



DECISION FORM

Fred Quercy (Spain)

PARTICULARS OF OFFENCE			
Player's Name	Fred Quercy SPA#8		
Player's Union	Spanish Rugby Union (FER)		
Match	Romania v Spain		
Competition	2021 Rugby Europe Men XV Championship		
Date of match	March 20 th 2021 – KO 13:45 CET		
Match Venue	Ghencea Complex - Romania		
Rules to apply	Rugby Europe Disciplinary Regulations and World Rugby Regulations		
Referee Name	Nika Amashukeli (GRU – Georgia)	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	Law 9.12 A player must not physically or verbally abuse anyone.	<input checked="" type="checkbox"/> Red card <input type="checkbox"/> Citing <input type="checkbox"/> Other If "Other" selected, please specify:	

HEARING DETAILS			
Hearing date	March 24 th 2021 at 17:00 CET	Hearing venue	Video Conference Teams
Chairperson/JO	Matthew O'Grady (England)		
Other Members of the Disciplinary Panel	Sarah Smith (Scotland) Dany Roelands (Belgium)		
Appearance Player	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Appearance Union	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Player's Representative(s)	Eliseo Patron Costas (General Secretary, Spain Rugby Union)	Other attendees	Maxime Cotis (Panel Secretary) Palemia Field (Observer)
List of documents / materials provided to Player in advance of hearing	1. Referee's report 20 March 2021 2. Video clips 3. Notice of hearing 4. Player's disciplinary record 5. Match calendar 6. Romania v Spain match sheet 7. 'Joker' contract 8. 'Disciplinary statement' signed by the Player (written in French and translated into English) 9. Player's fixture list 10. Emails between Rugby Europe and the Union, including email from Romania Team Doctor Dr Dan Wanya		

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

The referee's report reads:

"In second half (TV time: 55:30) Spanish N8 made clear striking with his knee to the opponent face (sic). After checking on the monitor it was clear deliberate and reckless foul play and therefore a red card."

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

Dr Wanya (Romania doctor) informed the Panel in writing that Romania 14 did not receive treatment for this foul play. Dr Wanya informed the Panel that during the match Romania 14 failed a Head Injury Assessment baseline test and suffered a concussion. The Panel was told that Romania 14 is currently subject to the Return to Play Protocol.

The Panel was referred to the Match Card. It is quite apparent that Romania 14 suffered a head injury event after this foul play and that it was at that point Romania 14 left the field and did not return. Romania 14 continued playing in the match after this foul play.

There was no evidence to establish a causal connection between Spain 8's foul play and Romania 14's concussion, nor that the Spain 8's foul play contributed to the concussion. Accordingly, we put the subsequent concussion out of our minds. The Player was informed of this at the outset of the hearing.

SUMMARY OF PLAYER'S EVIDENCE

Spain 8 provided a written statement dated 24 March 2021, which he signed. It was written in French and translated into English. We are mindful that meaning and context can be lost in the translation. In his written statement Spain 8 denied he intended to strike Romania 14 with his knee. He said he wanted to clear the ruck. He said that if a strike had occurred (which it obviously had) then he was sorry. The written statement says, "Nor do we consider the action to be reckless, given the player was participating together with several teammates in a ruck won by Spain." It is written that Spain 8 felt his leg had been hooked or caught and he could not move forwards. It says that Spain 8 believed he had been grabbed and pulled his leg to secure its release and in doing so connected with the Romanian player "indirectly and without force".

In his evidence at the hearing Spain 8 said he arrived at the ruck and could see the ball was slow. He said he felt his leg was stuck or held. Spain 8 said he swung with his leg to help make the ball available and in doing so that leg fell on top of a team mate and impacted on Romania 14's head. Spain 8 said he was not aware in that moment that he had hit Romania 14, the ball emerged and he played on. Spain 8 said that when he arrived at the ruck all he could see was his team mate's body. He went on to say he thought that Romania 14's arm was blocking the ball. Spain 8 said he could not see where Romania 14's head was and the movement of his leg was to free the ball. Spain 8 was taken through the video images. When shown the video of his right hand he did not initially accept it was on the Romania 14's head. Instead,

he said it was behind the Romania player's head and between his team mates. Spain 8 denied in terms that his hand was touching the Romania 14's head. When asked if his hand was pushing Romania 14's head downwards Spain 8 said that he could not deny his hand was touching Romania 14's head. He said he was arriving to the breakdown at speed and that might have happened. If he had pushed Romania 14's head then he said that was not voluntary and he was not conscious of it at the time. Spain 8 said he could not recall what he was looking at and his eyes might have been closed. He could not see the ball. Spain 8 said he could not see Romania 14's head. Spain 8 said his intention was to use his knee to stop the ball being blocked.

FINDINGS OF FACT

1. Spain 15 carried the ball into contact and was tackled.
2. A ruck was formed. Spain 14 and Romania 14 were participants in that ruck.



3. Spain 1 and Spain 8 joined the ruck.



4. When Spain 1 and Spain 8 joined the ruck Romania 14 lost his footing.

5. Romania 14 was horizontal within the ruck on top of a Spain player.
6. Spain players were on top of Romania 14.
7. Both of Romania 14's feet were off the ground.



8. Romania 14's left hand was touching the ground helping to support his body weight.
9. Romania 14's right hand and arm were trapped.
10. Spain 8's right hand was in contact with Romania 14's head.
11. Spain 8's right hand applied downwards pressure on Romania 14's head.



12. Spain 8 lifted his left leg and drove his left knee forwards and down.





13. Spain 8's leg was not held or grabbed.

14. Spain 8's hand was in contact with Romania 14's head until just before his knee connected with Romania 14's head.



15. Spain 8's left knee made contact with the right side of Romania 14's head.



16. There was force in Spain 8's action.

17. At all material times Spain 8 knew the position of Romania 14's head.

18. Spain 8's actions in striking the head of Romania 14 were deliberate/intentional in that he intended that his knee should make that contact with Romania 14's head. He was not reckless as to that contact occurring.

19. Romania 14 was not injured as a result of this foul play and continued playing after this incident.

DECISION

Proven Not proven Other disposal (please state)

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS		
As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby		
Assessment of Intent		
<input checked="" type="checkbox"/> Intentional/deliberate <input type="checkbox"/> Reckless		
State Reasons		
At all material times Spain 8 knew the position of Romania 14's head because his hand was in contact with it and directing it downwards. Spain 8's hand remained in contact with Romania 14's head until moments before the knee connected with the head. The Panel did not accept Spain 8's action was a clumsy or reckless attempt to execute an otherwise legitimate action of clearing Romania 14 from the tackle zone.		
Gravity of player's actions		
All foul play towards the head is serious. An intentional and deliberate strike of the head with the knee with force is undoubtedly serious.		
Nature of actions		
See findings of fact.		
Existence of provocation		
Spain 8 was subject to foul play late in the first half, which was unsanctioned. That foul play was subject to a citing, which was upheld by this Panel. The foul play against Spain 8 was not committed by Romania 14. There was half-time between that foul play and this foul play. Spain 8 did not refer to or rely on that earlier foul play against him as an explanation for his actions.		
Whether player retaliated		
Not applicable.		
Self-defence		
Not applicable.		
Effect on victim		
Romania 14 continued playing after this foul play. He was uninjured. There was no evidence of connection between this foul play and Romania 14 later having to leave the game.		
Effect on match		
The match was stopped for a foul play review by the TMO and treatment of Romania 14.		
Vulnerability of victim		
Romania 14 was in a very vulnerable position. Romania 14 was unable to defend himself from the strike. His feet were off the ground. He was horizontal with players below and on top of him. One arm was trapped and the other was supporting his weight. His head was pushed by Spain 8.		
Level of participation/premeditation		
Spain 8 had the briefest of moments to think about his actions when he applied downwards pressure on Romania 8's head and then chose to lift his knee and strike Romania 14.		
Conduct completed/attempted		
Completed		
Other features of player's conduct		
Not applicable		
Entry point		
<input type="checkbox"/> Top end <input type="checkbox"/> Weeks	<input checked="" type="checkbox"/> Mid-range 8 Weeks	<input type="checkbox"/> Low-end <input type="checkbox"/> Weeks

*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.

Reasons for selecting Entry Point

Whether the Entry Point should be Top End or Mid-range was very finely balanced.

On the one hand, this was a serious act of foul play. The deliberate and intentional nature of the foul play, the use of the knee, the action being against the head and Romania 14's high level of vulnerability are consistent with a Top End Entry Point being appropriate.

Against those considerations Romania 14 was not injured in any way, he was able to resume playing and this was not an act of foul play with a notable level of premeditation.

On balance, the Panel concluded a Mid-range Entry Point was appropriate.

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby

Player's status as an offender of the Laws of the Game

11.05.19 – 5 weeks (kicking contrary to 9.12)
 2016/17 – 1 week (unknown)
 2014/15 – 1 week (unknown), 2 weeks (unknown)
 2013/14 – 4 weeks (striking, contrary to 9.12)

Need for deterrence

Not applicable

Any other off-field aggravating factors

Not applicable

Number of additional weeks: 0

Summary of reason for number of weeks added:

Not applicable

RELEVANT OFF-FIELD MITIGATING FACTORS

As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby

Acknowledgement of guilt and timing	Player's disciplinary record/good character
In his written statement to the Panel the Player disputed his actions were either intentional or reckless. To his credit, the Player immediately accepted his actions justified a red card at the very start of this hearing. He did not acknowledge during the hearing that his actions were deliberate/intentional.	The Player's disciplinary record is unsatisfactory (see above), although he has not received a disciplinary sanction for 2 years.
Youth and inexperience of player	Conduct prior to and at hearing
An experienced player aged 29 years old. He has played rugby for 18 years and professional rugby for a large number of years. He has played for Montpellier and in the ProD2 for six	Befitting a player of his experience.

seasons. He has some 15-20 appearances for Spain to his name.	
Remorse and timing of remorse	Other off-field mitigation
<p>The Player attempted to apologise through the captain of the Romania team.</p> <p>Whilst the Player conceded his actions justified a red card, the Panel fundamentally rejected his evidence and version of events (both what he put in writing and what he told the Panel at the hearing). His degree of remorse has to be seen in the context in this context.</p>	<p>When he was at Montpellier the Player supporting coaching of junior sides and he occasionally assisting his current team's junior teams when he can.</p>

Number of weeks deducted: 2

Summary of reason for number of weeks deducted:
The Player showed a degree of remorse by acknowledging his actions justified a red card. He has not committed red card foul play for nearly 2 years.

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 – RE Discipline Regulations 4.1.4 / 4.4 (or equivalent Tournament rule)

Total sanction	6 weeks
Sanction commences:	Saturday 20 March 2021
Sanction concludes:	Sunday 9 May 2021
Matches/tournaments included in sanction	<p>Week 1: 26 and 27/03/21 – Portugal v Spain and Nevers v US Montalbanaise</p> <p>Week 2: 02/04/21 – US Montalbanaise v Carcassonne</p> <p>Week 3: 09/04/21 – Soyaux Angoulême v US Montalbanaise</p> <p>Week 4: 16/04/21 – Colomiers Rugby v US Montalbanaise</p> <p>Week 5: 23/04/21 – US Montalbanaise v Valence Romans</p> <p>Week 6: 07/05/21 – Provence Rugby v US Montalbanaise</p>

Costs:	Nil
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Date	24/03/21
Signature (JO or Chairman)	/s/ M O’Grady

NOTE: You have 48 hours from notification of the decision of the chairman/jo to lodge an appeal with the tournament director – RE Discipline Regulations 4.6.2 (or equivalent Tournament rule)