

## DISCIPLINARY DECISION



Match	Japan v Italy		
Competition	RWC 2021		
Date of match	23 October 2022	Match venue	Waitākere Stadium
Rules to apply	Regulation 17 World Rugby Handbook & RWC 2021 Tournament Disciplinary Programme		

### PARTICULARS OF OFFENCE

Player's surname	Tounesi	Date of birth	19/07/1995
Forename(s)	Sara		
Player's Union	Federazione Italiana Rugby		
Referee Name	Maggie Cogger-Orr	Plea	<input type="checkbox"/> Admitted <input checked="" type="checkbox"/> Not admitted
Offence	Biting – 9.12	SELECT:    Red card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other <input type="checkbox"/>  If “Other” selected, please specify:	
Summary of Sanction	12 matches/weeks		

### HEARING DETAILS

Hearing date	24 October 2022	Hearing venue	RWC 2021 Main Operations Centre, Auckland
Chairman/JO	Christopher Quinlan KC, Independent Judicial Panel Chairman		
Other Members of Disciplinary Committee	Brenda Heather-Latu, Samoa Ofisa Junior Tonu'u, ex-Samoa and New Zealand International		
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)	Giuliana Campanella, Team Manager	Disciplinary Officer and/or other attendees	Brian Hammond, DDO, World Rugby
List of documents/materials provided to Player in advance of hearing	<ul style="list-style-type: none"> <li>Citing report</li> <li>Video footage – full speed, 50%, 25% and close up</li> <li>Statement from referee, Maggie Cogger-Orr</li> <li>Statement from complainant Irona Nagata</li> </ul>		

### PROCEDURE

The Citing was brought in time and there were no procedural irregularities.

Player attended the hearing, which was convened at the earliest opportunity in accordance with the Player's request. The hearing was conducted in person. A translator assisted the Player and Ms

Campanella. The Complainant ("J7") was also assisted by translation from the Japan team manager. We are grateful for all the assistance we received.

#### SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/INCIDENT FOOTAGE

The citing commissioner's ("CC") report contained the following factual narrative:

*"An accusation of biting was heard over the referee microphone at 67:55 on the match clock. Japan 7 (J7, Iroha Nagata) is seen to approach the referee and, translated by Japan 8, holds out her right hand and indicates that she has been bitten. This was followed up with the player after the match who confirmed that she believed she had been bitten, on the outside of her right hand, below the little finger, by 'the ball carrier' in a midfield ruck a few meters out from the try line, in front of the posts. She confirmed the incident happened just prior to the Italian penalty kick [at 66:16 on the match clock]. She stated that the bite occurred with increasing pressure over a period of about 5s. No visible injury to the hand was visible post-match.*

*Footage review shows that, at 64:50 on the match clock, Italy are in possession of the ball and are attacking ~7m out from the try line. Italy number 4 (I4 Sara Tounesi) takes the ball into contact, is tackled, and J7 moves into the jackal position. Footage from the "USM Low Left" camera angle shows I4 taking the ball into contact and J7's hand reaching down to the ball and touching it with the tips of her fingers. I4 can then be seen to open her mouth, rotate her head forward, and close her mouth down again in a manner that completely corroborates J7's statement of events. This footage is provided separately, slightly zoomed in, in the "Manual Recording\_14\_14\_59\_ITA\_v\_JPN\_ITA4\_Possible bite.mp4" video. Synchronised, side-by-side footage from the FR Corner angle showing I4's head rotation at the point of the incident is also provided.*

*Almost immediately after the incident J7 is seen to attempt to approach the referee gesturing forward with her right hand but, owing to the fact the kick is being taken, is asked at that point to retreat by the referee (footage in "Manual Recording\_14\_15\_38\_ITA\_v\_JPN\_Showing Ref hand"). 3 minutes later at a subsequent break in play, the player approaches the referee again and states that she has been bitten (this interaction is captured in the footage "14\_18\_12\_ITA\_v\_JPN\_Biting Accusation Citing", with referee comms included. The referee confirmed post-match that no teeth marks were visible but the area in question was reddened."*

In consequence the CC concluded the Player had committed an act of foul play contrary to law 9.12 which merited a red card.

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

##### Complainant's evidence

A written statement was taken from the Complainant, Iroha Nagata ("J7"), after the match. The original is handwritten, comprised a series of questions based upon her complaint to the referee and signed by the Player. We were (helpfully) provided with a typed version. Summarising her account, she said while in the act of jackaling 5m from the try line, the ball carrier bit her on the outer edge (under little finger) of

her right hand. It was not accidental. The initial pressure of the bite was light, but it got “harder over 5 second period”.

She attended the hearing. She agreed that her statement was true and accurate. She was questioned by us and by the Player. When asked she said she was bitten twice. She had not seen the video footage before, so we asked her to look at it. She pointed out the two occasions when she said the Player bit her. We deal with that in our analysis of the footage from camera “11.USM Low left” below.

She told us that her right hand was in contact with the Player’s face as she searched for the ball. She said the two bites were separated by a “moment”; the first was “not very strong” and she thought at the time “accidental”. But the second bite was harder and was on the fleshy part of her hand, below her little finger. She appreciated the difference between her hand touching the Player’s mouth and a bite. She was clear and adamant that she was bitten because the contact was prolonged (a “few seconds”). She then told Japan’s #8, who speaks English, who subsequently told the referee.

#### Referee’s evidence

We were provided with a photograph of a signed handwritten statement from the referee and a typed version. Therein she said:

*“I first observed the Japan player looking at her hand while Italy were setting up for a kick at goal. The player did not speak to me at this time.*

*At a water break/stoppage, the Japanese player and captain approached me. The player spoke to the captain who advised me that the player had been bitten.*

*The player showed me her hand. No clear teeth marks however there was a red inflamed area on the lower part of the hand (palm).*

*I advised the player that I had not seen action but the TMO would be sweeping for foul play.*

The referee was not required to and did not attend the hearing.

#### Video evidence

We were provided with the following:

- 3m 30sec clip of repeated footage of the same passage of the match but from different cameras. They show a break in play during which the referee is heard saying “someone bit you” and the Player reply “yeah”. The referee replied that she had not see it live but someone “is sweeping in the background”. Camera “2.Tight” shows the Player, the Japan #8 and the referee together. The body language of J7 and the referee is consistent with the latter being shown and looking at the former’s hand.
- 3m 30sec clip of the incident, with footage from different cameras at full speed. The footage shows Italy attacking Japan’s try line. From a break down, the Player picked up the ball and drove forward. She was tackled to ground. J7 reached over her with her right arm, her right hand close to her face. We were provided with clips of the same footage from different cameras at 50% and 25% of full speed.

- A 36sec clip of the incident entitled “Close up video”. It is a ‘zoomed in’ footage from camera “11.USM Low Left”. It shows the incident, at slow speed, rewinds and then again at what appears full speed. In summary it shows:
  - The player tackled to the ground, landing essentially on her right side. She is ‘buffeted’ by others and turns her body, resting on both knees, elevating her upper body partially off the ground by her left hand and arm. Her body is essentially parallel to the ground, the ball, which she was carrying, partly beneath her body.
  - At 8secs J7’s right arm reaches over the Player’s neck, from above, close to her face.
  - At 8-9 secs J7’s right hand is close to the lower part of the Player’s face. We are aware of the risk of foreshortening but that is not an issue because the J7 told us the first bite was at this point (9sec). We have included in Appendix 1 a still from this footage (Fig.1) which shows this approximate moment. We appreciate it is a fraction of a second and is not intended to show the actual bite but an approximation thereof and is illustrative of what the footage shows.
  - At 10 secs the Player turns and moves her face with her mouth open, gumshield visible towards J7’s right hand, whose fingers are now in contact with the ball.
  - 10-11 secs the Player’s mouth moves clearly towards the outer aspect (little finger side) J7’s hand. Her mouth is open, gumshield visible throughout and then closes. At 11 secs there appears to be contact, mouth to hand. This was the point J7 told us she was bitten for a second time. Once more we have included in Appendix 1 stills (Figs.2-5) which show this approximate moment. We appreciate it is a fraction of a second and is not intended to show the actual bite but an approximation thereof but is illustrative of what the footage shows.
- It is important to appreciate, as we do, that the video footage is only part of the evidence and must be considered with all the evidence.

#### SUMMARY OF PLAYER’S EVIDENCE

The Player denied biting J7. She gave us an account and we asked her questions. She said she was tackled and put into a difficult position, with the ball under her. J7 attempted to get the ball. She called out repeatedly called out “*la balla, la balla*” signifying that the ball was available for a team mate. J7 then felt her face, looking for the ball, the Player believed. She pointed out that camera “8.FL Corner SSM” which shows J7 pulling her up and off the ground by her lower face and neck.

She said she was not a dirty player, She was proud to represent her country and felt shame to be accused of such foul play.

We questioned her, taking her through parts of the video footage. When asked, she repeatedly denied that she bit J7. We asked her about the section of footage recorded by camera “11.USM Low left” set out in detail above and illustrated by the stills in Appendix 1. She said her mouth was open because she was saying “*la balla, la balla*”. It was put to her that the footage did not show her mouth moving in a way consistent with her speaking, but she was adamant that was what she was doing. She also, when asked

expressly, said she did not agree with J7's evidence that she bit her, though accepted her mouth might have touched her hand. She denied closing her mouth on her hand to bite her.

#### FINDINGS OF FACT

The starting point is J7s account. She impressed us as a clear, consistent witness who answered all the questions she was asked. She also made a concession to the Player's advantage stating that she thought at the time the first bite could have been accidental. That is the hallmark of a fair witness, one doing her best to help.

She was adamant that the Player bit her. The only person who could have bitten her was the Player. The description she gave of the application of increasing pressure is probative of a deliberate biting action. Her evidence of being bitten is supported by the following:

- The video evidence. It supports her account in every important respect. The footage from camera "11.USM Low Left" showed clearly -
  - At 8-9 sec J7's right hand is shown close to the lower part of face. This was the moment J7 told us the first bite was (9secs, see Fig.1).
  - Thereafter the Player turns her head towards J7's hand and moves her open mouth towards J7's hand.
  - The Player's mouth closes as it reaches J7's hand.
  - The Player's mouth closes in the same area of her hand where J7 complains she was bitten (see Figs. 2-5).
  - Importantly it does not show any movement of the Player's mouth consistent with her calling out "*la balla, la balla*" or anything else.
- By J7's contemporaneous disclosure to Japan's #8 who then repeated it to the referee.
- The reddening to her hand seen by the referee, in the area she says she was bitten.

It is noteworthy also that this was a matter overheard by the CC who was following the live feed. She then (rightly) pursued it gathering all the relevant evidence swiftly and efficiently.

J7 made a relatively spontaneous complaint, in respect of which she has remained consistent, has no reason to lie. There is no room for mistake. Her account is supported by other independent evidence, namely the video footage and referee. We were therefore comfortably satisfied that the Player bit J7 as she alleged.

A deliberate bite in these circumstances clearly crosses the threshold for a red card. We therefore upheld the citing.

#### DECISION

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

## SANCTIONING PROCESS

### ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.18.1(a)-(b) (or equivalent Tournament rule)
Intentional <input checked="" type="checkbox"/> Reckless <input type="checkbox"/>
State Reasons
The Player bit J7 twice. The first was light, the second sustained. We were satisfied that the second was an obviously deliberate bite. The pressure of the second bite increased over time, probative of it being an intentional rather than accidental act.
Nature of actions – R 17.18.1(c) (or equivalent Tournament rule)
As described above.
Existence of provocation – R 17.18.1(d) (or equivalent Tournament rule)
J7's hand was on and over the Player's face. We are satisfied she found that provocative and reacted to it.
Whether player retaliated – R 17.18.1(e) (or equivalent Tournament rule)
She did not retaliate.
Self-defence – R 17.18.1(f) (or equivalent Tournament rule)
It was not in self-defence.
Effect on victim – R 17.18.1(g) (or equivalent Tournament rule)
She sustained modest injury in the form of the reddening.
Effect on match – R 17.18.1(h) (or equivalent Tournament rule)
There was no effect on the match.
Vulnerability of victim – R 17.18.1(i) (or equivalent Tournament rule)
She was vulnerable to this extent – she was not anticipating the act and in no position to defence herself from it.
Level of participation/premeditation – R 17.18.1(j) (or equivalent Tournament rule)
We are satisfied it was a spontaneous act.
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)
None

### 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 checked="" type="checkbox"/>		<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 17.18.1(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 commission of foul play – R 17.19.1(a) (or equivalent Tournament rule)	Player's disciplinary record – R 17.19.1(b) (or equivalent Tournament rule)
None	She has never received a red card, been cited nor been suspended before.
Youth and/or 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)
She has 25 caps for Italy, has played in France and just signed a contract to play in England for Sale Sharks.	Exemplary
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)
She expressed as much remorse as she able, consistent with her denial of the act of foul play.	None.

Number of weeks/matches deducted:

6

Summary of reason for number of weeks/matches deducted:

She did not have the mitigation afforded by an admission of foul play. However, she impressed us as genuinely regretting finding herself in this situation. That was not self-pity. She was entitled to mitigation for the other factors we have identified, which we assessed at one third of the starting point, namely 6 weeks. That sets no precedent; it is simply our assessment of this specific Player's mitigation.

#### 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:


0

### 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	12 week (matches)	Sending off sufficient <input type="checkbox"/>
Sanction commences	24 October 2022	
Sanction concludes	The Player is suspended from Italy's quarter final to be played on 29 October and any RWC 2021 match Italy plays thereafter. Thereafter her and Italy's playing schedules are not known. She told us she will return to university after the tournament and hopes to start with Sale Sharks in January 2023. We therefore ordered that within 14 days she must notify us in writing of her playing commitments. We will then decide which matches are caught by the suspension. In the meantime, she is suspended.	
Matches/tournaments included in sanction	Quarter-final and any subsequent match.	

Costs	No order
-------	----------

Signature (Chairman)		Date	24 October 2022
-------------------------	---	------	-----------------

**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)



APPENDIX 1

FIG. 1



FIG. 2



FIG. 3

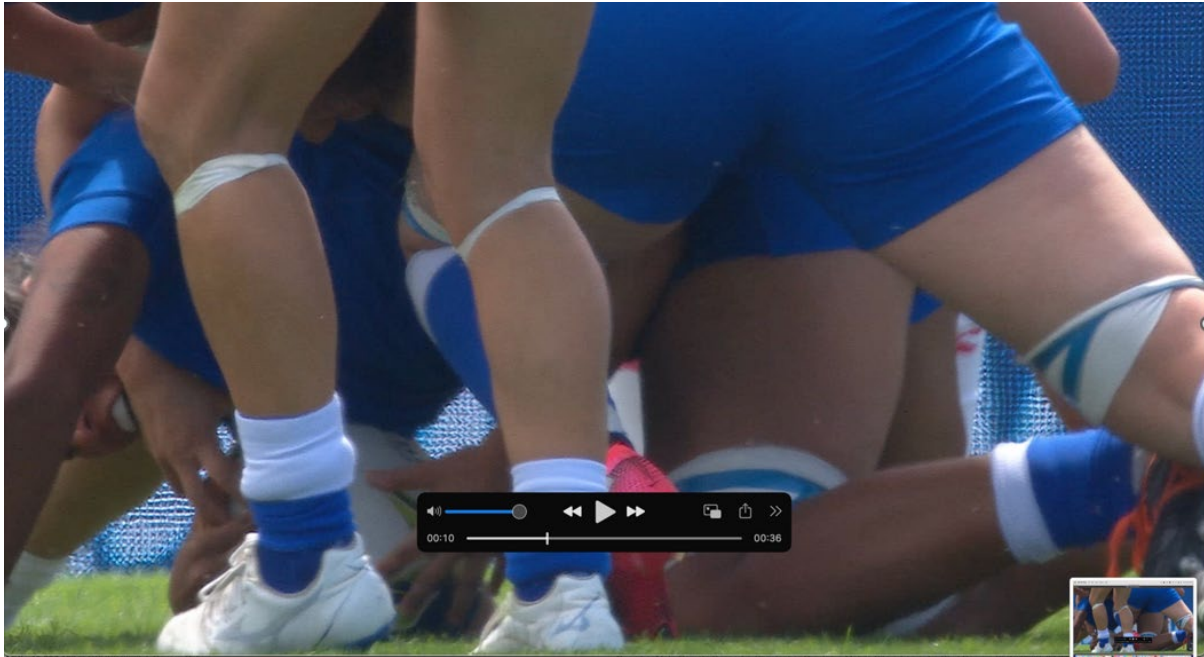


FIG. 4



FIG.5

