

DECISION FORM

To be sent to discipline@rugbyeurope.eu.



Particulars of offence	
Player's Name: Abel CUNHA	
Player's number: 16	
Player's union: Lusitanos	
Competition: Super Cup	
Host Team (T1): Iberians	Visiting Team (T2): Lusitanos
Venue: San Amaro Stadium	
Date of match: 20/10/2024	
Rules to apply: Regulation 17 World Rugby Handbook; or Tournament Disciplinary Program; or Other	
Referee Name: Jonny PERRIAM	
Plea: <input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted	
Offence: <input type="checkbox"/> Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other <i>If "Other" selected, please specify:</i>	
Hearing details	
Chairperson / JO: Sam Hillas (ENG)	
Other Members of the Disciplinary Panel: Richard McGhee (SCO)	
Hearing date: 22/10/2024	
Hearing venue: Remote via MS Teams	
Appearance Player: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Appearance Union: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Nuno Salvador - Portuguese Rugby Union	
Player's Representative(s): José Carlos Augusto, Legal Counsel for the Portuguese Rugby Union	
Other attendees: <ul style="list-style-type: none">- David Baird-Smith, Rugby Europe- Simon Mannix, Portuguese Rugby Union team coach	
List of documents/ materials considered by the Panel: <ol style="list-style-type: none">1. Game sheet2. Citing report from citing commissioner3. Video clip of the incident	
<p>NB Irina Roxana Petre (ROM) was due to sit on this evening's panel. Due to difficulties in contacting her, the panel comprised only two members: Sam Hillas KC (chair) and Richard McGhee. Prior to putting the citing to the Player, he and his representatives were asked whether they objected to the matter being heard by a panel of two members, giving them the option of convening on a different date to have a full panel of three members. The Player and his representatives said they wanted to proceed with this hearing and with a panel of only two. The chair was therefore prepared to proceed with a panel of 2. There was no objection to the panel by the Player or his representatives.</p>	
Summary of essential elements of citing / Referee's report / Incident footage	
The following is taken from the report of the Citing Commissioner, Philippe Lenne dated 20.10.24: <i>"Head contact from L16"</i>	

From a quick PK play, IBE21 plays forward and bring animation in a disorganized LUS defense. After a legal tackle and a ruck around IBE21 the ball gets to the hands of IBE6 who starts running to impact the defense. Simultaneously, when the ball is out of the ruck, LUS16 runs from the defense toward IBE6. Head contact occurs between LUS16 and IBE6 and referee stops the game claiming accidental contact. Following the HCP and analyzing all angles of video provided:

- **Head contact:** YES direct.
- **Foul play:** YES L16 is upright, he has clear line of sight, he never uses his arm (notably the right) to initiate a tackle, does not control his movement and hits directly the head of IBE6
- **Degree of force:** the force is high enough to create a dangerous situation.
- **Mitigation:** there are no factor of reduction, no change of direction, no change of height.

Essential elements of other evidence (e.g. medical reports)

The following is taken from the incident Report provided by Iberians team doctor on 22.10.24:

1. From my position, I could not see how the collision occurred.
2. I saw the player fall while protecting his head.
3. Upon reaching the player, he was conscious and complaining of pain in his ear.
4. He responded correctly to the Maddock questions.
5. He did not display any alarming symptoms.
6. During the game, he did not exhibit any unusual behavior.
7. After the game, the player did not report any symptoms.
8. I spoke with the referee, who confirmed that he did not see the player lose consciousness.

Summary of player's evidence

A summary of the Player's evidence is set out below:

I started to run with the defence, the field was not really good and I started to fall. At same time he [the victim player] did a step inside so we did head on head - my team mates start to tackle also and we fell together. For me, it was bad timing. I did not want to hurt him and had no intention to do so

In response to further questions from the panel, the Player further confirmed:

I would have tackled under the chest but it was not really a big tackle action. I tried to just come to that place and I start to fall - this is the same time he stepped inside and head on head and I'm sorry for that. I started to run in a straight up position - it was short action and I tripped and started to fall. Maybe I would just have fallen on ground if there had been no-one in front of me. I did suffer some pain but for me it was OK and I played on.

The Portuguese team coach Mr Mannix added:

It could have been avoided if the playing technique was better. The ground not great either but I need to take responsibility for educating young players take player safety very seriously. He is a young player. Quite clearly when you look at the images, there is a lack of control of the body and this is why his body was so high. There are serious technical issues here which are lacking and we have to take responsibility for that as the educators in this example.

It was submitted on behalf of the Player by Mr Augusto that:

- There was no intention to strike with the head

- The movement is not continuous, something happened in the movement that precipitated this situation
- Without taking responsibility away from the player, the dip in height of the Spanish player contributed to the incident
- It was a bad movement but there was no intention, no kind of injuries and the Spanish doctor says the same regarding the Spanish player
- The head coach of the Portuguese team says the Player be educated to avoid this situation in the future
- The Player was concerned about injury suffered by Spanish player so is relieved to know he is OK
- He will apologise to the Spanish player at the next opportunity
- He regrets his actions

The Player confirmed that he tried to find the victim player after the game to speak to him but he could not see him out on the field, nor at the reception and the team left shortly afterwards.

Findings of fact

The panel accepts and adopts the mechanism of the incident as set out in the Citing Report and the Player's explanation that he was starting to slip at the same time the victim player dropped height slightly, resulting in the clash of heads

Decision

Proven Not proven Other disposal (please state)

SANCTIONING PROCESS

Assessment of seriousness
<i>As per Article 4.5 of Rugby Europe Disciplinary Regulations and Regulations 17 of World Rugby</i>
Assessment of intent:
<input type="checkbox"/> Intentional/deliberate <input checked="" type="checkbox"/> Reckless
Reasons for finding as to intent:
The Panel accepted the Player's evidence that there was no intention to commit an act of foul play. This was reckless play, correctly picked up by the Citing Commissioner. It is noted that the referee considered in the moment and on the ground that it was accidental contact and this supports the Player's account that there was no intention on his part
Nature of actions
Clash of heads. The Player was heading towards the defence as though he intended to tackle the ball carrier, tackled too high and made contact with the victim player's head.
Existence of provocation:
n/a
Whether player retaliated:
n/a
Self-defence:
n/a
Effect on victim:
None. The match footage shows both players on the ground after the clash of heads but they were both again upright after a few seconds and both players continued in the game
Effect on match:
None
Vulnerability of victim:
n/a
Level of participation / premeditation:
No premeditation
Conduct completed / attempted:
Act of foul play completed
Other features of player's conduct:

Entry point					
Low-end <input type="checkbox"/>	Weeks []	Mid-range <input checked="" type="checkbox"/>	Weeks [6]	Top end <input type="checkbox"/>	Weeks []
Reasons for selecting entry point:					
The Panel are required to find the entry point is <i>at least</i> mid-range as this was an act of foul play involving contact with the head. The Panel was only therefore required to consider whether the entry point should be <i>above</i> mid-range or remain at mid-range. There were no indicators that this incident should merit a top end entry point and the entry point therefore remained at mid-range.					

Relevant off-field mitigating factors

Acknowledgement of guilt and timing:	Player's disciplinary record / good character:
The Player admitted the citing in a statement sent on 22.10.24	Clean disciplinary record.
Youth and inexperience of player:	Conduct prior to and at hearing:
This was a young player and his national team coach freely admitted errors in technique which need to be remedied	Exemplary – polite, respectful and eager to provide an explanation to the panel
Remorse and timing of Remorse	Other off-field mitigation:
The Panel accepts the Player tried to find the victim player after the game to apologise, but failed to do so and also that he intends to apologise to him at the next opportunity they have to meet. The Panel observes that the Player may want to consider emailing an apology in the meantime	n/a

Number of weeks deducted: 3
Summary of reason for number of weeks deducted:
The Panel considered full mitigation was merited for all the reasons set out above

Additional relevant off-field aggravating factors

Player's status as an offender of the Laws of the Game:
n/a
Need for deterrence:
n/a
Any other off-field aggravating factors:
n/a

Number of additional weeks: 0
Summary of reason for number of weeks added: 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 – RE Discipline Regulations 4.1.4 / 4.4 (or equivalent Tournament rule)

Total sanction: 3 weeks	<input type="checkbox"/> Sending off sufficient
Sanction commences: 20 October 2024	
Sanction concludes: 9 November 2024, free to play on 10 November 2024	
Matches/ tournaments included in sanction: Agronomia vs Técnico – 26 outubro de 24 (Torneio de Abertura) Montemor vs Agronomia – 1 Novembro de 24 (torneio de Abertura) Portugal vs Estados Unidos – 9 de Novembro (Autumn Series)	
Costs:	
Signature	
Name of the JO or Chairman: SAM HILLAS KC	
Date: 22.10.24	
Signature (JO or Chairman): SAM HILLAS KC	

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)