



Decision

(Ref. RA/CJD/May 30, 2022)

Concerns: Coralie van Den Berg, General Manager of Rugby Africa;

V/S

James Nunoo, Vice President of the Ghana Rugby Federation

PREAMBLE

The President of Rugby Africa has entrusted this matter to the Legal and Disciplinary Commission; the latter appointed Mr. Patrick Bradshaw: Legal Officer accredited by World Rugby (Single Judge), to rule on this case.

It is in this capacity of judge that I made contact by WhatsApp with all the persons concerned by this case to introduce myself: Mr. Herbert Mensah president of the Ghanaian Rugby Federation; Mr. James Nunoo, Vice President of the Ghana Rugby Federation; Coralie van Den Berg, General Manager of Rugby Africa and Rafatu Inusah. All responded kindly. I told them that I would send them a questionnaire by email so that they could explain themselves. All answered me immediately, except Mr. Nunoo. I relaunched this one by WhatsApp (because my email could have gone to the Spam folder). No answer. I emailed him again, but still no response.

After several weeks, still without a response from Mr. Nunoo, I sent an email to the general manager of the Ghana federation Mrs. Erica Amoako, copies to the President: Mr. Herbert Mensah and to the Secretary Mr. Bismark Amponsah Kottovon, asking them, to ask Mr. Nunoo to have the kindness to answer my email. After a week without response I sent a WhatsApp to Mr. Mensah asking him if he had received my email. R. Mensah telephoned me within minutes and told me that Mr. Nunoo had no intention of responding to my email.

Mr. Nunoo has not responded to my various reminders to date, so I decided that it was no longer necessary to wait any longer and make the necessary decision.

RECALL OF FACTS

As a reminder Mr. James Nunoo, "accuses Coralie van Der Berg, of having received money from Rafatu Inusah given by Herbert Mensah, president of the GRU". The money would have been "given to him during the women's seven in Tunisia". The three people accused by Mr. Nunoo categorically deny these facts.

The terms used by James Nunoo and reproduced on WhatsApp transcripts bring out a stark accusation: decided to take sides. Is it because Herbert gave you money? He told me himself that he had given a sum of money which would be given to you by Rafatu. If this is true, be prepared to be exposed."

CONDITIONS OF INACCUSATION FOR DEFAMATION:

The conditions for indictment appear to be met.

1. The accuser knows that the alleged fact is false;
2. The facts denounced are presumed to be false;
3. The facts must entail a risk of sanction. ...
4. The facts must have been denounced to an authority (EXCO, the president of Rugby Africa).

The legal texts define defamation as being: "Any allegation or imputation of a fact which undermines the honor or the consideration of the persons or the body to which the fact is imputed is a defamation, even if it is made in the form dubious".

The above-mentioned elements make it possible to qualify this misconduct: as an act of defamation, which refers to the application of Regulations 17-18 and 20 of the World Rugby statutes.

INTEREST TO ACT

Can sue only those who have: the quality, the capacity and the interest to assert their rights. In this case, it is a legally protected moral interest. The plaintiff may claim compensation for the damage suffered, following an attack on his probity, his dignity and his reputation. The request is made by the president of Rugby Africa, on behalf of Coralie van Der Berg, holder of the alleged right, in her capacity as General Manager of Rugby Africa, a legal title by virtue of which she has the right to appear in this procedure.

OF THE OBLIGATION TO COOPERATE IN THE CONTEXT OF A CITATION

Failure to cooperate with the citing and/or disciplinary process without a reasonable explanation or in a frivolous or libelous manner is considered misconduct (18.4(g)). Similarly, the failure or refusal by a Player, Person or Union to cooperate fully with any investigation undertaken under the Anti-Corruption Rules (Rule 6), or the Anti-Doping Rules (Rule 21), or any Complaint or dispute that is or may be referred to a Disciplinary or Appeals Committee or a Legal or Appeals Officer is considered misconduct subject to sanction.

Regulation 18.5 adds that Unions have and are responsible for the conduct of their Players of any Person under their jurisdiction. The Federations, Players and Persons will respect a certain discipline and sportsmanship in their behavior and will ensure that they do not commit any act(s) of Misconduct.

FINDINGS

It appears from the examination of the file that:

- 1- In terms of form:

1-1- The request is admissible.

- 2- On the merits:

2-1- The allegation made by James Nunoo against Coralie van Den Berg directly and seriously damages her honor and the consideration of her person. This is misconduct and a clear act of defamation, prejudicial to her dignity and to the image she benefits from with all the partners of Rugby Africa, in her capacity as general manager of Rugby Africa.

2-2- Defamation is misconduct, which violates the values, principles and standards that govern the discipline of rugby.

2-3- This transgression also affects the institutions that govern rugby (Rugby Africa-World Rugby-Ghana Rugby Union). These violations which harm the interests of rugby and the officials in charge of these institutions render James Nunoo liable to disciplinary measures in accordance with Regulations 17-18 and 20, of the statutes of World Rugby: in particular:

- o Regulation 18.2 which states that: "any act of Misconduct shall constitute an offense under this Regulation and may result in disciplinary proceedings and sanctions being imposed against the Person involved.

o Regulation 18.3 states that: "For the purposes of these International Regulations, the term "Misconduct" means any behavior, conduct, statement and/or practice on and off the playing enclosure during or in connection with a Match. or other which is unethical in sport and/or cheating and/or insulting and/or unruly and/or disrespectful and/or which carries or

may potentially damage the image of the Game and/or any of its constituent bodies, World Rugby and/or its appointed personnel or its business partners and/or Match Officials and/or personnel disciplinary...

PENALTIES

1. In application of the statutes of Rugby Africa and World Rugby of the aforementioned Regulations, I have opted for a strong sanction.
2. Regulation 20.10 relating to sanctions for misconduct specifies in its paragraph 20.10.1, that: Where an act or acts of misconduct have been committed, the Disciplinary Committee or Legal Officer has the right to impose any sanction that he or she considers appropriate against the Federation, of the Person and/or Player and/or any other relevant party. WR's bylaws provide that for breaches which are not provided for, appropriate penalties may be imposed at the discretion of the Legal Officer. Legal Officers and/or Disciplinary Committees may impose any period of ineligibility including lifetime ineligibility.
3. Accordingly Mr. James Nunoo, Vice President of the GHANA RUGBY UNION is suspended from any involvement in rugby activities for a period of 5 years.
4. Mr. James Nunoo is required to pay a fine of 1,000 pounds sterling, as compensation for moral damage suffered by Coralie van den Berg on behalf of Rugby Africa.
5. The decisions of Rugby Africa must be respected under penalty of sanctions.
6. The sanction takes effect from the date of notification of this sentence.
7. Mr. James Nunoo, has a period of 8 clear days to appeal against this sentence;
8. This period runs from the notification of this award, which will be made by email or fax directly to James Nunoo and the Ghana Rugby Federation (GRU).
9. The decision will also be notified to Rugby Africa and World Rugby.

10. The award will also be notified to the supervising Ministry and the Ghana Olympic Committee.

11. The appeal is subject to the payment of a deposit of £500, within the prescribed period. The payment must be made to the bank address quoted in reference (see details in Attachment). Failure to present proof of payment, the appeal is inadmissible. This decision becomes enforceable at the expiry of the appeal period. .

12. This appeal is not suspensive.

13. The call is made by email to Rugby Afrique: Azzouz Aib General Manager, azzouz.aib@rugbyafrique.com

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Done in Mauritius on June 01, 2022



Patrick Bradshaw: Legal Officer accredited by World Rugby.

PJ. Rugby Africa bank references.