DISCIPLINARY DECISION

Particulars of offence
Name: Jean Pons
Player's union: Andorra Rugby Union
Competition: 7s Boys Trophy (Zabki) - July 2023
Venue: Zabki, Poland
Date of offence: July 23, 2023
Rules to apply: Regulation 18 World Rugby Handbook; Rugby Europe Disciplinary Regulations; Rugby Europe 2023 – U 18 7s Tournament Manual 2023 v2 (12.5 Non-standard breaches)
Plea: ☐ Admitted ☒ Not admitted
Offence: ☐ Red card ☐ Citing ☒ Other *If "Other" selected, please specify:* A case of misconduct for homophobic insults and insulting, ill-disciplined and unsporting behaviour.
Hearing details
Chairperson: Gert-Mark Smelt
Other Members of the Disciplinary Panel: - Mark Curran - Eric Jara
Hearing date: September 14, 2023
Hearing venue: remote
Appearance Player: ☒ Yes ☐ No
Appearance Union: ☒ Yes ☐ No
Player's Representative(s): Mr. Calvo (Vice-President), Lluc Cunill (Manager).
Other attendees: Mr. Occelli (for the duration of his testimony)
List of documents/ materials considered by the Panel: • 230726 - Letter from Andorra Rugby Union's President.pdf • 230728 - Referral from PT to Disc. Comm.msg • 230827 - Preliminary Statement from Veceslav Holjevac.pdf • 230828 - Preliminary statement from Andorra Rugby Union.pdf • 230828 - Preliminary statement from Oliver Occelli.pdf • 230829 - Preliminary statement from Thierry Danthez.pdf • 230829 - Yellow and Red card reports (Zabki - Boys).xlsx • 230906 - Preliminary statement from Joel Dumé.pdf • Footage of the match Monaco-Andorra
Preliminary issues: no preliminary issues were raised at the hearing.

FINDING OF FACTS

Summary of player's evidence

After the match between Andorra and Monaco, the Player was in group with his teammates. When the team manager of Monaco passed by someone in his group said something. In the preliminary statement it was stated that what was said means something like 'naughty' in Catalan and was not directed at anyone outside the group. It was not intended as an insult. When the Monegasque team manager approached him, the Player stated that he didn't want to talk to the manager and said that to him.

The Player accepts having been agitated but denies using any offending words towards the Monegasque team manager.

As to the facts

Standard of proof

The panel reiterates that the standard of proof is not absolute certainty, nor is it the standard of beyond reasonable doubt.

As in all disciplinary procedures in rugby union it is the balance of probabilities (art. 5.4.1 RE Disciplinary Regulations). In order to find against the Player, it has to be, to the satisfaction of the panel, more probable than not that an act of Misconduct has been committed.

Facts not in dispute

The panel notes that it is not in dispute that there was an interaction between the group comprising the Player and the Monegasque team manager. It is further not in dispute that after the match Monaco-Andorra Mr. Occelli, team manager of the Monaco team, passed a group of Andorran players. The Player was part of that group. The name 'Monaco' followed by a word in Spanish/Catalan were uttered by someone in the group. Mr. Occelli heard that. He turned around. He spoke to the Player, who made clear he did not wish to speak to Mr. Occelli.

Role of the Player

The Player acknowledged at the hearing that he was annoyed and stressed about losing to the Monegasque team shortly before the interaction. He states that he didn't want to respond to Mr. Occelli but acknowledges that when Mr. Occelli approached him, his teammates tried to calm him down.

Mr. Occelli told the panel he heard the offending words, but was not facing the group at the exact moment during which they were spoken. Despite the fact that Mr. Occelli didn't see who said the words, he gave evidence that he turned around immediately having heard the words and was certain that they were said by the Player. The Panel questioned Mr. Occelli closely as to this point and he maintained his position in this regard, rationalising same with reference to the response to the Player and the other members of the group in the immediate aftermath of the comment being made.

The Panel found Mr. Occelli to be a credible witness. He did not embellish his statement or give evidence that was exaggerated or overly prejudicial to the Player's case.

The player's reaction to Mr. Occelli turning to him was, on the balance of probabilities, agitated. It does not only follow from Mr. Occelli's statement, but is also in line with the statement of the tournament director about the Player's statement. There is no reason to doubt Mr. Occelli's statement that it was insulting as well.

The Player acknowledged the words being used, but denied being the one using them. At the hearing he told the panel he couldn't remember who in the group around him said the words in question, it could be anyone but him. The Panel did not find the Player's statement to be a credible one. His statement that he could remember the words being spoken, remember who was present as part of the relatively small group in question, but could not remember who spoke the words was not at all believable. Furthermore, the Panel notes that despite there being several other Andorran players present and a team physio, none of these individuals appeared to give evidence in support of the Player, nor where there any written statements from them.

In conclusion, the Player admits that he was stressed after losing the match against Monaco. When Mr. Occelli, team manager from the team he lost to, passed by shortly after that match, the Player admits that 'someone' in the group used the offending words. When the Player was approached by Mr. Occelli he reacted, remarkably, agitated. The Player admits that the others present tried to calm him, which makes it more unlikely that one of them used the offending words. The alternative scenario posited by the Player that another individual spoke the words in question has not been substantiated in any way.

The Panel finds, on the balance of probabilities, that it was the Player who used the offending words.

The witness statement of Mr. Occelli, treated with appropriate caution by the Panel, supports that finding. So does the remark from the Representative at the hearing that 'it's fine if the panel attributes the words to Mr. Pons'.

Words used

There was some discussion and divergence of evidence between the Player and Mr. Occelli as to the exact words spoken. The Panel notes that while the difference in the actual words spoken was small, the effect of same was potentially significant. Given there is no clarity as to the exact nature of the words spoken, the Panel accepts the word (following 'Monaco') was as claimed by the Andorran Union in its preliminary reaction dated 28 August 2023, not the harsher version from Mr. Occelli's written statement.

The nature of the word used has been discussed at the hearing. One of the members of the panel is a native speaker of Spanish and Catalan. He put to the Player and his representatives his understanding of the words: spoken to friends it is considered as a part of friendly banter although, it does not justify its use nor should be used because of its literal meaning of offensive character, but furthermore, if others are addressed it can not be considered anything other than insulting. That explanation for the words used has not been challenged, put into question or nuanced by the Player or his representative.

The panel finds that the words used are to be considered an insult/offensive. The reaction of Mr. Occelli at the time underscores that: he also took it as an insult. That they were or were not said to the group is not relevant to the finding. They were said in a way that a passer-by, especially one that would be insulted by it, heard it. The preceding 'Monaco' does contradict the possibility of it being about anything else other than the previous opponent.

Decision

The concluding finding of the panel is that, on the balance of probabilities,

on 23 July 2023 after the game Monaco-Andorra at the 7s Boys Trophy in Zabki, Poland, the Player used insulting words against the team manager of the Monegasque team, Mr. Occelli.

That is an act of misconduct.

SANCTIONING PROCESS

As to the sanction
As per Article 5.4 of Rugby Europe Disciplinary Regulations

The player insulted a team manager of an opposing side, after the match and without cause or provocation. That kind of misconduct can not be accepted on- nor off-pitch. After being confronted by that team manager, he reacted inappropriately and had to be calmed down by his team mates.
His behaviour was and, even worse, continued to be inappropriate. It is behaviour unbecoming a rugby player, especially towards a staff member of another Union.

The words were meant to cause offence. The Panel sees no added value in further distinguishing the nature or seriousness of the insult.

The Player did not accept the charge and did not express remorse, not before and not at the hearing. The conduct at the hearing doesn't leave any room for mitigation either. The player at times showed signs of not taking the proceedings quite seriously and was seen laughing when witness Mr. Occelli gave evidence in his case.

According to the list of all the tournament's yellow and red cards, added at the request of the union, the Player received one of the four red cards in total. That sending-off was dealt with by separate decision of the Judicial Officer and resulted in a ban of three weeks. This card history won't be held against him as aggravating, but is certainly no ground for mitigation.

The type and duration of the sanction
The Panel has paid notice to the World Rugby Sanctions for Foul Play, adjusted for Underage Rugby and the sanction for other acts against the spirit of good sportsmanship. The youth of the Player is sufficiently taken into account in the U18 sanctions and warrant no further mitigation.

The Panels finds, in conclusion, that a suspension of 4 weeks is warranted. That is the normal suspension from playing rugby and taking part in any on-field activities. This suspension to take place consecutively to the suspension already being served by the Player as a result of the red card obtained during the tournament.

In the circumstances of this case the panels finds ground to conditionally suspend a part of the sanction of two weeks for a probationary period of 12 months.

To avoid this part of the suspension, the player has to refrain from offences leading to sending-off and from misconduct during that probationary period and deliver a talk to his teammates from the Andorra 7's team about the importance of the rugby values of integrity and respect – the talk, to the satisfaction of the panel, to be delivered within a month after receiving this decision, to be video-recorded and a copy of that recording to be made available to Rugby Europe, within a week after delivering it. For the avoidance of doubt, failure to

comply with this deadline or to provide a satisfying video recording will automatically result in the two suspended weeks to be activated. In that eventuality the sanction will therefore be a suspension of four weeks.

The Panel wishes to emphasize that this chance is offered to imbue the Player with the importance of preventing this kind of behaviour in the future, especially in international tournaments.

For the purpose of determining the remaining two weeks suspension the Player has to submit his playing schedule for the next part of the rugby season.

SANCTION

Total sanction: 4 weeks of which 2 weeks suspended under the conditions mentioned above.
Sanction commences: directly following the three week sanction, imposed earlier by the Judicial Officer at the tournament. The last match of that suspension is the match VPC Andorra v Buc B in the weekend of 21 October 2023.
Sanction concludes: the weekend of 11-12 November 2023 (unconditional part of the sanction). After that the Player has until 18 November 2023 to deliver his talk and a week after that to send the recording to Rugby Europe (therefore ultimately 25 November 2023). Failure to comply, as described above, will activate the rest of the suspension. In that case the player must submit a playing schedule for the then remaining two matches. For the sake of clarity: he is only authorized to play matches in the weekend of 18 November 2023 and of 25 November 2023. He is not authorized to play any rugby or participate in on-field activities after that, until formally authorized by the panel and, if applicable, until the full list of matches to count in the remainder of the sanction is approved.
Matches/ tournaments included in sanction: - Ce Inef Lleifa v VPC Andorra; - VPC Andorra v. Cocodrils RSV. If applicable: rest to be determined.
Costs: n/a

Signature
Name of Chairman: Gert-Mark Smelt
Date: 16 October 2023
Signature: 

NOTE: You have **7 days** from notification of the decision to lodge an appeal with the Disciplinary Committee (RE Disciplinary Regulations 5.5.2.) Any sanction shall remain effective pending the final determination of the appeal (5.4.5. RE Disciplinary Regulations.)