

DECISION OF THE INDEPENDENT JUDICIAL OFFICER
EPCR QUALIFYING COMPETITION 2015/2016

Held by video conference (Skype), on Wednesday 16 December 2015 at 11am

In respect of:

Giacomo Nicotera ("The Player")

And

An Ordering Off for a breach of Law 10.4 (e) of the Laws of the Game namely, a player must not tackle an opponent early, late or dangerously issued by Graeme Wells (Scotland) in the Match between Mogliano Rugby and Heidelberger RK on 12 December 2015 at Maurizio Quaggia stadium, Mogliano.

Judicial Officer appointed to hear the case:

Jean Noel Couraud (France) ("The Judicial Officer")

Decision of the Judicial Officer:

(i) The Judicial Officer after hearing submissions from the Disciplinary Officer, amended the Law Reference of the alleged offence from Law 10.4(e), to Law 10.4 (j), namely that the offending constituted « *Lifting a Player from the ground and either dropping or driving that Player's head and/or upper body into the ground whilst the Player's feet are off the ground* ».

(ii) The Player is suspended from taking part in the game of rugby up and to including Sunday 17 January 2016. The Player is free to resume playing rugby on 18 January 2016.

Introduction.

1. The Judicial Officer was appointed by Professor Lorne D Crerar, Chairman of the EPCR's Independent Disciplinary Panel pursuant to the Disciplinary Rules found in the Participation Agreement of the Qualifying Competition 2015/2016.
2. The Judicial Officer was appointed to consider the Ordering-off of the Player in the match between Mogliano Rugby and Heidelberger RK on 12 December 2015 at Maurizio Quaggia stadium, Mogliano.
3. Graeme Wells (Scotland) was appointed as the referee to this match and had ordered the Player off for a breach of Law 10.4 (e) of the Laws of the Game namely, a player must not tackle an opponent early, late or dangerously.
4. In addition to the Judicial Officer, the following persons were present at the hearing by video conference (Skype):
 - The Player
 - Mr Nicolo Mattia Pagotto, Director of Sport Mogliano Rugby
 - Mr Liam McTiernan, Disciplinary Officer, EPCR

Preliminary matters and procedure.

5. At the commencement of the hearing the Judicial Officer confirmed the identities of all present.
6. The Player confirmed that he had received all relevant documentation circulated by the Disciplinary Officer which is set out below.
7. The Judicial Officer outlined the procedure to be followed to determine the matter .The Player and all present agreed to proceed on that basis.
8. The Player and Mr Nicolo Mattia Pagotto stated that no preliminary matters arose and therefore the following documents were considered:
 - Red Card Report from Graeme Wells, Match Referee;
 - An email statement from the Assistant Referee 2, Mr Bob Nevins;
 - An email statement from Mr Jacobus Otto,(The Victim Player);
 - A table of Tip tackle case law;
 - The video footage of the incident;
9. The Judicial Officer noted the terms of the Player's responses to the Standard Directions which were as follows :
 - (a) *whether he is the Player who was shown the red card; YES*
 - (b) *whether he will argue any preliminary matters, and if so what they are (in summary);*

YES :1.The foul was not done with intention to hurt the opponent player, but a full made in good faith.2.In the closing of the tackle, he had no intention to hurt the opponent, but only to tackle the opponent player with decision.3. the player after the tackle realized he had committed a foul an after the game he apologized with all.

- (c) *whether he accepts that the Official Report(s) is/are (a) true and accurate account(s) of the incident that resulted in the showing of the red card and the facts surrounding the incident; YES*
- (d) *whether he accepts that he committed an act or acts of Foul Play as set out in the Official Report(s); YES*
- (e) *whether he accepts that that act/those acts warranted a red card; YES*
- (f) *whether he will try to show that the referee's decision to show the Player a red card was wrong; NO*
- (g) *if so, why he says the referee's decision was wrong (in summary), and what evidence (and/or authorities) he will rely on to support his position (any written evidence and/or authorities must be attached to the written statement when sent by the Player, and the names of any witnesses to be called must be set out in the statement); and*
- (h) *who will be attending the hearing and in what capacity. YES*

10. The Disciplinary Officer submitted that the offence was not a breach of Law 10.4 (e) but a contravention of Law 10.4 (j) of the Laws of the Game namely: « *Lifting a Player from the ground and either dropping or driving that Player's head and/or upper body into the ground whilst the Player's feet are off the ground* ».

11. In those circumstances the Judicial Officer stated that he would decide if he must amended the Law Reference of the alleged offence and thereafter he would determine an appropriate sanction, if any.

Evidence supporting the Ordering-off

12. The Red Card Report stated:

"The tackler lifted the ball carrier off the ground, he then turned him beyond the horizontal and did not bring him back to ground safely. The ball carrier landed on his arm. If his arm did not break his fall the ball carrier would have landed on his head or neck"

13. The statement from the Assistant Referee 2 read as follows :

*"(..) A Mogliano player made a tackle,
(I have a lot of players between me and the tackle situation)*

All I could see was a Heidelberger player's feet go over the horizontal, I was not able to see how the tackled player landed,

ARI was able to flag the tackle.

Referee and ARI consulted and identified the tackled (Modigliano 20) and sanction a Red Card"

14. The Victim Player's statement read as follows:

"In the tackle in question, I was flipped and landed on my elbow and shoulder. I received no injuries from the tackle and was able to finish the game. There was no personal apology given, however after the game we shook each other hand. I accept that a personal apology from that player (..)"

15. The video footage showed the Player tackled and lifted The Victim Player off the ground. Whilst the Victim Player's feet were still off the ground, the Player drove him to the ground. The Victim Player was at a minimum being driven into the ground by the effect of the lift and the weight of the Player's upper body. During the course of the tackle, the Player holds his arms on The Victim Player's waist. The Victim Player came into contact with the ground on his elbow and shoulder.

16. The Judicial Officer having taken in account submissions, and a detailed consideration of the video footage and the statements determined that the act of foul play committed by the Player was a contravention of Law 10.4. (j) of the Laws of the game rather than a contravention of Law 10.4 (e).

17. In those circumstances the Judicial Officer stated that he would determine an appropriate sanction, if any.

Player's defence

18. The Player apologised and said that he is young (19 years old) and inexperienced. He confirmed the terms of his responses to the Standard Directions.

19. He submitted that his intention was not to be involved in a tackle contrary to the Laws of the Game .He confirmed that he has a clean disciplinary record.

Decision as to Disposal

20. The Judicial Officer retired to consider his decision in private. The Player had admitted the act of foul play and it was for the Judicial Officer to review all the evidence and consider whether the act merited a suspension from the game.

21. In determining the true facts of the incident, in particular whether the act was intentional or reckless, the Judicial Officer took into account a detailed consideration of the video footage and all evidence available.
22. The Judicial Officer noted that the offence of 10.4(j) was listed within the World Rugby recommended sanctions for offences within the playing enclosure (found at Appendix 3 of the Disciplinary Rules) as follows:
- Low end, 4 weeks.
 - Mid range, 8 weeks.
 - Top end, 12+ weeks.
 - Maximum sanction, 52 weeks.
23. Applying his findings to the criteria under DR 7.7.32, the Judicial Officer determined as follows:
- The offending was reckless. The Player knew (or should have known) there was a risk of committing an act of Foul Play and exposed his opponent to a risk of serious injury (DR Clause 7.7.32 (b) (c) (d));
 - There was no provocation, the Player did not retaliate, nor did an act of self-defence (DR Clause 7.7.32 (e) (f) (g));
 - No injury was caused (DR Clause 7.7.32 (h));
 - The Victim Player was vulnerable (DR Clause 7.7.32 (j));
 - The offending was complete and was not premeditated (DR Clause 7.7.32 (k) (l));
 - There were no other relevant features (DR Clause 7.7.32 (m)).
24. In these circumstances, this offending can be assessed as at the Low End of the scale of seriousness.
25. The entry point for Low End offending under law 10.4(j) is four (4) weeks.
26. With regard to Aggravating factors, the Judicial Officer found that :
- a. The Player is not an offender of the Laws of the Game (DR Clause 7.7.34 (a))
 - b. As for the need for a deterrent to combat a pattern of offending, The act of Foul Play is covered by the 8 June 2009 Memorandum attached Appendix 6 of DR (DR Clause 7.7.34 (b)) ;
 - c. There were no other relevant off-field aggravating factors (DR Clause 7.7.34 (c)).

27. The Judicial Officer found that the offence is of the type referred to in the 8 June Memorandum and there is a need for a deterrent to combat the offending that occurred in this case. The Judicial Officer therefore added a period of one (1) week to the entry point of four (4) weeks.

28. The Judicial Officer considered the following Mitigating factors with reference to DR Clause 7.7.35 :

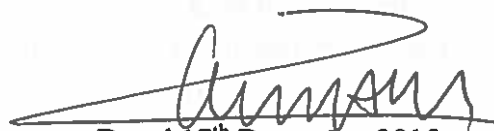
- a. The Player acknowledged at the early stage, his culpability for the offence (DR Clause 7.7.35 (a)) ;
- b. The Player has a clean disciplinary record and a good character(DR Clause 7.7.35 (b)) ;
- c. The Player is young and inexperienced (DR Clause 7.7.35 (c));
- d. The Player's conduct at the hearing was exemplary (DR Clause 7.7.35 (d)) ;
- e. The Player was remorseful (DR Clause 7.7.35 (e));

29. The Judicial Officer, after taking into account the above Mitigating factors, concluded that the Player is entitled to a two (2) weeks reduction of sanction.

30. Accordingly The Judicial Officer imposed a sanction of three (3) weeks. It is a core sanctioning principle that one (1) week equals one (1) match. The Judicial Officer was informed that the Player is scheduled to play against Valladolid on 19 December 2015, Piacenza on Saturday 9 January 2016, Rovigo on Saturday 16 January 2016. Accordingly, The Player is suspended from all forms of Rugby up and to including Sunday 17 January 2016. He is free to resume playing on 18 January 2016.

Appeal

31. The Judicial Officer reminded the parties that the Disciplinary Rules afford them the right to appeal against his decision.



Dated 17th December 2015
Jean Noel COURAUD
Judicial Officer