

## **Decision of Independent Disciplinary Panel**

### **EPCR Champions Cup 2016**

**Held at the Sofitel, Heathrow, London on the 21<sup>st</sup> of December 2016**

#### **In Respect of:**

Davit Kubriashvili (the Player) and the ordering off of the Player for a breach of Law 10.4. (h) of the Laws of the Game in the game between Montpellier Hérault RC and Castres Olympique played at Altrad Stadium Montpellier on the 11<sup>th</sup> of December 2016.

#### **Disciplinary Panel appointed to hear the case**

David Martin (Ireland)

Hugh Logan (Ireland)

Jean Philippe Lachaume (France)

#### **Parties at the hearing in addition to the Disciplinary Committee were the following persons**

The Player

Christian Chevallier, Legal Representative

Lionel Fintoni (Interpreter)

Liam McTiernan, Disciplinary Officer EPCR

#### **In attendance**

Jennifer Rae, Harper MacCleod.

#### **Decision of the Disciplinary Panel**

1. The Player did not dispute that the Referee had been correct to order him off and the Committee therefore proceeded to determine what sanction, if any, should be imposed upon the Player.
2. The Committee considered that there was no reason not to impose a suspension and the Player was suspended from taking part in the game of rugby until midnight on the 1<sup>st</sup> of January 2016. This represents a three week suspension commencing on the 11<sup>th</sup> of December 2016.
3. The panel made no award of costs.

## **Introduction**

The panel was appointed as an independent disciplinary panel by Professor Lorne Crerar, Chairman of EPCR Disciplinary Panel pursuant to the Disciplinary Rules of the European Rugby Champions Cup Participation Agreement Rules 2016/2017.

Ben Whitehouse (Wales) was appointed as Referee to the match and dismissed the Player for “charging into a ruck or maul contrary to Law 10.4.(h) of the Laws of the Game.

## **Preliminary matters and procedures**

At the commencement of the hearing the Chairman noted the identities of those present and narrated the Referee’s report and reminded the Player that the report was in respect of the allegation that the Player had committed an act of charging into a ruck or maul contrary to Law 10.4.(h) of the Laws of the Game. The Player’s position remained as set out in his letter dated the 20<sup>th</sup> of December 2016 and stated that he was not challenging the decision of the Referee.

The Chairman reminded all present that the EPCR Disciplinary Rules referred to above would apply and outlined the procedures to be followed to determine the matter. The Player and those present agreed to proceed on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired whether all present had received same in good time.

The evidence for consideration was as follows:-

1. Letter from Liam McTiernan to Professor Lorne Crerar dated the 11<sup>th</sup> of December 2016.

2. Letter from Professor Lorne Crerar to the Player and Mr McTiernan dated the 15<sup>th</sup> of December 2016.
3. The Match Official Report red card from Ben Whitehouse.
4. The TMO Report from Jon Mason.
5. The report from Assistant Referee Wayne Davis.
6. The report from Assistant Referee Sean Brickell.
7. Letter from the Player dated the 20<sup>th</sup> of December 2016.
8. Letter from Thibault Lassalle.
9. Match footage.

The Chairman invited the Player and the Disciplinary Officer to confirm whether they wished to raise any preliminary issues. Both parties confirmed there were no preliminary issues.

In those circumstances the Chairman indicated to the Player that the purpose of the hearing was to determine what sanction, if any, should be imposed upon the Player.

## **Evidence**

The Chairman asked the Disciplinary Officer to present the evidence which was as follows:-

The video footage was played without sound at normal speed and slow motion. The video shows in the 18<sup>th</sup> minute of the second half a ruck developing close to the halfway line. This develops following a tackle on a Montpellier Player who was in possession of the ball. Castres number 4 is in a rucking position as the Player was standing approximately half a meter behind the ruck. The Player is seen to drive forward with his head lowered, placing his hand on his own scrumhalf back but without making an attempt to bind. The Player's right arm is in a lowered position and as he drives forward his arm and shoulder are lifted upwards making contact with the Castres number 4 in or around the head area. There is no attempt on the part of the Player to bind on the Castres number 4. The force of the contact removed the

Castres number 4 backwards to the ground behind the hindmost foot of his team's ruck. The play continued until another breakdown following which the Referee's attention was drawn by the Assistant Referee that there may have been an act of foul play. After reviewing the footage the Referee ordered the Player off the field of play.

### **The Referee's Report**

The Report from Ben Whitehouse read as follows:-

“Play was near to the halfway line and Montpellier were in possession. A ruck as formed and there was a contest for the ball. I was informed by AR1 Sean Brickell that I needed to check an entry to the last ruck by Montpellier number 3. AR1 did not have a clear view of the incident but suspected foul play. I checked with the TMO and viewed the incident on the big screen. I saw that Castre number 4 was part of the ruck. I then saw M3 who I now know to be Davit Kubriashvili was stood less than 1 metre from the ruck. He then dropped his right arm and dived toward C4's face area. He then drove his shoulder into C4's face area. The connection was made at force and C4 was unable to defend himself, this was unprovoked.

After viewing the incident once on the screen I came to the conclusion that it was an offence that warranted a red card. I checked with the TMO if what I saw was correct. He confirmed the information and I went to speak to DK. I explained what I had seen and issued a red card. He left the field of play without dissent”

### **Assistant Referees**

TMO Jon Mason confirmed that he did see the incident mentioned and agreed with the description given by the Referee as to how the incident occurred. The Assistant Referee, Wayne Davis, was on the other side of the pitch and did not see the act.

The Player explained his actions through an interpreter. He said that he was sorry that he hit the player in the head and explained that he wanted to clean the player out of the ruck. He described the ruck as a late ruck where nothing was happening and the ball was arriving too slow. He said he had no intention to hit the player on the head and wanted to obtain the ball for his side so that the game could move on. He said that he carried out this action as the ball was on the ground and his scrumhalf could not play the ball. He said in endeavouring to clean the player out he had placed his hand on his own scrumhalf and proceeded to enter through the window and not from the side. Mr Chevallier on behalf of the Player requested that video footage of similar incidents in the French league be shown to the Committee. The Committee acceded to this request but did not attach any importance to this footage. Mr Chevallier further pointed out that a letter had been received from the Castre number 4 advising that he did not receive an injury in this incident. The Committee's attention was drawn to the letter dated the 20<sup>th</sup> of December 2016 in which the Player stated ,unfortunately as his shoulders were above his hips, his shoulder arm junction hit the other player's head. He recognised that he had to grasp his opponent and not only his teammate when joining the ruck and he apologised for his act.

## **Sanction**

The Disciplinary Officer did not advocate and made no submissions relating to the entry point or any reference to the Player's conduct on the pitch.

It was the Committee's function to consider the facts of the case and to determine the seriousness of the Player's conduct. In determining the seriousness of the offence the Committee considered each of the factors set out in the disciplinary rule 7.8.32;

- (a) The offending was neither intentional nor deliberate.
- (b) The offending was reckless.

Whilst the Player grasped his own scrumhalf he made no effort to bind upon the player that he intended to dislodge. He made use of his shoulder and arm in endeavouring to remove the Player from the ruck.

- (c) The offending was fairly serious in that this type of action is inherently dangerous as it involved the Player using his arms and shoulder.
- (d) – (g) There was no provocation and no retaliation.
- (h) The Castre number 4 was not injured in the incident and was able to play on and would appear not to have suffered any subsequent symptoms from the incident.
- (i) The incident occurred in the 18<sup>th</sup> minute of the second half and there was no immediate effect on the match or reaction from the players.
- (j) The Castre number 4 was in a vulnerable position as he was properly bound in a ruck with his head in an exposed position facing the Player. He had no ability to prevent himself from being stuck on the head and prevent the risk of sustaining injury.
- (k) There was no premeditation.
- (l) The Player's conduct was completed.
- (m) There were no other features of the Player's conduct in relation to or in connection with the offending.

The Committee in deliberating on the matter in private considered that the appropriate entry point should be midrange. Based on the assessment of the seriousness of the Player's conduct and in light of the above and as the offending was reckless and there was a risk of injury to the Castre number 4 who was in a vulnerable position. This is determined to be five weeks in

accordance with the World Rugby recommended sanctions for offences within the playing enclosure and found at appendix 3 of the Disciplinary Rules.

The Committee found that there were no off field aggravating factors.

Turning to the mitigating factors it was submitted that the Player had acknowledged his culpability from the outset and that he had in this way assisted the judicial process and saved both time and expense.

The Player is now 30 years of age and has been playing professional rugby for eight years. The Player did not have an unblemished playing record as he received a red card in 2008 whilst playing for his Country Georgia against Belgium. He received a one week suspension of an offence of striking another player. Since that time the Player did not have further disciplinary issues. The Committee did not consider the previous red card as affecting the mitigating circumstances given the time that had elapsed since that offence. The Player confirmed that he had apologised to the Castre number 4 after the match and that his apology was accepted by the Castre number 4. The Player at age 30 and having played the game for 8 years is an experienced rugby player who conducted himself in an exemplary manner at the hearing and had shown remorse for his conduct by his apology to the Castre number 4.

The Committee did not find that there were any other off field mitigating factors relevant to this hearing. The Committee noted the terms of disciplinary rule 7.8.36 which provides that when considering the effect of any off field mitigation the Committee could not apply a greater reduction than 50% from the entry point suspension and that in assessing the level of reduction from the entry point of suspension the Committee should start a zero percent and work up to the maximum of 50%. In this case the Committee accepted that the Player was entitled to mitigation of two weeks which meant a reduction of two weeks from the entry point.

The Player is therefore suspended from playing for a period of three weeks until midnight of the 1<sup>st</sup> of January 2017. The Player is free to play again on the 2<sup>nd</sup> of January 2017.

The Player's right of appeal was drawn to his attention.

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David Martin  
Chairman  
23 December 2016