

WORLD RUGBY U20 CHAMPIONSHIP 2016

Decision of an Independent Judicial Officer

Held at The Park Inn Hotel Manchester on 16th June 2016

In respect of Ilia Spanderashvili No 6 Georgia (“The Player”)

AND

A dismissal from the field of play in respect of a strike with a hand, fist or arm and a kick to an opponent contrary to Law 10.4(a) and 10.4(c) in the match between Georgia v Ireland on Wednesday 15th June 2016 at the Etihad Academy Stadium, Manchester.

Judicial Officer: Mike Hamlin (England)

Attending:

The Player

Oto Iashvili - The Georgia Team Manager

Rebecca Morgan – Designated Disciplinary Officer - World Rugby

DECISION OF THE JUDICIAL OFFICER

The Judicial Officer found that The Player committed acts of foul play.

Pursuant to Tournament Regulation 12.10.3 (c) The Judicial Officer having found that the offending was categorised pursuant to Regulation 11.10.1(a) as lower end offending and having found that there were off field mitigating factors and determined that the sanction applicable as set out in Appendix 3 of the Regulations would be wholly disproportionate to the level and type of offending involved imposed no further sanction. The Player is free to resume playing forthwith.

The Judicial Officer made no award of costs.

INTRODUCTION

1. I was appointed as an Independent Judicial Officer by The World Rugby Judicial Panel Chairman pursuant to The Tournament Regulations. I was appointed to consider the Dismissal (Red Card) against The Player in the above match in accordance with World Rugby U20s Championship 2016 Tournament Regulations (“the Regulations”).
2. Craig Evans (Wales) was appointed as Referee and Mathew O’Grady (RFU) as Assistant Referee to this match and dismissed the Player for a strike with the hand, fist or arm and a kick to an Irish player contrary to Law 10.4(a) and (c).
3. Pursuant to Section 2.5(c) of Appendix 5 to the Regulations I issued pre-hearing Directions.

PRELIMINARY MATTERS AND PROCEDURE

4. At the commencement of the hearing, I noted the identities of all present. The Player did not speak English. It was agreed that Oto Iashvili, his team manager, would interpret for The Player. It was confirmed by The Player and Mr

Iashvili that the Player's position remained as set out in his response to the directions, namely that he had committed acts of foul play, apologised and accepted the red card. I outlined the procedure I proposed to adopt to determine the matter. All present agreed to proceeding on that basis. There were no preliminary matters raised.

5. I considered the following evidence:
 - The Assistant Referee's report
 - The Player's response to standing directions
 - Notice of Hearing
 - The DVD of the incident
 - Various emails.
 - The Player's evidence and submissions from Mr Iashvili

SUMMARY OF THE EVIDENCE

6. The Player was alleged to have struck an Irish player with his hand, arm or fist and then kick him. The Assistant Referee's report states:

"I was an Assistant Referee for this fixture. Play was taking place in the Georgia half between the half way line and the Georgia 10m line. Ireland were attacking. To the right of where play was taking place, between me and the play, I saw an Ireland player and a Georgia player on the floor in contact with each other. I saw the Georgia player strike the Ireland player. I did not see clearly see where this connected. I then saw the Georgia player kick out at the Ireland player. This appeared from where I was to connect with the torso of the Georgia player. I identified the Georgia player to be number 6. I informed the Referee I had seen foul play by Georgia. Play continued and Ireland scored a try.

After the Referee awarded the try I repeated to him that I had foul by black and advised we needed to speak about the foul play. The Referee stopped time and I entered the field of play. I said to the Referee,

"Black 6 and an Irish player are on the ground. I've seen black 6 strike an Irish player and I believe he has also lashed out with his foot. I think we need to check sanction and also whether the Irish player has caused the reaction by the black player."

The Referee then consulted with the Television Match Official and I was stood with the Referee as he watched the footage on the stadium screen. After reviewing the footage the Referee determined that Georgia 6 should be sent off. The Television Match Official said that he agreed with that sanction."

7. The Irish Team Manager, Hendrik Kruger confirmed by email that Ireland No 5, the Irish player involved in the incident sustained no injury or medical treatment.

8. I also received match footage of the incident which shows as follows:

"Play is taking place in the 8th minute of the match just inside the Georgian half, Ireland win possession, Ireland 5 takes the Player to the ground after Ireland have secured possession to the right of and beyond the ruck by several metres. As I5 takes G6 to the floor I5 holds onto G6. G6 attempts to release himself from the grip of I6, G6 is on his back with I5 straddled above G6 and holding G6, as he does so G6 strikes out with his right hand which connects I5 on his back with an open palm of his right hand, (not a closed fist or a punch), which lands on the back of I5 between his shoulder blades. Immediately after connecting with his right

hand G6 whilst still on his back kicks out with his right foot which connects with the left hand side of I5's chest. G6's foot slides down slightly towards the right hand side of I5's torso. G6 then gets to his feet and rejoins play. I5 throws his hands in the air and looks towards the Assistant Referee. He puts his hand on his chest, then gets up and rejoins play."

9. The Player in compliance with my pre-hearing directions stated:

"I don't really remember what happened, but when I saw the video I really want to apologise. I don't know what happened with me at that moment. I have played rugby for about 8 years and this is the first incident like this. I accept the red card and accept I committed an act of foul play."

10. At the hearing, the Player told me that he was wrestling with I5 and trying to release himself from the grip of the I5. He had not apologised directly to I5 as he had not been able to make direct contact with him. He was 18 years of age, had been playing rugby for 9 years, this was first U20 World Tournament. He would be potentially eligible for 2 more U20 Tournaments. He had never been sent off or appeared before a disciplinary panel and not even received any yellow cards.

11. Mr Iashvili made no submissions in respect of the evidence or sanction. He was content to leave the issue of the issues of fact finding and sanction to my judgment.

DECISION AS TO CULPABILITY

12. In private, I reviewed all the evidence. The Player had admitted the foul play and accepted the red card decision.

13. My findings of fact are as follows:

- (i) I5 binds onto G6 at the ruck area, Ireland win possession and I5 continues to hold G6 and drives him several metres from the tackle area driving G6 to the ground.
- (ii) The strike to the I5 was not a punch. It was a strike with an open hand to the back of I5 at a point midway between the shoulder blades of I5 whilst the Player was attempting to get up and rejoin play. The strike was made with modest force. Significantly, in my judgement, the Assistant Referee does not identify whether the strike was a punch or a strike with the arm, hand or fist. In fact, it was an open handed contact more akin to a push or a shove.
- (iii) The kick was a contact with the bottom section of the Player's right boot which was delivered whilst the Player was on his back and immediately prior to him being released by I5 so that, according to the Player's evidence, which I accept, would enable him to get up and rejoin play. The kick landed on the left side of I5's chest and then slid downwards towards the right hand side of his torso. The kick was delivered with modest force in a petulant manner.
- (iv) I5 was not injured nor did he receive any medical treatment. Both players get to their feet and resume playing.

SANCTION

14. As to sanction, Mr Iashvili made no submissions on behalf of the Player. He stated he was content for me to determine the sanction in accordance with the regulations.

15. In assessing the seriousness of the offence pursuant to Regulation 12.10.1(a) I find as follows:-

- (i) The strike and kick were deliberate.
- (ii) The offending was not reckless.
- (iii) The strike was with an open palm more akin to a push/shove. It was not a punch and the least possible grave act to receive a red card imaginable. The kick was committed whilst the Player was on his back. The force was modest, in my judgment, so much so that the kick slid away from the point of contact on I5's chest down towards the right hand side of I5's torso. The kick did not cause I5 to recoil or in any way knock him backwards.
- (iv) The strike was with an open palm. The kick was with the bottom of his boot.
- (v) Provocation and self defence factors were not relevant.
- (vi) Retaliation was present, in that I5 had driven G6 from the side of the tackle area several metres, taken G6 to ground and whilst above and on top of G6, illegally held him down, albeit momentarily to delay G6 from rejoining play.
- (vii) There was no effect on I5. He was not injured.
- (viii) There was no effect on the game.
- (ix) I5 was not vulnerable.
- (x) There was no premeditation. The offending was an act of spontaneous Intent.
- (xi) The conduct was completed.

Pursuant to the Regulations and in accordance with my findings above I categorise the offending as being at the lower end in respect of the strike and kick at 2 and 4 weeks respectively.

16. Pursuant to Regulation 12.10.3 I identified the following mitigating factors:

- (i) The Player did not prevaricate, he admitted his wrongdoing immediately, nor did he comment on or in any way challenge the award of the red card at any time.
- (ii) The Player has an exemplary record. He has played rugby for 9 years and has never even received a yellow card.
- (iii) The Player is just 18 years of age and as an adult is young and inexperienced. This is his first U20 tournament and will be eligible to play in two more U20 competitions if selected.

- (iv) His conduct before me was entirely appropriate, deferential and contrite. He appeared significantly chastened by the disciplinary process.
- (v) He apologised in his response to directions but had not done so direct to IS, having not contacted him.
- (vi) There are no other off field mitigating factors, .

Based upon the above mitigating factors I determine that The Player is entitled to a reduction in sanction from the entry point of 1 and 2 weeks (or Matches 4 and 5 in the context of this Tournament) respectively (that is 50%) for the offences of striking and kicking. Pursuant to Regulation 12.10.3 (d) in cases of multiple offending, I may impose sanctions to run concurrently or consecutively. If I had not determined that this was an appropriate case to invoke Regulation 12.10.3 (c) the suspension would have been concurrent.

17. Regulation 12.10.3 (c) provides:

“In cases involving offending that has been classified as lower end offending, where (i) there are off field mitigating factors; and (ii) where the Judicial Officer considers that the sanction would be wholly disproportionate to the level and type of offending involved; the Judicial Officer may apply sanctions less than 50% of the lower end entry sanctions specified in Appendix 3 including in appropriate cases no sanction.....”

Whilst Mr Iashvili on behalf of the Player did not consider or address me on this provision, acting in a quasi-inquisitorial capacity as a Judicial Officer, I considered it appropriate and fair to the Player to consider this provision in the context of his offending.

18. The definition of “wholly disproportionate” was considered by Christopher Quinlan QC in the RWC2015 case of Galarza which involved contact with the eye area (paragraph 6.13), he declined to apply this provision but helpfully set out his opinion of wholly disproportionate.

“The adverb ‘wholly’ means completely, totally or entirely and modifies by addition, “disproportionate”. It connotes a sanction which is really exceptional for that level and type of offending.”

His decision was appealed and the Appeal Panel in a decision dated 30th September 2015 determined (paragraph 8.14): “We agree with the JO’s analysis of the term ‘wholly disproportionate’ in the context of this provision.”

19. There are mitigating factors in this case as I have identified above. I consider a 2 week suspension on the facts and finding concerning the level of offending in this case to be totally disproportionate for the reasons set out below. Before setting out those reasons, I am mindful that pursuant to Regulation 12.8 (b) the integrity of Law 6.A.4 (a) of the Laws of the \game and the referee’s decision as sole judge of fact and law is unassailable. The purpose of a review of an incident which occurred during the match is to determine whether there should be any disciplinary sanction imposed in accordance with the Regulations and Appendix 3. I am fortunate, having the time to review all the evidence including the benefit of technology. 2 weeks is not, in itself, a significant sanction in time but set against the level of offending committed by the Player I consider that it is.

20. When I reflected upon the proposed 2 week sanction, applying my rugby knowledge and experience as a judicial officer, former player and referee and in accordance with the Regulations, I concluded that the sanction of 2 weeks was totally disproportionate to the Player's level of offending in that:-

- (i) The strike was an offence committed with an open hand to a point between the I5's shoulder blades which upon review, and considered in isolation would probably merit a penalty (if that) and no more. The Officials were, in my judgment wrong to categorise this conduct meriting a red card.
- (ii) The kick, in accordance my findings set out above could reasonably be categorised as petulant and delivered with such modest force it had no apparent impact upon I5. I5 was in the dominant position above the Player, having momentarily illegally held the Player down. I consider it is by no means certain or indeed probable that on the specific facts and findings in respect of this case that the Player's kick justify a red card.
- (iii) The misconduct occurred in the 8th minute of the first half. The Player's dismissal from the field of play resulted in him missing 72 minutes of the match.

I, therefore concluded, that this was an appropriate case where I could properly impose no further sanction and that the dismissal of the Player was sufficient sanction in accordance with Regulation 12.10.3 (c).

21. The Player's Right of Appeal was drawn to his attention pursuant to Regulation 12.13.

Mike Hamlin (England)
Judicial Officer
17th June 2016.