

DISCIPLINARY DECISION



Match	Romania v. Tonga		
Competition	November Internationals 2021		
Date of match	20 November 2021	Match venue	Bucharest, Romania
Rules to apply	Regulation 17 World Rugby (Nov. 21 window)		

PARTICULARS OF OFFENCE

Player's surname	Lama	Date of birth	12 October 1995
Forename(s)	Sioeli		
Player's Union	Romania		
Referee Name	Adriaan Jacobs	Plea	<input type="checkbox"/> Admitted <input checked="" type="checkbox"/> Not admitted
Offence	9.17 A player must not tackle, charge, pull, push or grasp an opponent whose feet are off the ground.	SELECT: Red card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other <input type="checkbox"/> If "Other" selected, please specify:	
Summary of Sanction	2 matches		

HEARING DETAILS

Hearing date	25 November 2021	Hearing venue	Zoom call
Chairman/JO	Philippe Cavalieros (France, former player)		
Other Members of Disciplinary Committee	David Croft (Australia, former international player) Ofisa Tonu'u (New-Zealand, former international player)		
Appearance Player	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Appearance Union	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
Player's Representative(s)	Horatiu Bargaunas (Romania team manager)	Disciplinary Officer and/or other attendees	Brian Hammond Joyce Hayes
List of documents/materials provided to Player in advance of hearing	<ul style="list-style-type: none"> Adriaan Jacobs ("Referee") Report dated 20 November 2021 ("Referee Report") Tonga Team Sheet Andrey Matviyuk Citing Commissioner ("CC") Report dated 20 November 2021 ("CC Report") Romania Team Sheet Regulation 17 (Nov. 21 window) Video footage of the incident Statement by Chris Rainbow (Tonga's physio) dated 21 November 2021 Statement by Dr. Adam Ruben (Tonga's consultant emergency medicine) dated 21 November 2021 Statement by Ben Blain ("AR1") dated 22 November 2021 Statement by Sam Grove White ("AR2") dated 22 November 2021 Statement by Ian Tempest ("TMO") dated 22 November 2021 Statements by Sonatane Takulua ("Victim Player") dated 21 and 23 November 2021. 		

	<ul style="list-style-type: none"> • Tincu vs/ ERC (Appeal) • Bergamasco vs 6 Nations (Appeal) • Response to Standard Directions dated 23 November 2021
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SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/INCIDENT FOOTAGE

The Referee Report provides that the Player tackled the opponent while his feet was off the ground , and the Victim Player came down lower back first.

The AR1 Statement provides that “I was an AR for this game. AJ referred the incident to Ian who was TMO. After watching replays on the screen AJ described what he saw and explained that he was going to issue a yellow card to R23. I had no more facts to add to this incident”.

The AR2 Statement provides that “ I was an AR in this match. This incident was referred to the TMO where AJ confirmed the facts and gave a YC”.

The TMO Report provides that “AJ referred the incident to myself. Once the footage was replayed on the stadium screen AJ described what he saw (as per his report) and that he was going to issue a YC. I had no further facts to add and agreed with his description. The player was then YC’d”.

The CC Report provides that “at 18:46 remaining in H2 (broadcast clock), Tonga 9 (Sonatane Takulua, Red jersey) is charged dangerously in the air by Romania 23 (Sioeli LAMA, Yellow jersey). Player 9 Tonga jumped up and caught the ball. At the high point of his jump, he was undercut by Player 23 Romania. The point of contact was below the hips (well below the center of gravity) of Tonga 9, causing the victim's legs went completely through the horizontal and into the vertical position which left him in a very vulnerable and dangerous position. As a result, he flipped over in the air and fell on his back. The tackler, Romania 23, was in an ideal position with a clear view of the catcher, his jump phase and the time and space for reaction. In the final phase of his tackle, he does not grab the body of the ball catcher with both hands, thereby cutting him in the air with a blow of his shoulder and open arms.

After consulting with the TMO, the referee issued a Yellow Card to player 23 Romania. In accordance with the WR Guidelines for Challenging players in the air, this action by Romania 23 breaches the Red Card threshold: It's not a fair challenge, Romania 23 does not attempt to contest, his actions are a reckless foul play action and the player lands in a dangerous position from a height. Romania 23 tackled the player who is at the highest point of his jump. And it's not his merit that the incident ended lucky for Red 12 [*recte*, Red 9]. He could not control the landing of Red 12 [*recte*, Red 9] after a collision with him. The actions of Romania 23 (Sioeli LAMA, Yellow jersey) constitute foul play contrary to Law 9.17 “challenge in the air” which meet the RC threshold; therefore, I am issuing a Citing”.

The footage provided, as further analysed below, essentially confirms the Match Officials' and the CC's perspective.

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

The Statement by Tonga's physio provides that the Victim Player “was winded from his heavy landing but showed no signs of any other issues. Post match he reported no issues and completed the rest of his

match time with no complaints. Adam was first to attend to Tane on pitch so may have something else to report, which I'm sure he will add once he has seen the email".

The Victim Player's statements provide that "I still have sore neck and headache now and then" (23 November 2021), and "I landed right on my back with my leg up in the air. Looks like in the video he speed up with no eye on the ball and he tackle me while I'm in the air (21 November 2021).

The Statement by Tonga's doctor provides "Nothing else to add from my perspective. On initial review on the pitch Tane was understandably winded, but there was no suggestion of head or neck injury. He recovered and was keen to continue. No further symptoms were reported during or after the match".

SUMMARY OF PLAYER'S EVIDENCE

The Player accepts that, though unintentionally, he has committed an act of foul play which however did not warrant a red card. In particular the Player accepts that he committed an act of foul play contrary to Law 9.17 by tackling Tonga 9 when his feet were off the ground resulting in that player coming down with some force and landing on his lower back in a dangerous manner.

The Player admits to have misjudged the context of the phase and assumed that Tonga 9 would not jump to catch the ball so he decided to tackle his opponent as soon as Tonga 9 would catch the ball with his feet on the ground. However, the Player admits that he had a clear line of site but acted recklessly in mistiming his actions in the way that he did and should have anticipated that Tonga 9 would jump for the ball.

This said, the Player considers that, as soon as he felt he made contact with a player in the air, he completely disengaged from his commitment to tackle Tonga 9 and went to ground, opening his right arm and holding with his left hand Tonga 9 left calf from above, slowing down Tonga 9 legs from going further up. According to the Player, this was an instinctive reaction as it happened in a split second but proves that he was not committed to cause any harm to Tonga 9 and attempted to mitigate the effect of his actions.

The Player notes that the Victim Player sustained no injury, was quickly back on his feet, smiled, and after a brief medical examination was able to play on with no issue and no further welfare problem has been identified after the match, as confirmed from the post citing statements of the Tonga medical personnel.

Moreover, the Player submits that the citing report seems to be based on a single evidence, the footage of the incident. There are no indication that the Citing Commissioner obtained any other evidence that might have been useful in his decisional process, like Match Official statements, player statement, Tonga medical staff statements etc.

The Player disagrees with some of the details in the way that the victim's body did not flip over in the air (with the upper body below the hips level), such that Tonga 9 was not in a "**very vulnerable and dangerous position**" (emphasis added) and that he did not land on the flat of his back or on his upper back but with his lower back first.

Moreover the Player submits that the on-field Match Referee's decision to issue a yellow card is fully supported by the facts and the WR guideline whereas the Citing Commissioner applied a literal interpretation of the guideline in that he noted that "the player lands in a dangerous position" and he skipped the yellow card recommendation.

In the Player's view, a logical and proper understanding of the guideline should be that a red card is warranted when *"it's not a fair challenge with no contest, whilst being a reckless or deliberate foul play action and the player lands in more dangerous position than on his back or side"*, otherwise the yellow card recommendation would be meaningless.

In the Player's view, the vast majority of the cases landing on back or side means that the action of the offender has a lower degree of danger whilst landing on upper back/shoulder(s)/neck/head means that the nature of the Player's action was so serious that it causes the victim player's body to flip in the air such that he falls with his upper body below the level of his waist. It usually happens when an airborne player is pulled down by a grasp on his upper body, or charged below the centre of gravity with such force and speed that his body rotates in the air. Rarely it may happen that an act of foul play which causes a landing on back or side is serious enough to warrant a red card.

In the Player's view and contrary to the Citing Commissioner's opinion, Tonga 9 landed on his lower back (and not in a more dangerous position) not simply because of luck but with a slight contribution from the Player's actions, for the following reasons:

- a. As soon as the Player felt that he made contact with his opponent in the air, he instinctively ended his commitment to tackle dominantly and went to ground. Had he attempted to complete the tackle and go all the way, it is highly likely that the victim player would have rotated in the air and landed in a more dangerous position;
- b. While the Player goes to the ground, his left hand maintains a brief grasp from above the left calf, just above the foot, of the victim player. The footage clearly shows that this brief action of the Player prevents the Tonga 9 legs to further go up and his body to rotate in the air and very likely prevents a more dangerous landing.

Therefore, contrary to the Citing Commissioner opinion, the Player submits, while acknowledging his fault to have recklessly initiated a contact with an airborne opponent and caused his fall to the ground, that his actions should be granted with a certain amount of merit in mitigating the danger of the Tonga 9 landing by his disengagement and instinctive reaction to stop the Tonga 9 body rotation in the air.

Moreover the Player submits that the CC should exercise his/her powers with care in situations like the following (albeit non exhaustive):

- When the Citing Commissioner has the benefit of supplementary evidence that was not available to the Match Officials at the time of the on-field decision;
- When it is clear and obvious that, based on all available evidence, the on-field decision was insufficient.

In any such situations, before establishing that the on-field sanction was too lenient, the Match Officials should be afforded a reasonable margin of appreciation in exercising their judgements and the Citing Commissioner should step in only when the on-field decision was manifestly wrong in terms of findings of fact or afforded margin of appreciation by the Match Officials.

Consequently, the Player submits that the incident does not pass the threshold test.

FINDINGS OF FACT

In the 44th minute into the second half, the Player kicks the ball in the air and chases it. He initially looks in the air keeping an eye on the ball to then suddenly accelerate with his eyes on the receiver or Victim Player only, in order to perform a tackle at chest/torso level, as confirmed by the Player during the Hearing.

Just before impact however, the Victim Player jumps quite significantly high up to catch the ball in the air, and as a result thereof, the Player enters into collision at full speed causing the Victim Player to flip over in the air and fall on his lower back area.

Whilst so doing, the Player immediately realises he committed foul play and tries to catch the leg of the Victim Player in order to avoid further damage.

A brawl ensues and the Player does not get involved in any way.

The first question the Committee had to determine was whether the incident warranted a red card as submitted by the CC. In so doing, the Committee was mindful of the standard of proof, which is the balance of probabilities (Reg 17.15.1), and that the burden of proof lies on the Player to establish that the CC was wrong in submitting the citing (Reg. 17.15.3).

At the Player's request, the Referee and the TMO were heard to give their account of the facts and decision-making process in order to reach their decision to give the Player a YC. In so doing, the Committee reminded them, that their oral testimony should be limited to the facts, and that they should not give their opinion with hindsight on the incident.

Both the match officials and the Player in the course of these proceedings have confirmed that they relied in this respect on WR's agreed guidelines for foul play regarding challenges in the air ("**WR Guidelines**").

While the aim of such Guidelines is to give match officials (rather than judicial committees) a method in order to assess whether a challenge in the air is fair or amounts to foul play, the Committee considered that references thereto could indeed be made, notably since both the Player and the Disciplinary Officer also relied thereon in their respective written or oral submissions.

As indicated above, the Player submitted that if the challenge in the air is not a fair challenge (as he admitted), the mere fact that the Victim Player landed on his back or side justified a yellow card only.

Furthermore, assuming the unfair challenge was reckless or even deliberate, the Player submitted that the Guidelines only contemplate issuing a red card when the player lands into a more dangerous position, which necessarily should be a position other than on the back or side, *i.e.* most commonly the head or neck area.

The Committee does not share the Player's analysis. The Guidelines provide as follows :

1. "It's not a fair challenge, there is no contest and the player lands on back or side = **YELLOW CARD**
2. It's not a fair challenge with no contest, whilst being a reckless or deliberate foul play action and the player lands in a dangerous position = **RED CARD** "

The Guidelines therefore neither indicate that a dangerous position is necessarily a position other than the back or side area, nor that a landing on the head or neck area only, would warrant a red card.

The Guidelines merely provide that if the victim player lands in a dangerous position, a red card can be issued, provided the act was either reckless or a deliberate foul play action.

In this instance, on the basis of the available footage and submissions, the Committee was satisfied that the act was not intentional. While the Player wanted to tackle hard, and had his eyes set on the Victim Player during the short phase before contact, the Committee is satisfied that the Player had no intention of deliberately committing foul play.

However, and as admitted by the Player (notably in its written submissions) the act was reckless. Reg 17.18.1(b) provides that an offending is reckless when the Player knew or should have known that there was a risk of committing an act of foul play.

In the present case, the Committee considered that when chasing the ball in the air, the Player should have known that there was a chance that the Victim Player would jump in the air to catch the ball as he eventually did. The Committee adds that the Player should have better monitored his pace in order to exercise greater caution.

As to the dangerous position, whilst recognising together with the Match Officials and the Player that the Victim Player landed on his lower back, the Committee considered that it is within its discretionary powers to assess dangerousness, and determined that the Victim Player ultimately ended in a "dangerous position". While the Player indeed attempted to (whether consciously or unconsciously) mitigate the flipping effect (as he submitted), notably by grabbing the Victim Player's leg, the Committee considered that the Victim Player landed from quite high up in a dangerous position, with virtually no control on the impact zone, and it is quite irrelevant in this respect that the lower back was hit first. The landing was simply dangerous *per se*.

Accordingly, the Committee considered that the incident warranted a red card.

With respect to the entry point, whilst being a dangerous position, the Committee noted there was fortunately no contact with the head or neck area and that the Victim Player suffered no injury and immediately resumed the game, it being noted that he later indicated having a sore neck and headache, but that his team's doctor for his part indicated that no further symptoms were reported during or after the match.

Accordingly, a low-end entry point was selected.

DECISION

Breach admitted <input type="checkbox"/>	Proven <input checked="" type="checkbox"/> Not proven <input type="checkbox"/> Other disposal (please state) <input type="checkbox"/>
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SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.18.1(a)-(b) (or equivalent Tournament rule)
Intentional <input type="checkbox"/> Reckless <input checked="" type="checkbox"/>
State Reasons
When chasing the ball in the air, the Player should have known that there was a chance that the Victim Player would jump in the air to catch the ball as he eventually did.
Nature of actions – R 17.18.1(c) (or equivalent Tournament rule)
Challenge in the air with the Player trying to immediately mitigate his action by catching the Victim Player's leg.
Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule)
N/A
Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)
N/A
Self-defence – R 17.18.1(f) (or equivalent Tournament rule)
N/A
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)
N/A
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)
N/A
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)
Victim Player was vulnerable in the air and fell on his lower back area from quite a height after a flip.
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)
Player had his eyes set on the Victim Player and intended to tackle the Victim Player at chest level.
Conduct completed/attempted – R 17.18.1(k) (or equivalent Tournament rule)
Completed
Other features of player's conduct – R 17.18.1(l) (or equivalent Tournament rule)

N/A

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks/Matches</u>	<u>Mid-range</u>	<u>Weeks/Matches</u>	<u>Low-end</u>	<u>Weeks/Matches</u>
<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>	4

*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 17.18.1(a), 17.18.1(g), and 17.18.1(h) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 17.19.1(a) (or equivalent Tournament rule)	Player's disciplinary record/good character – R 17.19.1(b) (or equivalent Tournament rule)
The Player immediately acknowledged guilt for foul play admitting the yellow card	Excellent
Youth and inexperience of player – R 17.19.1(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.1(d) (or equivalent Tournament rule)
This was the Player's first international cap, and the Player is 26 years old.	Impeccable
Remorse and timing of remorse – R 17.19.1(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.1(f) (or equivalent Tournament rule)
The Player immediately raised hands on the pitch and apologised to the Victim Player	N/A

Number of weeks/matches deducted:

2

Summary of reason for number of weeks/matches deducted:

The Player has a clean disciplinary record, acknowledged guilt for foul play, expressed remorse and it was his first international cap. He and his counsel's team conduct before and during the hearing was exemplary.

Although the Player initially challenged the citation, the Committee decided to apply a full 50% mitigation also for the following reasons. First, the Player's argument were legitimate given that there was a fine line between the YC issued on the pitch and the decision of the Committee. This is notably evidenced by the low-entry point selected.

Second, once the Committee informed the Player of its decision regarding the RC test, the Player also admitted that it was a fine line, understood the Committee's views and actively engaged in the discussion on entry points.

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 17.20.1(a) (or equivalent Tournament rule)
N/A
Need for deterrence – R 17.20.1(b) (or equivalent Tournament rule)
N/A
Any other off-field aggravating factors – R 17.20.1(c) (or equivalent Tournament rule)
N/A

Number of additional weeks/matches:

N/A

SANCTION

NOTE: PLAYERS ORDERED OFF OR CITED BY A CITING COMMISSIONER ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.12.5(f) / 17.13.7 (or equivalent Tournament rule)

Total sanction	2 matches	Sending off sufficient <input type="checkbox"/>
Sanction commences	21 November 2021	
Sanction concludes	After the second game currently scheduled on 5 February 2022, <i>i.e</i> currently on 6 February 2022 or earlier if the Romanian team schedules another official fixture beforehand.	
Matches/tournaments included in sanction	<ul style="list-style-type: none"> A Romania A international fixture scheduled on 17 or 18 December 2021 	

	<ul style="list-style-type: none"> • A Rugby Europe Championship match scheduled on 5 February 2022 (unless the Romanian team schedules another official fixture beforehand) <p>(Note : no domestic or other international games are scheduled for the Player at this stage)</p>
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Costs	N/A
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Signature (JO or Chairman)		Date	26 November 2021.
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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 17.24.2(a) (or equivalent Tournament rule)

[Standard Appeal Directions to appear on this page]