



## **Decision of the Independent Judicial Officer**

Hearing held at the offices of Clifford Chance, 10 Upper Bank Street, Canary Wharf, London on 25 September 2015 at 12.00pm.

In respect of

**Valentin Ursache** of Romania (“the Player”)

And

A citing by **James Absaloms (Kenya) Citing Commissioner**, in respect of an alleged offence under Law 10.4(e) namely, a player must not tackle an opponent early, late or dangerously in a match played between France and Romania on 23 September 2015 at The Stadium, Queen Elizabeth Olympic Park, London (“the Citing Complaint”).

Judicial Officer appointed to hear the case:

**Adam Casselden (Australia) (“the Judicial Officer”)**

### **Decision of the Judicial Officer:**

- (i) The Judicial Officer found that on the balance of probabilities the Player committed the act of Foul Play that was the subject of the Citing Complaint.
- (ii) The Player is suspended for one match which means the Player is unable to play against Ireland on Sunday, 27 September 2015. The Player is free to resume playing on 28 September 2015.

## 1. Introduction

- 1.1. I was appointed to consider the Citing Complaint against the Player in a match played between France and Romania on 23 September 2015 at The Stadium, Queen Elizabeth Olympic Park, London in the Rugby World Cup 2015 ("The Tournament"). The alleged incident occurred in the first minute of the second half.
- 1.2. James Absaloms of Kenya was appointed as Citing Commissioner to this match and cited the Player for an alleged offence under Law 10.4(e) namely, a player must not tackle an opponent early, late or dangerously.
- 1.3. The following persons were present at the hearing:
  - **The Player**
  - **Mr Horatiu Bargaunas** (Romanian Team Manager)
  - **Ms Ellen Gallagher** (Player's legal representative)
  - **Mr Eugene Morosanu** (Romanian interpreter)
  - **Ms Yvonne Nolan**, Designated Disciplinary Official ("DDO"), Rugby World Cup Ltd
  - **Ms Susan Ahern**, Disciplinary Officer, Rugby World Cup Ltd

## 2. Evidence

- 2.1. I admitted into evidence the following material:
  - The Citing Commissioner's report (Tab 1);
  - Letter from the DDO to the Player dated 24 September 2015 (Tab 2)
  - Email to Mr Bargaunas dated 24 September 2015 and subsequent correspondence (Tab 3);
  - Match Summary Sheet (including team sheet) (Tab 4);
  - An email statement from the Referee, Mr Jaco Peyper (Tab 5). I admitted the second paragraph, which contained opinion evidence, subject to weight;
  - An email statement from the First Assistant Referee, Mr Craig Joubert (Tab 5);
  - An email statement from the Second Assistant Referee, Mr Federico Anselmi (Tab 5);
  - An email statement from the French Team Manager, Mr Lionel Rossigneux (Tab 6);
  - Directions issued by me and responses to those directions (Tab 7);
  - A short email statement from the Romanian Team Defence Coach, Mr Neil Kelly dated 24 September 2015 (21.44) (Tab 7). I did not admit the email statement from Mr Neil Kelly dated 24 September 2015 (21.28) (Tab 7) under Appendix 5, Section 3.5 of the Tournament Disciplinary Programme as I deemed it non-expert opinion evidence which was more in the nature of a submission;
  - Memorandum from Joel Jutge, World Rugby High Performance Match Officials Manager and Tim Gresson, World Rugby Judicial Panel Chairman regarding Dangerous Tackles dated 22 May 2015; and
  - Video camera footage showing various angles of the alleged incident.

- 2.2. The Player gave evidence. His evidence was that during his tackle on French No. 9 (“the tackled player”) the tackled player’s right leg was raised by the knee of a Romanian player (No. 11) lying on the ground which contributed to the way in which the tackled player was brought to ground. He gave evidence that his left and right arms were positioned under the tackled player’s armpits around the tackled player’s torso. He accepted that when he executed the tackle that he bent his knees, arched his back and then simultaneously lifted and rolled the tackled player. His intention was to put the tackled player on the ground as soon as possible as the referee was playing an advantage to Romania following a French knock-on.
- 2.3. He agreed that his feet did not get entangled with any other player, including Romanian No. 11 when he carried out the tackle. To his credit he agreed that the tackled player’s head makes contact with the ground which carries a risk of injury. He accepted he put the tackled player in a dangerous position which he said was brought about by Romanian No. 11 raising the right leg of the tackled player. He conceded that from the time he commenced the tackle until it was completed he was always in control of the tackled player.
- 2.4. When shown video footage at 2 minutes 39 seconds the Player accepted that the tackled player’s left leg was well beyond the horizontal in a nearly vertical position and the tackled player’s right leg is also in the air raised no more than a foot above the ground. It was ultimately accepted by the Player that the tackled player’s legs are raised off the ground (in the air) before any contact with Romanian No. 11 occurs.

### **3. Submissions**

- 3.1. The Player submitted that the requirements of Law 10.4(e) were not made out and accordingly the Citing Complaint should be dismissed. His submissions can be broadly summarised as follows. First, he did not tackle his opponent early, late or dangerously. Secondly, he did not tackle his opponent above the line of the shoulders, or around his head. Thirdly, it was not a stiff-arm tackle. Fourthly, the tackled player had the ball continuously throughout and at the time of the tackle the tackled player’s feet were on the ground. Fifthly, the positioning of Romanian No. 11 was the reason that the tackled player hit his head on the ground, and the tackled player would not have been placed in that position had he not made contact with Romanian No. 11’s leg and fallen over.
- 3.2. In summary the Player contended that he did not intend to carry out a dangerous tackle. He contended that the reason the tackled player landed on his head was due to the involvement of Romanian No. 11 lying on the ground which resulted in an unforeseen accident.

### **4. Judicial Officer’s findings in relation to act of Foul Play**

- 4.1. The Player was cited by the match Citing Commissioner for a breach of Law 10.4(e) of the Laws of the Game for dangerous tackling. In his report the Citing Commissioner described the incident in the following terms:

*“Player 9 France (9F) intercepted the ball in a passage of play. Player 6 Romania (6R) arrived and tackled him by grasping him round the waist and pivoting such that 9F’s feet left the ground and then brought F9 to ground such that the body was turned beyond the horizontal and 9F hit the ground with his right shoulder and head.*

*9F was in obvious discomfort immediately after the incident and clutched at his head for a while before continuing to play.”*

4.2. A breach of Law 10.4(e) falls under the umbrella of dangerous play which is Foul Play within the meaning of that term contained in the introductory section of Law 10 of the Laws of the Game.

4.3. Law 10.4(e) is in the following terms:

**“Dangerous tackling:** *A player must not tackle an opponent early, late or dangerously.”*  
(my emphasis)

4.4. Clause 10.8.4 of the Tournament Disciplinary Programme (“TDP”) provides as follows:

*“In the case where there has been a citing complaint, the function of the Judicial Officer is to determine whether an act of Foul Play was committed by the Player. The citing complaint shall not be upheld unless the Judicial Officer is satisfied on the balance of probabilities that the Player concerned committed the act(s) of Foul Play that are subject to the citing complaint.”*

4.5. The video footage, which I viewed a number of times, broadly corresponded with the description given by the Citing Commissioner in his report.

4.6. The video footage clearly showed that the Player grasps the tackled player (the ball carrier) with both arms below the line of his shoulders. The Player’s left arm is wrapped around the tackled player’s torso beneath his left armpit. The Player’s right arm is also wrapped around the tackled player’s body below the line of the shoulders. The positions of the Player’s arms around the tackled player could be described as a “Bear Hug”.

4.7. The Player is then seen to move forward, bend his knees, arch his back and then simultaneously lift and turn or roll the tackled player whilst his legs are off the ground. The tackled player’s left leg goes well beyond the horizontal in a nearly vertical position and the tackled player’s right leg is also raised off the ground resulting in a dangerous cartwheel type motion whereby the tackled player is brought to ground head first. The tackled player is seen to hold his head immediately after contact with the ground. The tackled player was clearly placed in a vulnerable position by the actions of the Player and the manner in which he was brought to the ground carried an obvious risk of injury.

4.8. I did not accept the submission that it was the involvement of Romanian No. 11 which caused the tackled player to raise his legs off the ground. The video footage clearly showed that both the tackled player’s legs are in the air before any involvement by

Romanian No. 11; see the video footage at 2 minutes 39 seconds and following and the concession made by the Player. In my opinion, and consistent with the video footage, the tackled player's left leg is raised beyond the horizontal by reason of the Player's lifting and turning or rolling of the tackled player. Whilst the right leg may not have gone beyond the horizontal it was certainly lifted off the ground by reason of the Player's action and not the involvement of Romanian No. 11.

- 4.9. As seen in the video footage, and which was ultimately conceded by the Player, the Player was always in control of the tackled player. Accordingly, it was incumbent upon the Player to bring, or at the very least attempt to bring, the tackled player to ground safely particularly in circumstances where the tackled player has gone beyond the horizontal. Based on the video evidence this did not occur.
- 4.10. Whilst the offending may not have been intentional I could not accept the submission that it was not reckless. In my opinion the Player's conduct was reckless as it exposed the tackled player to a risk of serious injury. Whilst it was fortunate that the tackled player did not sustain an injury he was nonetheless placed in a vulnerable position and the risk of him sustaining an injury to his head or neck was clearly present. The Player's action in lifting and turning or rolling the tackled player in the air such that he goes beyond the horizontal and the manner in which he was brought to ground was clearly reckless, that is the Player knew (or should have known) there was a risk of committing an act of Foul Play.
- 4.11. Accordingly, I was satisfied on the balance of probabilities that the Player committed an act of Foul Play under Law 10.4(e) by tackling an opponent dangerously. The Citing Compliant was therefore upheld. I then turned to address the appropriate sanction.

## **5. Submissions as to sanction**

- 5.1. On behalf of the Player it was submitted that this was low-end offending. For the reasons that follow I accepted that submission. The Player then made submissions with respect to the absence of aggravating factors and the presence of mitigating factors. I have considered these submissions under the subsequent headings below.
- 5.2. The Designated Disciplinary Official made no submissions as to the entry point other than to say the incident did not fall within the most serious category of incidents.

## **6. Assessment of sanction**

- 6.1. In assessing the seriousness of the offending and by reference to TDP Clause 10.10.2 I found as follows:
- a. The offending was reckless (10.10.2(b)). Please see my reasons above.
  - b. The gravity of the offence was low (10.10.2(c)).
  - c. Provocation / Retaliation / Self-Defence did not apply (10.10.2(e), (f) and (g)).
  - d. The effect of the Player's actions on the victim player (10.10.2(h)). The tackled player sustained no injury and continued to play until he was substituted for tactical reasons.
  - e. There was no effect on the game (10.10.2(i)).

- f. The tackled player was placed in a vulnerable position (10.10.2(j)). Please see my reasons above.
  - g. Level of participation in offending / premeditation (10.10.2(k)). This did not apply.
  - h. Attempted or completed (10.10.2(l)). This did not apply.
  - i. Any other features (10.10.2(m)). No other features were applicable.
- 6.2. Accordingly, I considered this low-end Foul Play which carries an entry point of two weeks on the World Rugby Sanction Table.
- 6.3. I considered whether any of the following Aggravating factors applied (with reference to the following) (TDP 10.10.4)
- a. The Player's status generally as an offender of the Laws of the Game – this did not apply;
  - b. The need for a deterrent to combat a pattern of offending – this did not apply;
  - c. Any other off field aggravating factor that the Disciplinary Committee or Judicial Officer considers relevant and appropriate – non were applicable.
- 6.4. I found that there were no aggravating features which warranted any increase on the entry point. In particular I turned my mind to whether the Memorandum from Joel Judge, World Rugby High Performance Match Officials Manager and Tim Gresson, World Rugby Judicial Panel Chairman regarding Dangerous Tackles dated 22 May 2015 applied. I reached the conclusion that it did not. At no time did the Player's arms or hands rise above the line of the tackled player's shoulders. Whilst the Player tackled his opponent dangerously it did not involve any grasping above the line of the shoulders. Accordingly, I considered no increase to be appropriate.
- 6.5. I took into account the following Mitigating factors (with reference to the following) (TDP 10.10.5).
- 6.5.1 The Player is 30 years of age and has played 61 Test Matches for Romania. He has played in the order of 90 matches in first and second division rugby in France. Apart from a three week suspension for the illegal use of his boot in 2004, when he was aged 19 years, and a number of yellow cards since for repeated team infringements the Player's disciplinary record is otherwise unblemished.
  - 6.5.2 The Player conducted himself respectfully and appropriately as one might expect from a player of his standing. This included a number of concessions which he made against his interest.
  - 6.5.3 I accepted the Player's good character verified by Mr Kelly, his defensive coach.
- 6.6. Accordingly, taking into account the above mitigating factors including his excellent disciplinary record and the absence of aggravating factors I reduced the two week sanction by 50% to one week. I did not accede to the Player's request that clause 10.10.7 of the TDP be invoked resulting in no sanction for the Player's offending as I

did not consider that a sanction of one week was wholly disproportionate considering the level and type of offending involved.

## **7. Finding as to Sanction**

- 7.1. Accordingly, the Player is suspended for one week. In the context of the Tournament this equates to one match.
- 7.2. I received evidence that the Player was next scheduled to play on Sunday, 27 September 2015 against Ireland.
- 7.3. I consider this fixture to be meaningful as it is a Tournament match.
- 7.4. Accordingly the Player is suspended for Romania's match against Ireland scheduled to take place Sunday, 27 September 2015. He is free to resume playing on 28 September 2015.

## **8. Right of Appeal**

- 8.1. The Player was advised that he has 48 hours in which to appeal from the time he is notified of the written decision.

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**Adam Casselden**  
**Judicial Officer**

**Dated: 26 September 2015**