

## EPCR SHORT JUDGMENT FORM

Match	Timisoara Saracens	Vs	Rugby Calvisano
Club's Country	Romania	Competition	European Rugby Continental Shield
Date of match	9 December 2017	Match venue	Dan Paltinisanu Stadium
Rules to apply	EPCR Disciplinary Rules 2017/18		

### PARTICULARS OF OFFENCE

Player's surname	Tangimana	Date of birth	
Forename(s)	Fonovai	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Timisoara Saracens		
SELECT:	Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other (specify) <input type="checkbox"/>		
Offence	Dangerous Tackling (Law 10.4(e))		
Summary of Sanction	Three weeks suspension		

### HEARING DETAILS

Hearing date	20 December 2017	Hearing venue	Sofitel, Heathrow Airport T5, London
Chairman/JO	Rod McKenzie	Panel member 1	Gareth Graham
Panel member 2	Leon Lloyd	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:

Dana Uruci – Timisoara Saracens	Mike Hamlin – Chairman EPCR Discipline Panel Danny Rumble - EPCR
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List of documents/materials provided to player in advance of hearing:

<ol style="list-style-type: none"> <li>1. Notice of Hearing.</li> <li>2. Amendment to Notice of Hearing.</li> <li>3. Referee's Red Card Report.</li> <li>4. Video clip of incident.</li> <li>5. Letter from Player setting out his position on the incident (revised), 20 December 2017.</li> <li>6. Letter from Club with details of forthcoming fixtures and Player's disciplinary history.</li> </ol>
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### SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

The video of the incident is of reduced evidential value since the view is partially obscured by heavy falling snow, the moving image is 'grainy', particularly at the point of impact between the Player and the victim player, is of relatively low resolution, has been taken from some distance, there are a number of players around the incident and there is only one angle of view.

However, the following is apparent:

- The 'home' team is defending its try line within its own 22.
- The match situation is critical in that the home team is leading by a 'small' margin of 5 points and the match is in its 65<sup>th</sup> minute.
- The visiting team have possession and are in a 'strong' attacking position.
- The ball comes out of a scrum and is passed to a visiting team three-quarter who is well tackled by a home team player; this is 15 – 20 metres to the left of the home team posts and around 5 – 10 metres from the home team try line.
- The visiting team retain possession and the ball is quickly re-cycled and passed to the victim player who is approximately 10 – 15 metres from the home team try line, slightly to the left of the posts.
- The victim player makes a run directly to the home team try line, attempting to score a try, and is tackled by the Player.
- The victim player, as ball-carrier, is running at speed and the Player steps into the tackle leading with his shoulder. There

is considerable force in the contact between the players in the tackle. Initially the Player, who can be identified by his white/light coloured skull-cap, tackles from a low position but he immediately rises up so that his head is above that of the victim player. The Player is 1.88m tall.

- The Player tackles 'high', initially leading with his left hand and arm, wrapping it around the back of the head of the victim player and then bringing his right arm, wrapping it also around the neck and then the head of the victim player. When both of his arms are around the neck and head of the victim player the Player then wrestles down the victim player to the ground.
- The victim player falls to the ground and the Player is forced back by visiting players, he falls to the ground and at least one retaliatory punch is thrown to the face of the Player.
- The referee is no more than 5 metres from the incident, is in an excellent position to see the incident, immediately blows and gives the signal for a penalty to the visiting team by reason of Foul Play (Dangerous Tackling) by the Player.
- The victim player requires little on-field attention and is able to continue playing. The Player required some on field attention for an injury caused by the punch.
- When the Player had sufficiently recovered the referee administered a red card for the dangerous tackle and the Player left the Field of Play without incident.
- The visiting team successfully kicks for goal from the penalty and there is no further scoring in the match which is won by the home team 15 – 13.

The referee in his report states:

"in 2nd half on 65th minute, Timisoara's Centre Fonovai Tangimana made high tackle on opponent with shoulder. Action was reckless and forcful (sic), contacting directly face area, jaw. I gave straight red card without consulting with assistant referees."

It is not possible to see the Player's shoulder connecting with the victim player in the video-clip, partly because of its image quality issues but also because the single angle view is not conducive to having a view of the Player's shoulder. However, the referee's view of the incident is excellent from only a very few yards and this coupled with the Player not seeking to contest the ordering off and its circumstances means that we readily accepted the referee's description of the incident as being entirely accurate. In so doing we accept as accurate the referee's conclusion that the Player's actions were reckless and have taken that into account when determining the appropriate entry point.

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

Other than orally from the Player, there was no other evidence.

#### SUMMARY OF PLAYER'S EVIDENCE

The Player in his written evidence stated:

*"At the moment of the impact with player no. 6 of Pataro Rugby Calvisano, our team, myself included, were defending in the red area. The score at that moment was tight and we needed to prevent the opponents from scoring against us, because there weren't very many minutes left to play. So defending in the red zone, I tried to do my best for our team to keep the advantage we had.*

*At that moment, after a previous tackle, I tried to prevent no. 6 from charging towards the try line and bent down to tackle low. I even managed to wrap my right arm around the other player, but due to the tension of the moment, combined with the low vision caused by the thick snow that was falling at that time, most likely my estimation of how low I had to go was wrong, because the opponent player slipped from my arms and completely unintentionally I caught his head or face with my shoulder while he was slipping."*

The Player essentially repeated this explanation for the incident in his oral evidence whilst asserting that he had misjudged the height at which he had entered the tackle, that he should have been lower and if he had been then there would have been no contact with the victim player above the line of the victim player's shoulders.

**FINDINGS OF FACT**

We found it established that whilst the Player had entered the tackle on the victim player at a low level he had, immediately prior to the point of first contact, risen up in a reckless manner which caused his shoulder to be at the same level as the head and face of the victim player. This action by the Player resulted in his shoulder coming into contact with and striking the head and face of the victim player. This was exacerbated by the Player then wrapping his arms around the neck of the victim player and effectively drawing the victim player towards him. This was immediately followed by the Player overpowering the victim player and wrestling him to the ground. The actions of the Player in bringing his shoulder to the same level as the head and face of the victim player causing there to be forcible contact in circumstances where the victim player was running at speed, whilst then wrapping his arms around the neck and head of the victim player were dangerous and were apt to place the victim player at risk of injury.

We did not find the Player's version of events reliable or credible. On the basis of the albeit limited video evidence and the evidence of the referee we were not satisfied that the snow played any part in the Player's actions or the consequences of those actions for the victim player, that the Player misjudged the height of the tackle, in respect that the Player rose up to meet the victim player and not that the two players entered the tackle at the same head height, nor that the shoulder of the Player "caught" the head or face of the victim player as the victim player was slipping.

Rather, we were satisfied that the Player led into the tackle with his shoulder and that this caused his shoulder to impact the face and head of the victim player.

We were not satisfied on the balance of probabilities that the shoulder of the Player striking the face and head of the victim player was intentional. They were two main reasons for us not being so satisfied:

- 1. The quality of the video image was such as to render us unable to draw any inferences regarding intention from viewing the image.
- 2. The referee had an excellent view of the incident and concluded that the actions of the Player were "reckless".

However, we found that the level of culpability on the part of the Player was significant in that he acted as he did when it should have been obvious to him that: (i) by rising up when he did that his shoulder would, or at least was likely to, impact with the face and head of the victim player; and (ii) wrapping his arms around the neck of the victim player and wrestling him to the ground, that it would place the victim player at further risk of injury. The Player's actions went beyond being simply careless with there being elements of indifference to the consequences of his actions so far as the victim player was concerned.

**DECISION**

Breach admitted <input checked="" type="checkbox"/>	Proven <input type="checkbox"/> Not proven <input type="checkbox"/> Other disposal (please state below) <input type="checkbox"/>

**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

See narrative of evidence and findings of fact above.
Gravity of player's actions – R 7.8.32 (c)
The Player was significantly culpable, see narrative of evidence and findings of fact above.
Nature of actions – R 7.8.32 (d)
As described in narrative of evidence and findings of fact above.
Existence of provocation – R 7.8.32 (e)
N/A
Whether player retaliated – R 7.8.32 (f)
N/A
Self-defence – R 7.8.32 (g)
N/A
Effect on victim – R 7.8.32 (h)
No significant effect.
Effect on match – R 7.8.32 (i)
No significant effect.
Vulnerability of victim – R 7.8.32 (j)
Very
Level of participation/premeditation – R 7.8.32 (k)
Full participation but no premeditation.
Conduct completed/attempted – R 7.8.32 (l)
Completed
Other features of player's conduct – R 7.8.32 (m)
N/A

**ASSESSMENT OF SERIOUSNESS CONTINUED**

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

**Whilst our assessment of seriousness resulted in a finding of mid-range entry point, it should be noted that the World Rugby Table of Sanctions for Foul Play at Appendix 3 of the Disciplinary Rules requires the application of a**

**minimum mid-range entry point for Dangerous Tackling of an Opponent in terms of Law 10.4(e) which, as in this case, resulted in a strike to the head.**

\*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
N/A

**ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS**

Player's status as an offender of the Laws of the Game – R 7.8.34 (a)
N/A

Need for deterrence – R 7.8.34 (b)
N/A

Any other off-field aggravating factors – R 7.8.34 (c)
N/A

Number of additional weeks: **Nil**

## RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a)	Player’s disciplinary record/good character – R7.8.35 (b)
Early acknowledgment and no attempt to show that the referee had been wrong to show the Player a Red Card, DR 7.2.2	No identified previous record or evidence of poor character.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
N/A	Good conduct prior to and at the hearing.
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)
Demonstration of remorse at hearing and apologies offered to victim player prior to hearing.	N/A

Number of weeks deducted: 3

### Summary of reason for number of weeks deducted:

3 weeks (being 50% of the relevant entry point) is the maximum period of mitigation permitted in terms of DR7.8.36. In this case the Player demonstrated all of the identified mitigation factors available to him in DR 7.8.35 and we therefore considered it appropriate to mitigate the sanction of suspension, in terms of DR 9.5.1, to the full extent available to us, i.e. to a period of 3 weeks.

## SANCTION

**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	3 Weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	9 December 2017	
Sanction concludes	Midnight 21 January 2018	
Free to play	00:01 22 January 2018	

The Player received his red card during a match in the 3<sup>rd</sup> round of the competition on 9 December 2017 but his case was not dealt with at a hearing until after the 4<sup>th</sup> round so the Player was automatically suspended for his club’s 4<sup>th</sup> round match; DR 7.2.5. The Player’s next two matches are rounds 5 & 6 of the competition on the weekends of 13 and 20 January 2018. The period of his suspension therefore constitutes 3 ‘meaningful’ matches and excludes periods of inactivity and when the Player is not expected to play, furthermore the Player is currently fit to play and was so fit for his club’s 4<sup>th</sup> round match; DR 7.8.38 & DR 7.8.44.

Signature (JO or Chairman)	___Rod McKenzie_____	Date	_23/12/2017_____
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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