

DISCIPLINARY DECISION



Match	Portugal U20 v Uruguay U20		
Player's Union	Uruguay	Competition	World Rugby U20 Trophy 2018
Date of match	5 th September 2018	Match venue	Bucharest, Romania
Rules to apply	Tournament Disciplinary Program – World Rugby U20 Trophy 2018		

PARTICULARS OF OFFENCE			
Player's surname	Nicola	Date of birth	16 th January 1998
Forename(s)	Juan Juan		
Referee Name	Nika Amuashukeli (Georgia)	Plea	Admitted
Offence	Spitting at another player, contrary to Law 9.26	SELECT:	Citing
Summary of Sanction	6 Weeks – suspended from 5 th September to 3 rd November 2018 representing a 6-week sanction taking into account the relevant meaningful matches for the Player.		

HEARING DETAILS			
Hearing date	7 th September 2018	Hearing venue	Ramada Parc Hotel Bucharest
Chairman	Mike Hamlin (England)		
Other Members of Disciplinary Committee	Val Toma (Romania) Stefan Terblanche (South Africa)		
Appearance Player	YES	Appearance Union	Yes
Player's Representative(s)	Ricardo Martinez – U20 Manager	Disciplinary Officer and/or other attendees	Ben Rutherford and Yvonne Nolan plus observers from World Rugby Judicial Workshop
List of documents/materials provided to Player in advance of hearing	Citing Report; Assistant Referee Statement; Portugal Player Statement; Team Sheet; Tournament Disciplinary Rules (N.B. No Video Footage available of Incident)		

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

Peter Larter (England), the appointed Citing Commissioner for the match cited the Player for spitting at another player contrary to Law 9.26. The Citing Report dated 6th September 2018 stated:

“After the end of the match there were some scuffles in the in-goal area. Portugal then referred a spitting incident to me. There is no recording of the incident as the cameras had stopped working. The Portugal No17 (Jose Sarmiento) stated that he had been spat at by a Uruguay player, but was not sure which player it was. He has submitted a signed statement, which is presented as evidence. The AR2 (Alexandru Ionescu) was very close to the incident, and has submitted a report which identifies the Uruguay player as No 26 (Juan Juan Nicola), and describes his view of the incident, which states that he

was standing between the 2 players and saw U26 spit in the direction of P17 who was standing behind him. His statement is submitted as evidence. In the absence of match footage but on the basis of the evidence in the statements of P17 and the independent corroboration of AR2, I consider the offence to merit a Red Card and therefore cite the Uruguay No26 for spitting at P17.”

AR2 Alexandru Ionescu from Romania stated:

“At the end of the match after the final whistle, I saw U26, who was in front of me, at a distance of approx. 1.5 metres, intentionally spitting at P17, who was behind me. The action of U26 was done with intention towards P17, U26 did not spit accidentally. There were no players obstructing my sight and the distance between P17 and U26 was approx. 2.5 metres. Due to the fact that I was between U26 and P17, I am not sure where the spit landed (on the shirt or on the head). After that, a scuffle started.”

P17, Jose Sarmiento stated;

“After the final whistle, I saw a friend being grabbed by a Uruguay player and I went there to try to separate them, so it can all be over. Then, I felt someone grabbing me from behind and pulled me to his side. He started to yell at me and then he spat at me and it landed on my face. I had to clean it with my hands. I am not sure of the player’s number that did this to me”.

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

None

SUMMARY OF PLAYER’S EVIDENCE

In response to the Tournament Standard Directions, The Player admitted the offence and did not dispute any of the evidence presented to the Panel save that he thought it was possible that the spit or some of it may have landed on the floor. At the time of spitting he was angry because P17 had goaded him by saying “2-0”, referring to the fact that Portugal had now beaten Uruguay twice in this U20 Trophy Competition and he reacted. He conceded that after this incident there was a scuffle between all the players from both sides which lasted for up to a minute. He had been playing rugby for 10 years and this was the second year he had represented Uruguay U20. He had never been sent off or suspended. He apologised to the Panel but had not done so to P17 directly due to the manner in which the game finished.

Ricardo Martinez, the Manager spoke highly of the Player but was very disappointed in his conduct. The Player was as a senior player in the side and had let his side and country down. The team management were very disappointed and were going to meet to consider further sanctions against the Player.

FINDINGS OF FACT

Having considered the totality of the written and oral evidence the Committee made the following findings applying the required standard of proof, namely on the balance of probabilities:

1. The Player spat at P17 from a distance of approximately 2.5 metres.
2. The sputum landed either, in part or in total on the face of P17. The Committee accepted the evidence of P17 and AR2 which was credible and compelling nor was it significantly challenged in any respect. It was accepted that the Player did not deliberately aim to spit in the face of P17 but at him and in his direction.
3. P17 did to a very limited extent verbally provoke the Player
4. This incident led to an unseemly scuffle between players from both sides but which did not merit any disciplinary intervention by the officials or the Citing Commissioner.

DECISION

Breach admitted	Proven
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SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.19.2(a)-(b) (or equivalent Tournament rule)
Intentionally spat at P17 but did not deliberately target the face
State Reasons
By the Player’s own admission he deliberately spat at P17
Gravity of player’s actions – R 17.19.2(c) (or equivalent Tournament rule)
Spitting is a hideous action which apart from the possible health risks has no place in sport, particularly when the sputum lands on the face of a Player, albeit from a distance of 2.5 metres
Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
Spitting at another player
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)
Minor verbal comment only
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)
No injury but the unpleasant and distasteful action of having to remove sputum from his face.
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)
A scuffle broke out between players from both sides which was no doubt unsightly and an unpleasant way to conclude the match.

Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)
No player expects or anticipates being spat upon.
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)
A spontaneous intentional act but not premeditated.
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"/>	<input type="checkbox"/>	Top End 12 weeks X

*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
This was an intentional act, which resulted in some sputum landing in the face of P17. P17 was vulnerable to such an act and the incident led to an unsightly scuffle between players from both sides even on the Player's own admission but the Committee did not find that the Player deliberately targeted the face nor was the sputum delivered from a close distance otherwise this would have been conduct which merited an entry point beyond 12 weeks.

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:

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)
Immediate and no prevarication.	Excellent character and record
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 and inexperienced at senior rugby but had been playing for 10 years.	Appropriate and acceptable
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)
Remorseful and apologetic at the hearing although it was noted that no personal apology had been offered to P17 after the incident itself.	None but after the hearing WR and the Committee were notified that the team management had decided to require the Player to perform Community Coaching for local U12 schools once a week until 31 st December 2018 as additional punishment. The Rugby Union of Uruguay are to be commended for taking such additional action in this case.

Number of weeks deducted:

6

Summary of reason for number of weeks deducted: The committee were satisfied that the Player was entitled to 50% reduction from the entry point notwithstanding there was no direct apology to P17, remorse was evident and the weight attached to the other mitigating factors was sufficient to persuade the committee that in this case a 50% reduction was justifiable.

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	6 weeks	
Sanction commences	6 th September 2018	
Sanction concludes	Midnight on 3 rd November, free to play again on 4 th November 2018	
Matches/tournaments included in sanction	1 match in this tournament and 5 weeks in the domestic league in Uruguay.	

Costs	None
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Signature (JO or Chairman)	Mike Hamlin	Date	8 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)