

DISCIPLINARY DECISION



Match	Romania v Hong Kong		
Player's Union	Romania	Competition	U20 World Trophy Tournament
Date of match	5 th September 2018	Match venue	Bucharest Romania
Rules to apply	U20 World Rugby Trophy Tournament Regulations		

PARTICULARS OF OFFENCE			
Player's surname	Hartig	Date of birth	11 th October 1998
Forename(s)	Iulian		
Referee Name	Paulo Duarte (Portugal)	Plea	Not admitted
Offence	Reckless contact with eye(s) contrary to Law 9.12	SELECT: Citing	
Summary of Sanction	7 weeks commencing 6 th September including one Tournament game on 9 th September and 6 further weeks of the Player's schedule finishing at midnight on 4 th November 2018, the Player is free to play again on 5 th November 2018		

HEARING DETAILS			
Hearing date	7 th September 2018	Hearing venue	Ramada Parc Hotel Bucharest
Chairman	Mike Hamlin (England)		
Other Members of Disciplinary Committee	Beth Dickens (Scotland) Stefan Terblanche (South Africa)		
Appearance Player	YES	Appearance Union	YES
Player's Representative(s)	ˆSilvia Tonita (Romanian Manager) Eugene Abjok (Rep from Player's Club CSN Bucharest)	Disciplinary Officer and/or other attendees	Ben Rutherford and Yvonne Nolan (World Rugby) and observers from World Rugby Judicial Workshop)
List of documents/materials provided to Player in advance of hearing	Citing Report; Dvd Clips; Player/Medical Statements (3 x HK Players and HK Dr.); Photograph HK8; Match Official Report; Team Sheet; Tournament Disciplinary Rules		

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/DVD FOOTAGE

1. Patrice Frantschi (France) was the appointed Citing Commissioner and his report stated as follows

“HK player No 8 (Jake Barlow) carrying the ball was high tackled by Romanian player No 1 (Iulian Hartig) who wrapped him in a headlock position. After the game I was referred by the HK player No 8 that he alleged a contact was made with his eyes by a Romanian tackler. He received on field treatment and the Doctor's report copy is submitted as evidence. There is also HK No8 statement to be considered. The

officials did not detect the incident but the Referee penalized Romanian No1 and yellow carded him for a high tackle. At the time there was an allegation of gouging on HK8 by 2 of his team mates (No 12 and No 3). HK player No 12 pointed to the Referee the Romanian player No 1. The referee was also told by HK No3 there had allegedly been contact made with the eyes of HK No8. Having reviewed the recording it is my belief that it was Romanian player No1 who made contact with HK No8's face and eyes. Another Romanian player No7 involved in the tackle, wasn't in a position to commit the alleged foul play. I consider the offence deserved a red card as it placed the HK player at risk of serious injury and therefore cite Romanian Player No1 for making contact to HK No 8's eyes/eye area."

2. The Dvd evidence was shot from one angle only. HK8 can be seen carrying the ball into contact in the Romanian 22 approximately 10 metres from the Romanian try line. The footage confirms the Citing Commissioner's report. Hk 8 is in a low 90 degree driving position and is tackled by R7 from the left side and below the head and shoulder area, simultaneously the Player grasps HK8 round the neck with his right arm and his own head and shoulders over the back of the head and shoulders of HK8 in a headlock type grasp. HK 8's head is in the area of the Player's stomach. An HK player subsequently supports HK 8 in the drive forward –number not clear from the footage angle. The position of the Player's left hand cannot be seen but his right arm can be seen around the neck of HK8. His lower arm and right hand cannot be seen. HK 8 goes to ground and the Player remains on his feet and backs away from HK8. Hk 3 is just behind HK8 and after HK 8 goes to ground looks at the referee and motions with his right hand towards his own eyes. HK 12 points with an outstretched arm at the Player and looks at the Referee. The referee awards HK a penalty.

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

1. HK No8 Jake Barlow stated in his written statement as follows:

"My name is Jake Barlow I play No 8 for Hong Kong against Romania in Bucharest on 5/09/2018. Within their 22, I was set up for a carry coming round the ruck. I carried the ball into contact low and hit two players. One tackled me shoulder height and one head locked me. Whilst carrying the larger Romanian player began to gauge my face with both hands. He gauge my eyes and face which I felt large amount of pain and loss of sight. I am unable to identify his number but he was a large forward. I then went to ground and play was stopped."

During the hearing the Player expressed the wish to question and hear oral evidence from HK 8 and Dr Jeans. HK 8 by telephone confirmed the contents of his statement. He said he had the ball in both hands, as he started his leg drive. He recalled both hands of the Player came into contact with his face and eyes and contact was definitely made with his left eye. He said the Player stuck his fingers in my eye, he felt immediate pain and fell to the ground clutching his face. He was sure there was contact with the pupil/eyeball of his left eye. He said he lost his sight and had blurred vision for 1 to 2 minutes and after the Dr applied water to his face and eyes he was able to play on. Questioned by Mr Rutherford he said the contact was with the finger nail. Neither the Player nor Mr Ionita asked HK 8 any questions.

2. The HK team doctor Dr Austin Jeans stated in a written statement as follows:

“I attended our No8 player Jake Barlow in the second half (time tbc on video review) where he went down in the opposition 22m. He complained of blurred vision in the left eye from a gouge (intentional) by an opposition Romanian player. My initial examination confirmed temporary blurring of left eye vision in the player which cleared after a short time and he returned to play”

Dr Jeans gave additional evidence by telephone. He said HK8 was lying in distress on the floor when he entered the field of play, his eyes were closed and he was complaining about his vision. There were no obvious marks to his eyes or eye area nor evidence of trauma in the eyes, save that his left eye appeared blurred. He irrigated the left eye and his vision appeared to clear after a minute or so. There was no subsequent evidence of injury or trauma to the eyes after the match. Neither the Player nor Mr Ionita asked Dr Jeans any questions.

3. HK No 3 Mikkel Christensen stated in his written statement as follows:

“I give this statement in relation to a citing incident in the match between HK and Romania in WRT 2018 played on Wednesday 5th September. In the incident which occurred at around 29 minutes I saw HK player Jake Barlow (No8) going into contact with the Romanian No1 holding him around the head with one arm, while the other hand made contact with the face and eye area of Jake Barlow. I heard Jake scream and then I said to the referee ‘that’s a full on eye gouge’. The referee made no reply or comment to me. After that a penalty was given to HK by the referee.

4. HK No 12 Alex Nisbet stated in his written statement as follows:

“In the incident which occurred at around 29 minutes I saw Jake Barlow (No 8) going into contact with the Romanian No 1. I heard Jake scream but I did not see anything else as I was late to arrive at the contact area. I pointed out the offending player to the referee but then concentrated on ensuring my team mates did not get into any disputes with the opposition. The referee made no reply or comment to me. After that a penalty was given to HK by the referee.

5. The referee Paulo Duarte (Portugal) stated in his written statement as follows:

“Into the 2nd half of the game between Romania and Hong Kong, game that I was the referee, around 29’ Player No1 from Romania high tackled around the neck HK N8. After I penalize Romania, a player from HK come to me saying that the player tackled was eye gouged. During the tackle I didn’t see any actions that would have led to eye gouging situation.”

6. A photograph was produced to the Committee which showed the head and face of HK No8. The photograph showed a bruise/red mark under the right eye of HK No 8. It was confirmed by Mr Rutherford from WR that it was agreed that this marking did not occur in the alleged incident. The photograph did not show any discernable evidence of trauma or damage to the eyes or pupils of HK No 8.

SUMMARY OF PLAYER'S EVIDENCE

The Player in response to the standard directions did not directly admit the allegation in the citing but said he would argue about the fact the situation in the case was not premeditated and it was just something that happened when he tried to stop the advancing opposition towards the line. He did not require any witnesses to attend or give oral evidence. Initially, the Player, when the allegation was put to him denied that his hand or hands or fingers went into either the eye or the eye area. The definition of reckless contact and the eye area and eye was carefully explained to the Player and his representative by the Chairman and the opportunity to retire to consider his position was given on more than one occasion. After consulting with his representatives, Mr Ionita and Mr Abjok he eventually admitted that one of his hands and or fingers may have come into contact with the eye area and thereby admitted contact with the eye area. He denied any contact with the eye or eyes. Therefore, the sole factual issue for the Committee to determine was whether there was any contact by the Player's hand or finger or fingers with the eye or eyes of HK 8.

The Dvd was viewed in the presence of the Player. His evidence was given partly in limited English but mainly in Romanian and translated by Mr Ionita. His evidence can be summarised as follows:

"During the game HK had the advantage over the Romanian team and his sole intention at the time of this incident was to stop the ball carrier and to try and strip the ball from his possession and out of his hands. He wanted to stop HK scoring a try. He conceded that in attempting to strip the ball, his hands were misdirected given the power and position of HK8 and that his hands probably went into the face and eye area of HK8. He denied that any of part of his hand, finger, fingers or nails went into the eye or eyes of HK 8. He was not aware of any such contact nor did he at any time feel the softer nature of the eye or eyeball. He was adamant that his sole intention was to aim for the ball to strip it. He also referred to what he called the arrogance of the HK8 and the occasions when he had tried to stop or block Romania from playing."

FINDINGS OF FACT

The Committee in determining the factual issues considered all the circumstances and the totality of the evidence which in part was circumstantial as well as the direct evidence of HK 8 who was sure a finger came into contact with his left eye. Dr Jeans confirmed that whilst there was no evidence of trauma or blood in either eye, the left eye in particular required water irrigation and the left eye may well have, for a very brief period of one to two minutes sustained some blurring. HK3 stated he saw one arm of the Player round the head of HK8 and with the other hand observed the Player's hand in the face and eye area of HK 8 and stated to the referee immediately after the incident "that's a full on eye gauge". Hk 12 can also be seen on the Dvd gesticulating with his hand and fingers towards his own eyes to the referee immediately after HK8 went to ground. Furthermore, HK 8 said he screamed and this was heard by HK 12 and 3. It is very important to record that none of this evidence including the oral evidence of HK8 and Dr Jeans was directly challenged either by the Player or Mr Ionita.

Nevertheless, the Committee reminded itself that it had to be satisfied to the required standard of proof, namely on the balance of probability that there was reckless contact with one or both eyes of HK8, or put another way is it more likely than not, based on the totality of the evidence there was reckless contact with the eye or eyes. The Committee considered with care the evidence of the Hong Kong players, who were team mates of HK8 and therefore may not be truly independent and impartial. The Player had during the course of the hearing admitted that his hand had probably come into contact with the eye area. He therefore admitted the lesser offence of contact with the eye area. The Committee were also mindful of the inexperience of the Player in disciplinary matters having never been cited or sent off in his career together with the language difficulty which he appeared to face in expressing himself. Mr Ionita was the team manager and not a lawyer or a person with extensive knowledge of the disciplinary process. Based upon the above findings relating to the evidence the Committee found as follows:-

1. One of the Player's fingers came in to contact with the left eye of HK8. Pressure was applied which resulted in HK8 screaming out, this was heard by HK 12 and HK 3. Dr Jeans confirmed that the left eye required water irrigation and there was some modest blurring of the left eye for a minute or two. This evidence was credible and accepted by the Committee as evidence of contact with the left eye as opposed to the Player's version of just the eye area. HK3 saw a hand in the eye area of HK8 not in or on the eye. On the critical issue of whether there was contact with the left eye, the Committee accepted the evidence of HK8 although it was our finding that in giving his oral evidence he exaggerated slightly the nature and commission of the allegation. There was no reference in his original statement to the use of a finger nail in his eye, nor was there any medical evidence of trauma or blood in the eye. The Committee were not, therefore, satisfied to the required standard that there was contact with the right eye by any part of the Player's hands or fingers and it was likely that there was, as admitted by the Player only contact with the left eye area and as the Committee found the left eye.
2. The photograph evidence on its own was not persuasive or compelling, it did not show evidence of trauma or blood and therefore was not supportive of either contact with the eye or eye area. It follows that it was evidence which was supportive of the Player's version of events and not HK 8.
3. The actions of HK 12 in pointing out the Player as the person involved in the incident and HK3's evidence of seeing the Player's hand in the eye area of HK 8 and both players hearing HK 8 scream and then HK 3 telling the referee "that's a full on eye gauge" was supportive circumstantial evidence (which was accepted by the Committee) of contact with the eye area. It was not direct evidence of contact with the eye.
4. The Committee considered whether any other Romanian player could have committed the offence, namely R7 who was also involved in the tackle. Having considered his action and position in relation to HK on the Dvd the Committee determined that this was not possible due to the way R7 tackled HK 8 with his left arm going to the floor at the side of HK 8 and the right arm contacting the back of HK 8. It follows, therefore at the time of the alleged contact with the

left eye, there was only the Player in contact with and in a position to commit the alleged offence.

DECISION

Breach admitted to the extent of contact with the eye area but not the eye or eyes	The Committee found that the reckless contact to the left eye was proved for the reasons set out above in the finding of fact section. The committee were not satisfied that there was contact to the right eye.
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SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.19.2(a)-(b) (or equivalent Tournament rule)
Reckless X
State Reasons
The Player in his attempt to go for the ball and pull the ball away from HK No8's chest area put one hand into the face of HK no8 by his own admission and in doing so a finger came into contact with the pupil or soft tissue of the left eye with such pressure to cause pain to HK No8 and cause him to scream. There was no evidence that he targeted the eye but by putting his hand into the face of HK 8 he should have realised that there was a risk that his hand or finger could come into contact with the eye. The Committee, based upon the findings of fact above determined that the actions were accordingly reckless.
Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule)
Putting a hand into the face of a player even if that is not the original intention carries the risk of contact with the eye or eye area as occurred in this case resulting in a finger pressing on the left eyeball or pupil of HK 8 resulting in some pain and subsequent blurring of his vision for a short period.
Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
A finger of one hand came into contact with the left eye.
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)
None
Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule)
None
Self-defence – R 17.19.2(g) (or equivalent Tournament rule)
None
Effect on victim – R 17.19.2(h) (or equivalent Tournament rule)
HK8 felt pain which caused him to scream. The left eye required irrigation. The left eye vision was blurred for one to two minutes after which the vision cleared. HK 8 resumed playing and finished the match. There was no further injury to the eye.
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)
None

Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)
The eye of the victim is very vulnerable particularly when the victim is lawfully driving forwards into an opponent with his head down
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)
There was no evidence of intent or premeditation although the Player’s attempt to strip the ball was very poorly executed with one arm round the victim’s neck and his head and torso above the victim’s back.
Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule)
Completed
Other features of player’s conduct – R 17.19.2(m) (or equivalent Tournament rule)
None

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point		
<input type="checkbox"/>	<u>Mid-range</u> 12 <u>Weeks</u>	<input type="checkbox"/>

*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

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player’s status as an offender of the Laws of the Game – R 17.19.4(a) (or equivalent Tournament rule)
None
Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule)
None
Any other off-field aggravating factors – R 17.19.4(c) (or equivalent Tournament rule)
None

Number of additional weeks: 0

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 17.19.5(a) (or equivalent Tournament rule)	Player’s disciplinary record/good character – R 17.19.5(b) (or equivalent Tournament rule)
Eventual admission to contact with the eye area after the nature of the offence and the description of the eye and eye area were explained to the Player and his representative. No admission of contact with the eye.	Excellent.
Youth and inexperience of player – R 17.19.5(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.5(d) (or equivalent Tournament rule)
Young (19) and very inexperienced. He has only been playing rugby for 3 years.	Appropriate and respectful
Remorse and timing of remorse – R 17.19.5(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.5(f) (or equivalent Tournament rule)
No immediate apology to victim. He was very sorry for what had happened even though he denied contact with the eye.	His club CSN Bucharest were as a result of the sanction going to be short of prop forwards.

Number of weeks deducted:

5

<p>Summary of reason for number of weeks deducted: The Committee considered that the considerable inexperience of the Player and his Manager with the process and also relating to the definition of the eye and eye area and the consequential different sanctions available plus the principle of reckless contact should be balanced against the presence of the other mitigating factors. No direct apology to the victim was offered. On balance a 40% deduction (5 weeks) was considered to be appropriate and fair in the circumstances of this case.</p>
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SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.14.5(f) (or equivalent Tournament rule)

Total sanction	7 weeks
Sanction commences	6th September 2018
Sanction concludes	Midnight on 4 th November 2018, free to play again on 5 th November 2018.
Matches/tournaments included in sanction	Final match in U20 Trophy Tournament plus 6 weeks of the Player’s playing schedule for his club which includes a 2-week period when he is not scheduled to play any matches.

Costs	None
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Signature (Chairman)	Mike Hamlin	Date	9 th September 2018
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NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.22.2(a) (or equivalent Tournament rule) (see Page 6)