

EUROPEAN PROFESSIONAL CLUB RUGBY

DISCIPLINARY HEARING

VENUE: Skype Telephone call

Date: 25 October 2017

JUDGMENT

Player: Dmitrii Gerasimov **Club:** Enisei-STM Krasnoyarsk ("ESTMK")

Match: Enisei-STM Krasnoyarsk v Dragons ("Dragons")

Match date: 21 October 2017

Venue: Enisei-STM Krasnoyarsk

Panel: Dr Julian Morris (Chairman) (England), Paula Carter (England), Richard Cole (Wales)

Secretary: Jennifer Rae (non attending)

Attending: ESTMK
Mr Dmitrii Gerasimov (the Player)
Translator

EPCR
Mr Liam McTiernan

Observing: Mike Hamlin (Chairman, EPCR Discipline)

DECISION

The Panel upheld the citing brought by the Citing Commissioner and concluded that an act of foul play had taken place and further that that act of foul play warranted a red card. In determining the entry point the panel considered that the act carried out by the Player was reckless but due to the nature of the incident, an upper arm/shoulder to an opponent's head, determined that the entry point should be TOP END. In its further deliberations it then concluded that the final entry point should be 12 weeks. There were no additional aggravating factors. The Panel gave 3 weeks off for mitigating factors resulting in a total of 9 WEEKS suspension. Taking into account meaningful matches, the Player is therefore suspended for the following dates:

- a. Enisei v Kuban Krasnodar 28 October 2017
- b. Enisei v Kuban Krasnodar 4 November 2017 (2nd leg)
- c. Russia v Hong Kong 10 November 2017
- d. Russia v Kenya 14 November 2017

- e. **Russia v Chile 18 November 2017**
- f. **HSBC World Series Dubai 7s 1 /2 December 2017**
- g. **Enisei in Challenge Cup 7/8 December 2017**
- h. **Enisei in Challenge Cup 15/16 December 2017**
- i. **Enisei in Challenge Cup 11/12 January 2018**

The Player is free to play again on 13 January 2018 .

Preliminary matters

1. There were no preliminary matters save the Chairman explained to the Player the dual nature of the hearing (as set out in European Rugby 2017/18 Disciplinary Rules, section 7.8.1) that in bringing the citing, the panel would determine, on the balance of probabilities, whether an act of foul play took place. If it did not, then that would be the end to the matter. If it did, then the panel would have to consider whether it passed the red card test and, if it did, move on to consider and determine entry point and any consequential sanction taking into account aggravating and mitigating factors.

There were no further questions.

The Charge and plea

2. The statement of offence and charge brought against the Player were:

‘that at 22.13 he brought his elbow and forearm up to the face of the Dragons No 7, effecting a punch or strike to the head, contrary to Law 10.4(a).’

The Player pleaded not guilty to any act of foul play.

The Citing complaint

3. The citing was lodged with the EPCR Disciplinary Officer before the 50-hour deadline as specified in clause 7.5.3 of the Disciplinary Rules.
4. The brief report of the Commissioner stated that:

“the player number 12 Enisei Dmitrii Gerasimov brought his elbow and forearm up to the face of Dragons No7, Ollie Griffiths, who was in possession of the ball.

I met with the referee and both team managers, know the coach, Bernard Jackman (Dragons) at the end of the match referred the incident to me and that Dragons number 7 had an injury to his jaw following a hit from the elbow by an Enisei-STM player around the 20 minute mark. I said that I had the video of the match and I would review it.

Yes, treatment by the doctor. The player left the field and didn't return to play.

The player had been sent to hospital. He returned to Newport with the team. He was operated on yesterday."

Documentation

5. The documentation before the panel comprised the following:
 - a. The Citing Commissioner's report
 - b. The Match Referees statement
 - c. The Assistant Referees statement
 - d. The Assistant Referees statement
 - e. The Television Match Official's statement
 - f. The injured player's statement
 - g. The Head of Dragons Medical Services statement

Video footage of the incident was also available from several angles.

The Evidence

EPCR

6. Mr McTiernan spoke on behalf of EPCR.
7. In reviewing the written evidence, Mr McTiernan referred to the statements from the Match Referee, Assistant Referees and the Television Match Official (TMO). In respect of all three referees, none of the individuals had seen any act of foul play. In relation to the TMO, he did not attend the game, as the game had had no broadcast operations.
8. That upon review of the video footage (and its various angles), and he took the Panel to the same, it was evident that:
 - a. There was a Dragons lineout inside ESTMK's 22 m
 - b. Dragons won the lineout
 - c. It is quick ball
 - d. The ball is popped up to Dragons 7 who peels, from the front, around to the back of the lineout, and into open space
 - e. He is moving at pace and with the ball under his left arm
 - f. He takes the ball to and comes into contact with the ESTMK defensive line
 - g. The Player appears to bring his arm/elbow up which meets the on-coming Dragons 7 in the jaw
 - h. The Player falls to the ground
 - i. Dragons 7 goes to ground and presents the ball
 - j. Dragons 7 is seen feeling his jaw as the ball is re-cycled and play continues

9. It was, in Mr McTiernan's view, plain that:
- a. This was an act of foul play
 - b. There was no attempt to effect a legal tackle
 - c. The Player was turning sideways to the on-coming Dragons 7
 - d. The resultant collision was with some force
 - e. There was a clear strike to the side of the head
 - f. Effected by the Player's left shoulder or in the alternative his left elbow
 - g. That that strike had led to an serious injury
 - h. That such an act of foul play, and to the head, met the red card test
 - i. And, had the referee seen the incident, he would have given the red card

Medical evidence

10. The evidence provided by the Head of Medical Service Dragons Rugby stated as follows:

"I can confirm that (Ollie Griffiths) was removed from the field of play during the game against Enisie-STM with a suspected fractured jaw.

After the game he was taken to by ambulance to the European Medical Centre in Moscow for assessment, where a fracture was confirmed.

Subsequent to a telephone conversation with our Consultant Maxillofacial surgeon,..., it was decided to delay surgery until our return to the UK.

The following day, the 22nd October 2017, Oliver underwent surgery....who inserted a plate to stabilise the jaw fracture.

It is anticipated that it will be several weeks before Oliver is fit to return to play."

The Player

11. The Player gave his evidence next with the assistance of the translator.
12. He stated the following:
- a. that the incident had occurred after a maul
 - b. he had been looking and indeed expected to have to tackle another opposition player
 - c. he had not expected to see/tackle no 7
 - d. he saw no 7 with the ball, attacking
 - e. he did not want to tackle him
 - f. he did not want to injure him

- g. he did not know how to prevent the tackle
 - h. he was looking at the opposition 12 who he had expected to tackle
 - i. 7 ran straight at him
13. He was asked whether there was the opportunity to effect a tackle on Dragons 7?
He stated:
- a. When he saw Dragons 7 there was no other team member in a position to tackle the 7
 - b. He tried to re-arrange to tackle 7
 - c. But there was no time
 - d. The players had collided
 - e. The Player had then fallen to the ground
 - f. He had been standing in a position in between Dragons 7 and 12
14. He was asked why there appeared to be no attempt to tackle/ wrap his arms around Dragon 7?
He stated
- a. Dragons 7 was supposed to be tackled by someone else
 - b. He was afraid to make contact
 - c. There was a team member to his left
 - d. He was afraid of hitting his own player if he brought his arms up
15. He was asked why his arm (and specifically his right arm) was up?
He stated
- a. That he attempting to put his right arm around Dragons 7
 - b. At that time he thought he should tackle the 7
 - c. Another of his team tackled 7 at the same time
16. He was asked whether he felt any impact with Dragons 7?
He stated
- a. He understood he was in a weak position to tackle
 - b. He fell to the ground
 - c. There was no hit involved
 - d. His right arm was bent at the elbow

The Injured Player

17. The Injured player had provided a short statement as follows:

“My recollection of events of Saturdays game are as follows: I was carrying the ball around the corner from a lineout peel, as I took contact I felt impact to my face. I went to ground and placed the ball backwards for play to continue. I stayed down as I had pain in my jaw, and felt like I needed to check my teeth. I managed to get up and get I line when the ball came back towards me.

At the next stoppage I was removed from the field of play with a suspected broken jaw. I received medical treatment in Moscow at a local hospital. ON arrival back to Wales on Sunday night I had surgery to fix my broken jaw,”

Officials' evidence

18. As stated above, none of the match officials viewed or witnessed the incident.
19. The Panel asked the attendees to disconnect whilst they considered the evidence as depicted above.

Decision on citing

20. The Panel considered that all witnesses had provided a sincere account of the events as they recalled them.
21. The Panel reviewed the video evidence (from the various angles) and the statements (both written and live).
22. Upon review of the video evidence the Panel concluded that the Player was in the defensive line whilst Dragons 7 was attacking. Just before contact, Dragons 7 has the ball firmly under his left arm, he has moved slightly sideways across the pitch and is running at the Player.
23. The Player makes no attempt to effect a legal tackle. His left arm stays by the left hand side of his body. He appears to turn/rotate to the right whilst his right arm comes up. The point of collision, on balance, appears to be with the Player's left upper arm/shoulder to Dragons 7 jaw. He does not, in the opinion of the panel, lead with his elbow. As a result, the Panel concluded that although the citing specifically refers to the elbow/forearm, the essence of the citing remains, the strike, the panel amended the actual strike point of the Player to his left upper arm/shoulder.
24. In the opinion of the panel, there is no effect, on this collision/incident, from the other ESTMK player in close proximity.
25. Both players are then seen to fall to the ground, the ball is re-cycled quickly and Dragons 7 is seen feeling his jaw.
26. There is no reaction from any of the players or match officials on the pitch.
27. In its conclusion, and taking into account all the evidence provided before it, the Panel considered that the Player did strike Dragons 7 with his left upper arm/shoulder and, as such, and on the balance of probabilities the citing was upheld. The Panel considered that the offence took place as cited and the force of the strike and the outcome of the act of foul play meant the red card test had been passed.

28. Given that conclusion the Panel asked the attendees to re-join the call and handed down their conclusion. The panel then sought further submissions in relation to entry point and mitigating factors.

Sanction submissions

29. Mr McTiernan, for the EPCR stated:

- a. It was for the panel to determine whether the Player's action were intentional or reckless
- b. Nevertheless this was a dangerous act
- c. That had resulted in a serious injury
- d. He referred the panel to the Chairman of Discipline EPCR Guidance Note on Top End Entries
- e. Confirming that the head is a vulnerable area.

30. The Player stated that

- a. He had not wanted to make the tackle
- b. He wanted to play rugby
- c. He had been playing since the age of 13
- d. He had turned professional at 18, he was now 29
- e. This was his first red card
- f. He was very upset
- g. He wanted to extend his apologies to the injured player
- h. He played for the National team and indeed was due to play for his 50th cap this autumn

Sanction decision

31. Taking all the above into consideration the Panel agreed that the actions carried out by the Player were reckless i.e. that he knew (or should have known) that there was a risk of committing an act of illegal and/or foul play.
32. The panel noted that striking another player with an arm shall result in at least a mid-range entry point when that strike is to the head.
33. The Panel concluded that the correct entry point, in this instance and taking all the evidence into account, was TOP END. This takes account of the lack of any clear attempt by the Player either to move or effect a tackle when the Dragons 7 was clearly running straight at him and he was balanced and in a position to do either of these.
34. A Top End entry point gives a range of tariff from 8+ weeks to 52.
35. The panel therefore re-evaluated the evidence and took into account the severity of the injury caused to his jaw requiring emergency surgery and the insertion of a metal plate and therefore added a further 4 WEEKS, giving an overall entry point of 12 WEEKS.

36. The Panel saw no need to add any additional aggravating factors.

37. In respect of mitigation, the Panel is permitted to discount up to 50% (i.e. 0-50%). In this case, given the submissions made in response to the citing such a discount was not available to the Player because he contested the citing. However, taking all the other factors into consideration the Panel concluded that it would give the Player a discount of 3 weeks.

38. **The Player is therefore suspended for 9 weeks.**

39. Taking into account meaningful matches the period of suspension covers:

- a. Enisei v Kuban Krasnodar 28 October 2017
- b. Enisei v Kuban Krasnodar 4 November (2nd leg)
- c. Russia v Hong Kong 10 November 2017
- d. Russia v Kenya 14 November 2017
- e. Russia v Chile 18 November 2017
- f. HCBC World Series, Dubai 1 /2 December
- g. Enisei in Challenge Cup 7 /8 December
- h. Enisei in Challenge Cup 15/16 December
- i. Enisei in Challenge Cup 11/12 January 2018

40. **He is free to play again on 13 January 2018**

Costs

41. There is no order for costs.

Right of Appeal

42. There is a right of Appeal (Regulation 8.2.1). Any Notice of Appeal should be in writing to the EPCR Disciplinary Officer by no later than 16.00 (GMT) on the THIRD day (excluding week-ends) after receipt of the notice of the decision.

Dr Julian Morris

Paula Carter

Richard Cole