen by Israel players, the ball was theirs, but a Belgium player 7 tried to pull the ball over to himself by his hand, but it's failed. The one of the Israel players grabbed his jersey and didn't let him out of the ruck. But the Belgium players wanted to go away but he couldn't. So this player (Belgium 7) first punch the Israel player's arm, but the Israel player still hasn't let go away, so the Belgium player (7) punched him again with closed fist on the top of his head!!! Directly. This ruck was cca 6-7 meters from the side-line. I've stayed on the side-line, there was no one between us, I saw everything clearly. One that second punch I immediately raised my flag horizontally to signal this foul play to the referee. He then called me and asked me to tell him what I had seen. He then gave a red card to this Belgium player (7). That's all I can tell you about this case »

3. Footage

The footage is extremely unclear and camera angles are not helpful as they are not revealing the alleged strike on the head but only hand/arm movements that seem to point in the direction of Israel 3's upper body.

Effectively the footage shows that the Player performs a tackle on Israel 2 but remains on his feet and alongside Belgium 3 bends over the tackled player to regather the ball. Israel 3 comes from his side, binds onto both opponents and pushes them back from over the ball such that the Player and Belgium 3 get back to a standing position. The ball is picked up from the ruck and recycled by another Israeli player, however Israel 3, now on his knees, continues to grasp the Player's jersey preventing him to resume playing. The Player waves his arms into the air to show that he is illegally obstructed and then strikes his opponent hand in an attempt to escape from his grasp. Israel 3 continues to grasp the Player and gets back on his feet. The Player then waves his closed hand to his opponent head apparently causing a contact. Israel 3 pushes the Player to the ground violently. The referee blows his whistle, consults with the assistant referee, calls for both players and issues a yellow card to Israel 3 and a red card to the Player. While leaving the field of play, both players can be seen shaking hands.

To get a clearer understanding of facts the Judicial Officer decided to discuss with the referees. While the assistant referee was not available for a hearing but provided a statement (mentioned above), the referee provided during a 15' hearing certain clarification statements among which the most relevant ones refer to the fact that : (i) he did not see the incident but relied on the statements of the Assistant Referee and he stated that (ii) "Belgium

7 might have reacted as a result to being provoked by Israel 3, who at its turn retaliated, pushing to the ground Belgium 7”.

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

N/A The opponent player reported no injuries and continued playing

SUMMARY OF PLAYER’S EVIDENCE

1. Disciplinary Statement

Short before the hearing, Belgium Rugby transmitted a statement that may be resumed as follows:

- (i) *“During the incident the Player tackled and released and went to contest the ball. Number 3 went to support his player on the ground. While 2 knees on the ground, he grabbed Gaspard by the collar and held him for 4 seconds. Gaspard tried to free himself from this arm. Number 3 Israel got up and low kicked Gaspard who fell. Referee whistled after this low kick”.*
- (ii) *“We dispute the allegations that Gaspard Lalli hit him in the head”*
- (iii) *“The referee didn’t see the fist, the assistant referee is a volunteer and got to referee qualification and only lifted his flag after the low kick from number 3”*
- (iv) *“Gaspard has a clean record from the Belgium Rugby Referee Commission. He claimed not to have touched number 3 head and only hit the arm. This action is common in rugby while someone is holding you in a ruck and you try to free yourself”*
- (v) *“Screenshot 9, the latest and closest to the action show that the hand is open and comes from top to low. It shows a clear intent to return to play”*
- (vi) Union is claiming that the red card should be cancelled, and no further procedure should be implemented against the Player

2. Statements during the hearing

During the hearing the Union’s manager repeated the above statements adding and stressing that *“there was no closed fist but just an open palm”* and *“there was no hit to the head with the closed fist but a movement of the arm from top to low, meant not to hit the opponent but to get released and continue playing”*. Not even when he was shown in the footage sequence what seemed to obviously be a closed fist, the Union’s manager still did not accept the alleged offence

The Player however was open and tried to explain that he cannot remember hitting Israel 3 on the head, but in case if, in the attempt to release himself from the Israel player that was holding him back from continuing to play, he by mistake hit Israel 3, he definitely did not intend to do it and regrets anything that might have happened unintentionally, as he, as a captain and experienced player is very well aware of any risks related to Foul Play and would never do any intentional harm to an opponent player. On being asked if he might have reacted with irritation and annoyance towards the action of Israel 3, the Player accepted that this might be possible but repeated that he has no memory of any hit in the head.

FINDINGS OF FACT

1. Reliance on Referee's Report

In judging on the balance of probabilities, the JO has to rely mostly on the Referee's Report on Ordering Off, as the footage provides only fragmented and unclear evidence (there is the appearance of a closed hand and arm moving towards the opponent's head and apparently causing a contact).

Based on Law 6.5(a) of the Laws of the Game, « *the referee's position as the ultimate judge of fact and law during the match is unassailable* » and (...) « *the purpose of a subsequent review of an incident that occurred during a match by a JO, is to determine whether there should be any disciplinary sanctions applied for an act of Foul Play as provided for in Law 9. With few exceptionally enumerated exceptions, « the referee's decisions on the field of play and their sporting consequences shall not be altered or overturned by a ruling of a JO. » In any case, « in the event the Player does not accept that the act of Foul Play which is the subject of the disciplinary hearing warranted the Player being ordered off, the burden of proof rests on the Player to show that the referee was wrong. »* (Regulation 17.15.1-17.15.3).

2. Assistant Referee's Report vs Referee's Report

In the case at hand, the Referee ticked the « Yes » checkbox of « Was the Player ordered off further to the report of an Assistant Referee?» in his report. Corroborated with the fact that the wording in the Referee's Report is practically a (nearly) manual copy/paste from the Assistant Referee's report, this strongly suggests that the referee did not actually see the incident, which was also expressly confirmed by the Referee in the interview that was taken before the hearing and mentioned in the Assistant Referee's statement provided before the hearing.

3. Judgment on the balance of probabilities

In reliance upon the above and given that the Player did not succeed to demonstrate that the Referee was wrong (as it relied on the same footage available to the Judicial Officer), the latter considers that it has no other choice than to take into consideration the Referee's statements in relation to *"the strike with closed fist to the opponent's arm and head"*.

As such it considers that it is true that the player committed an offense contrary to law 9.12 that justified the ordering off.

4. Assessment of seriousness of the Foul Play-exception from the compulsory mid-range entry point, due to low seriousness of Foul Play and minor contact to head

Having regard of the Note to the Appendix 1 of WR Regulation 17, which states *"Any act of foul play which results in contact with the head and/or the neck shall result in at least a mid-range sanction"*, the current act of foul play should normally be assigned a mid-range entry point.

However, the Judicial Officer believes that the Note provision is not intended to apply to ANY contact to the head and/or neck but to those contacts that pose a threat and are potentially dangerous for the player welfare, which was not the case in our situation.

As confirmed by the footage and mentioned also by the Referee, the Player's strike to the head seems to have caused only a glancing contact, was performed with no force, there was a provocation by the Israeli player's illegal obstruction and the RC decision was primarily taken due to the Player's unsporting behavior, not due to the seriousness/force/effect of the strike. Under these circumstances, the Judicial Officer is of the view that, taking into account the minimal contact involved and the fact that the Player was provoked by the prolonged illegal grasp of his opponent, the overall seriousness of the act of foul play is low. In addition, there was no effect on the opponent, who was not in a vulnerable position and who, on its turn retaliated by pushing the Player to the ground violently.

As to the intentional factor, the Judicial Officer is of the opinion that there was no apparent intention to hit the opponent on the head, the contact seemed to be accidental, as it started with the stroke in the arm and then, while both players were shifting balance back and forward in a rolling motion, the arm apparently slipped to what seemed to be a minor contact with the upper part of the opponent's body and as such should be regarded as a minor and consequential contact to the head. Most importantly, in judging upon the seriousness of the Foul Play one must take into consideration with priority the degree of danger of any committed act and for this purpose the surrounding circumstances are relevant as referred to above.

Therefore, judging on balance of probabilities and applying the principles of natural justice and equity, the Judicial Officer concludes that choosing a low-end entry point is a fair decision, proportionate with the overall circumstances of the case.

This is not a new approach, as various recent judgements from major competitions pointed out that the above-mentioned Note must not be interpreted as applying automatically to any act of foul play which results in a contact at neck or head level.

- Examples are the RFU Judgements in cases of:
Toby Flood - dated 14 November 2019, available here:
<https://www.englandrugby.com/dxdam/ad/ad1f061b-55c4-44f5-8e0f-7c5b046ec03f/FloodNewcastleFalconsJudgmentNov19.pdf>

and

- Tom Collins - dated 09/01/2020, available here:
[https://www.englandrugby.com/dxdam/04/04cbf081-5b5f-4412-8c08-538df1580adb/CollinsNorthamptonSaintsJudgmentJan20\(final\).pdf](https://www.englandrugby.com/dxdam/04/04cbf081-5b5f-4412-8c08-538df1580adb/CollinsNorthamptonSaintsJudgmentJan20(final).pdf)

and

- Referring to the World Rugby disciplinary decision dated 21st July 2018 in the case of Mekel Facey (Christopher Quinlan QC, World Rugby Judicial Panel Chairman) it is concluded in the above cases that *"not all contact with the head would mean at least a*

mid-range entry point. In certain cases where there is indirect or consequential contact in the act of foul play the minimum mid-range entry must not be automatic. All elements of the offending behavior are to be considered in assessing the on field sanction. Where the head contact is just one part of the action and it is not the direct and only cause of the risk or danger amid range minimum sanction should not be mandatory”.

DECISION

Proven Not proven Other disposal (please state)

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS		
As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby		
Assessment of Intent		
<input type="checkbox"/> Intentional/deliberate <input checked="" type="checkbox"/> Reckless		
State Reasons		
The Player's intention had been to escape from the opponent's prolonged obstruction/grasp and to resume playing. In doing so he first waived as to signalise the obstruction, then he opened his palm and tried to free himself by hitting opponent's arm and only afterwards, obviously frustrated, while bouncing back and forward he moved his closed fist in a direction that pointed towards the opponent's head.		
Gravity of player's actions		
Any physical abuse, including striking with hand or arm, constitutes of Foul Play		
Nature of actions		
Striking with hand or arm		
Existence of provocation		
Yes, please see point 4 (Findings of fact) above		
Whether player retaliated		
N/A		
Self-defence		
N/A		
Effect on victim		
N/A		
Effect on match		
N/A		
Vulnerability of victim		
Low		
Level of participation/premeditation		
There was intention in striking but recklessness in respect as to where he strikes		
Conduct completed/attempted		
completed		
Other features of player's conduct		
Apology + remorse		
Entry point		
<input type="checkbox"/> Top end [XX] Weeks	<input type="checkbox"/> Mid-range [XX] Weeks	<input checked="" type="checkbox"/> Low-end 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.		
Reasons for selecting Entry Point		
Minor contact with hand/arm to head -Please see point 4 (Findings of fact) above		

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby

Player's status as an offender of the Laws of the Game

N/A

Need for deterrence

N/A

Any other off-field aggravating factors

N/A

Number of additional weeks: [0]

Summary of reason for number of weeks added:

N/A

RELEVANT OFF-FIELD MITIGATING FACTORS

As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby

Acknowledgement of guilt and timing	Player's disciplinary record/good character
After watching the footage several times, in particular the sequences indicating the movement of the hand with a closed fist, pointing in the direction of the opponent's head, the Player took responsibility, separated from his manager's opinion and promptly and sincerely apologized for any unintentional act of foul play	Very good
Youth and inexperience of player	Conduct prior to and at hearing
N/A	Good
Remorse and timing of remorse	Other off-field mitigation
Regret expressed for any prejudice that might have been caused to opponent	N/A

Number of weeks/matches deducted: 2 matches in 7s (bearing in mind that 1 week suspension in 15s' equals 1 match suspension in 7s')

Summary of reason for number of weeks deducted:

In making the application of Regulation 17.20.3 stipulating that the Judicial Officer may apply sanctions less than 50% of the lower end entry sanctions specified in Appendix 1 including in appropriate cases no sanction, in cases involving offending that has been classified pursuant to Regulation 17.18.1 as lower end offending, where:

- (a) there are off-field mitigating factors; and
- (b) where the Judicial Officer considers that the sanction would be wholly disproportionate to the level and type of offending involved,

The Judicial Officer believes that in this instance, having regard of all aspects of the offence as well as the totality of mitigation factors, even a sanction of 1 week would be disproportionate to the level and type of offending involved, therefore decides that that the Red Card issued on the field of play has been a sufficient sanction.

SANCTION

NOTE: Players ordered off or cited by a citing commissioner are provisionally suspended pending the hearing of their case, such suspension should be taken into consideration when sanctioning – RE Discipline Regulations 4.1.4 / 4.4 (or equivalent Tournament rule)

Total sanction		<input checked="" type="checkbox"/> Sending off sufficient
Sanction commences	Sunday 20.06.2021	
Sanction concludes	Sunday 20.06.2021	
Matches/tournaments included in sanction	N/A	

Costs	NA
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Date	June 30 th , 2021
Signature (JO or Chairman)	Petre Irina

NOTE: You have 48 hours from notification of the decision of the chairman/jo to lodge an appeal with the tournament director – RE Discipline Regulations 4.6.2 (or equivalent Tournament rule)