

# **EUROPEAN CHALLENGE CUP**

## **DECISION OF DISCIPLINARY COMMITTEE**

**Held at offices of Harper Macleod LLP, The Ca'd'oro, 45 Gordon Street,  
Glasgow**

**Wednesday 19 December 2007**

### **IN RESPECT OF:**

Mamouka Magrakvelidz ("the Player") and the showing of a red card to the Player for contravention of Law 10.4(a) of the Laws of the Game.

### **MEMBERS OF THE DISCIPLINE COMMITTEE: ("the Committee")**

Rod McKenzie (SRU - Chairman)

Dr Barry O'Driscoll (IRFU)

John Doubleday (RFU)

### **DECISION OF THE COMMITTEE:**

- (i) The Committee suspended the Player for a period of 2 weeks, from Saturday 15 December 2007 until Sunday 30 December 2007 (inclusive).
  - (ii) The Committee determined that the Player should bear the costs of the hearing and of the Disciplinary Officer (including legal costs). However, by reason of there being four hearings on the same day and in all four cases costs being awarded against the player concerned, the Player in this case is to bear one quarter of the costs of the day's hearings and the legal costs of the Disciplinary Officer.
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## **INTRODUCTION**

The Committee was convened by Professor Lorne D Crerar, the Chairman of the ERC Discipline Panel, pursuant to the Disciplinary Rules of the European Challenge Cup 2007/2008 in respect of the showing of a red card to the Player in a Match between F.C. Auch ("Auch") and Overmach Rugby Parma in the 2007/2008 European Challenge Cup on 15 December 2007 at Auch Rugby ("the Match"). The referees report recorded that the Player had struck an opposing player towards the head on 3 occasions.

Present at the hearing, in addition to the members of the Committee, were:-

Roger O'Connor (Disciplinary Officer, ERC)

Max Duthie (Lawyer for Disciplinary Officer)

The Player elected not to attend or be represented at the hearing.

## **HEARING**

At the commencement of the hearing the Chairman confirmed the identities of all present.

The Chairman confirmed that all present in person had in their possession all relevant written materials and video coverage of the incident and that same had been copied to the Player.

## **SENDING OFF**

The Player did not contest the red card and the Committee proceeded to determine what sanction should be imposed on the Player.

## **SANCTION**

In determining the appropriate sanction to be imposed on the Player the Committee had regard to the video evidence made available to them, representations on that video evidence by Mr Duthie, the Referee's report, an email (undated) from Mr Durand of Auch and a statement from the Player. The Committee also considered submissions made on behalf of the Disciplinary Officer by Mr Duthie.

The Committee found it established that at approximately the fiftieth minute of the Match the Player was standing toe to toe with an opponent after a ruck. This was after both captains had been warned regarding the behaviour of the players. The Player then punched to the head of his opponent. There was a degree of provocation of the Player in the sense that he was the victim of some rough treatment from opponents in at the side of the haul. His opponent was not injured and did not require to be replaced.

In determining the appropriate sanction the Committee are required to have regard to Disciplinary Rules 6.7.32, 6.7.34 and 6.7.35 and the current IRB table of sanctions which is reprinted as appendix 3 to the Disciplinary Rules.

With respect to Disciplinary Rule 6.7.32 the Committee determined that the offending was intentional, in the sense that the Player intended to strike his opponent with his fist. The offending was reckless in the sense that striking out in the way that the Player did recklessly expose his opponent to injury. Under reference to 6.7.32(c) it was the fist that came into contact. There was no element of self-defence but the Player was somewhat provoked.

There was no material effect on the victim. There was a significant level of participation in the offending by the Player but no premeditation. This was not a premeditated act but it was completed. There is no other feature in the conduct which was relevant.

Taking all of these factors into account the Committee determined that this was a low end offence which would likely not have been red carded were it not for the preceding general caution.

The low end figure per appendix 3 for a strike with the fist is two weeks and that was the Committee's starting point. The Committee then considered Disciplinary Rule 6.7.34, to identify if there were any aggravating features. The Committee did not consider that there were any aggravating features in this case.

As far as Disciplinary Rule 6.7.35 is concerned, that is mitigating features, we acknowledge that there was an admission of guilt. The Player has one previous red card on his record for punching. The Player gets no credit for age and experience in the sense that broadly speaking he should know better at his age and level of experience. He showed and gets due credit for showing remorse for his actions. There were no other off-field mitigating factors. The Committee decided that the appropriate discount from two weeks was 25%, which results in a suspension of between 1 and 2 weeks. On application of Disciplinary Rule 6.7.38 the suspension is rounded up to the nearest whole number of weeks and, therefore, the period of suspension is two weeks, effective from 15 December 2007 to 30 December 2007 (inclusive). In any event, because of the previous record, there were no "compelling mitigating factors" within the meaning of Disciplinary Rule 6.7.36(b) and accordingly there can be no reduction from the entry point.

The dates for the suspension period were selected to ensure suspension over 2 complete weekends of fixtures.

## **COSTS**

The Disciplinary Officer sought an order for costs against the Player in terms of Disciplinary Rule 6.7.45. The Committee determined to award costs against the Player in relation to the costs of holding the hearing, the travel and accommodation costs of the members of the Committee and the legal and travel/accommodation costs of the Disciplinary Officer.

In respect that there were four hearings on the same day, and in each case costs were awarded in favour of the Disciplinary Officer, this Player will be responsible for one quarter of the total costs of the day.

Parties were reminded of their right of appeal in the initial written notification of the decision.

Date

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**Rod McKenzie**  
**Chairman**  
**Disciplinary Committee**