FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

ARBITRAL AWARD

(0038/09 FAT)

rendered by

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Stephan Netzle

in the arbitration proceedings

Mr Panagiotis Liadelis, 1 Laskareos Str., 163 43 Athens, Greece
represented by
Mr Socrates Lambropoulos, 17 Pyrrou Str., 145 64 Athens, Greece

- Claimant -

vs.

Azovmash Mariupol Basketball Club, Mashinostroiteley squ. 1, 87535 Mariupol, Ukraine

- Respondent -

Av. Louis Casaï 53
P.O. Box 110
1216 Cointrin / Geneva
Switzerland

Tel: (+41-22) 545 0000
Fax: (+41-22) 545 0099
info@fiba.com
www.fiba.com

1. The Parties

1.1. The Claimant

1. Mr. Panagiotis Liadelis (hereinafter “Mr. Liadelis” or “Claimant”) is a professional basketball player of Greek nationality. He is represented by Mr. Socrates Lambropoulos, attorney-at-law in Athens, Greece.

1.2. The Respondent

2. Azovmash Mariupol Basketball Club (hereinafter "BC Azovmash", "Respondent" or the "Club") is a professional basketball club with its seat in Mariupol, Ukraine. It is domiciled at Mashinostroiteley squ. 1, 87535 Mariupol, Ukraine. Respondent is represented by Mr. Sayenko Kharenko, attorney-at-law in Kiev, Ukraine.

2. The Arbitrator

3. On 25 March 2009, the President of the FIBA Arbitral Tribunal (the "FAT") appointed Dr. Stephan Netzle as arbitrator (hereinafter the “Arbitrator”) pursuant to Article 8.1 of the Rules of the FIBA Arbitral Tribunal (hereinafter the "FAT Rules").

4. On 26 March 2009, the Arbitrator accepted his appointment and signed a declaration of acceptance and independence.

5. None of the Parties has raised objections to the appointment of the Arbitrator or to the declaration of independence rendered by him.

3. Facts and Proceedings

3.1. Background Facts

6. On 27 May 2008, the Parties signed an employment agreement (hereinafter referred to as the "Contract") by which Claimant was to be employed for the basketball season 2008/2009 and Respondent undertook to compensate Claimant with a base salary of EUR 430,000 payable according to the following schedule:

Upon successful passing medicals	20,000.00 EURO
On August 31st 2008	23,000.00 EURO
On September 30th 2008	43,000.00 EURO
On October 31st 2008	43,000.00 EURO
On November 30th 2008	43,000.00 EURO
On December 31st 2008	43,000.00 EURO
On January 31st 2009	43,000.00 EURO
On February 28th 2009	43,000.00 EURO
On March 31st 2009	43,000.00 EURO
On April 30th 2009	43,000.00 EURO
On May 31st 2009	43,000.00 EURO

7. Claimant was also entitled to receive certain bonuses if the team would win the Ukraine Championship, the ULEB Cup or the Ukraine Cup.

8. On 20 or 21 September 2008, Claimant got injured during a friendly game against the team of Rostov, Russian Federation.

9. The following day, Claimant was examined in the diagnostic department of a local hospital, where – according to the witness statement of S.G. Kalinkin - the following diagnosis was established:

> *"partial subfascial rupture of musculus adductor brevis, musculus obliguus abdominis interna, musculus adductor magnus."*

10. On 27 September 2008, Claimant left for Greece where he underwent further medical examination by his personal physician in a Greek sports clinic. The above diagnosis was confirmed. Thereafter, Claimant returned to Mariupol for treatment and rehabilitation. On 19 November 2008, a final medical examination in Mariupol confirmed that Claimant was able to resume training with the Respondent progressively / stepwise, "reaching the degree of functional readiness of 100% in 7 – 10 days."

11. According to the witness statement of Respondent's coach, S.A. Zavalin, Claimant then played three more games with Respondent's team, namely:

- 25 November 2008 against BC Gran Kanaria (Spain), 5 min 30 sec;
- 29 November 2008 against BC Donetsk (Ukraine), 5 min 2 sec;
- 2 December 2008 against BC ASVEL (France), 3 min 39 sec.

12. On 18 November 2008, Mr Tom Angelakis, Claimant's agent, sent an email to Respondent and complained about delay in the payment of the October salary in the

amount of EUR 43,000. The October salary was paid by the beginning of December 2008. No further salary payments have been made by Respondent since then.

13. Claimant left the Club on 10 December 2008 and did not return to the Club since then.

3.2. The Proceedings before the FAT

14. On 25 March 2009, Claimant filed a Request for Arbitration in accordance with the FAT Rules.

15. By letter dated 17 April 2009, the FAT Secretariat confirmed receipt of the Request for Arbitration as well as the non-reimbursable handling fee and informed the Parties of the appointment of the Arbitrator. In the same letter, a time limit was fixed for Respondent to file its Answer to the Request for Arbitration until 8 May 2009 (the "Answer"). The letter also requested the Parties to pay the following amounts as an Advance on Costs by no later than 4 May 2009:

"Claimant (Mr. Liadelis):	*EUR 4,000*
Respondent (BC Azovmash):	*EUR 4,000"*

16. By letter dated 5 May 2009, Respondent requested the Arbitrator to extend the time limit for filing the Answer by one week, until Friday 15 May 2009. By letter dated 7 May 2009, the Arbitrator granted an extension of the time limit for the Answer until 15 May 2009.

17. On 15 May 2009, Respondent submitted its Answer together with Exhibits 1 to 6. Exhibit 4 consisted of video recordings on a DVD disc and was sent to the FAT Secretariat separately.

18. By letter dated 27 May 2009, the Arbitrator invited Claimant to comment on Respondent's Answer "and especially on the allegation that his performance became extremely poor" by no later than 10 June 2009.

19. By letter dated 10 June 2009, Claimant submitted his response to Respondent's Answer.

20. By letter dated 20 June 2009, the Arbitrator invited Respondent to comment on Claimant's submissions by no later than 30 June 2009.

21. On 30 June 2009, Respondent submitted its comments on Claimant's response.

22. By letter dated 9 July 2009, the Arbitrator declared the exchange of documents complete and invited the Parties to submit a detailed account of their costs by no later than 16 July 2009.

23. By letter dated 5 June 2009, Claimant submitted a detailed account of his costs of the FAT proceeding, which he supplemented on 29 July 2009, as follows:

Draw up of lawsuit regarding the arbitration before FAT (study of the contract for the provision of athletic services with Azovmash BC (800 euros), meetings with agent and player (550 euros), telephone conversations with player and exchange of e-mails (250 euros)	*1.600 euros*
Draw up of request for arbitration	*4.000 euros*
Telephone conversations and exchange of e-mails with FAT Secretariat	*600 euros*
Payment of non-refundable fee to FAT	*3.000 euros*
Payment of arbitration fee	*8.000 euros* *4.000 + 4.000 euros today's payment*
Total legal fees *Arbitration fees*	*6.200 euros* *11.000 euros*

24. By letter dated 16 July 2009, the FAT Secretariat informed the Parties that Respondent had failed to pay the Advance on Costs. In accordance with Article 9.3 of the FAT Rules, Claimant was invited to substitute for the missing payment of the Respondent until 29 July 2009. Claimant paid Respondent's share of Advance on Costs on 31 July 2009.

25. By letter dated 5 August 2009, Respondent submitted an account of its costs. Respondent's letter reads in relevant part as follows:

> *"[...] please be informed that the costs borne by the Respondent in the present arbitration consist only of the legal fees paid to its legal counsel. The fee arrangement between the Respondent and its legal counsel contemplated a fixed fee of EUR 20.000 irrespective of the outcome of the arbitration."*

26. The Parties did not request the FAT to hold a hearing. The Arbitrator therefore decided

in accordance with Article 13.1 of the FAT Rules not to hold a hearing and to deliver the award on the basis of the written submissions of the Parties.

4. The Parties' Submissions

4.1. The Claimant's Submissions

27. Claimant submits that the Parties signed the Contract by which Claimant undertook to provide professional services as a basketball player for Respondent's basketball club. In turn, Respondent was obliged to pay a compensation to Claimant, consisting of a base salary of EUR 430,000, to be paid in monthly installments, and certain bonus payments.

28. Claimant submits that Respondent delayed the payment of the installment due for the month of October and eventually stopped making any further salary payments to Claimant.

29. On 5 December 2008, Claimant's agent received an email from Respondent with the following text:

> *"No, I mean about the contract.*
> *Shall we sign for 25EUR?"*

30. Claimant understood this email as an offer to reduce his overall salary from EUR 430,000 to EUR 250.000. However, Claimant submits that he and his agent rejected this offer.

31. Claimant submits that after he and his agent rejected the offer to reduce the annual salary, Respondent requested Mr Liadelis not to practice with the team any longer and to leave the Club. Claimant then asked for the payment of all remaining installments (i.e. EUR 301,000) but Respondent refused to pay anything more than EUR 150,000. Claimant left the Club on 10 December 2008.

32. Upon Respondent's submission that Claimant was notified in writing of the termination of his Contract (see par. 37 hereafter), Claimant contends that he never received the termination letter which Respondent allegedly sent by email on 5 December 2008.

33. Claimant also contends that he never signed the Internal Rules and Regulations of BC Azovmash (the "Internal Regulations") which provide for "termination of contract" upon "violation of sports regime, the loss of sport form, evasion from the struggle, weak will and indifference during the matches and breach of discipline".

34. In response to Respondent's submission that it had terminated the Contract due to Claimant's poor performance during three games, Claimant submits that he got only short playing time which did not allow the drawing of any conclusions regarding his performance. Claimant underlines that he used to be one of the Respondent's top players for the two previous seasons (2006/2007 and 2007/2008). When judging his performance in those three games, also the fact that at the time he was recovering from injury must be taken into account.

4.2. Claimant's Request for Relief

35. Claimant requests FAT to:

"1) Hold that the Contract was terminated by the Respondent without a reason due to the exclusive fault of the Respondent.

2) Order the Respondent to pay to the Claimant the amount of 301.000 euros for rendered services, with interest rate of 5% or, in the alternative, with the interest rate decided by the FAT Arbitrator ex aequo et bono.

3) Hold that the costs of the present arbitration be borne by the Respondent alone.

4) Order the Respondent to reimburse the Claimant the arbitration fee of 3.000 euros as well as his legal fees and other expenses, to be ascertained."

4.3. Respondent's Submission

36. Respondent submits that Claimant got injured during a game in Rostov on 21 September 2008. On 19 November 2008, after successful treatment, Claimant was medically examined and declared to be fully fit to play for Respondent within 7 – 10 days. Claimant then played three official games between 25 November and 2 December 2008 but showed his worst performance during his entire engagement with Respondent. Because of the negative effect on the entire team, the coach could not afford keeping Claimant playing in further games.

37. Despite Respondent's personal talks to Claimant, his performance did not improve. By letter dated 5 December 2008, Respondent therefore terminated the Contract based on Clause 5.1 (fifth paragraph) of the Contract and in accordance with Clause 11.5 of the Internal Regulations. This email read as follows:

"Dear Mr. Angelakis,

Herewith we would like to inform you that your client Panagiotis Liadellis [sic] who plays in our team, has changed the style of his game. And unfortunately to the worse side. His exceptional fighting qualities which pleased the fans in the previous seasons have changed for weak will and indifference in the games.

Probably, the reason for this is his personal drama of a sportsman, or certainly other serious reasons.

However, the unsatisfactory result performed by Liadellis [sic] in the games against BC Donetsk, BC Gran Kanaria and BC ASVEL negatively influenced on the moods of the team in total, and as a result, influenced on the results of important games in National Championship and Eurocup.

The preventive measures in form of dialogues of the club management with the Player have no positive result.

Under such circumstances we have to terminate the contract si[gn]ed on 26.05.2008 because of incompletion by the Player Panagiotis Liadellis [sic] of his obligations envisaged by the clause 5.1 (5th paragraph) of the Contract and in accordance with the clause 11.5 of the Internal Rules and Regulations.

Best regards,

Logvinenko A.A.
Director
BC Azovmash Mariupol"

38. Respondent insists that the letter of termination was sent as usual to the email account of Claimant's agent on 5 December 2008, and that it never received any notice indicating that delivery of this email failed due to any technical or other reasons.

39. Respondent finally submits that because the Contract was not "guaranteed in anyway including against the risk of poor performance/sporting results of Claimant (unlike some of the other agreements of Respondent with its players)", Respondent had no obligation to continue payment of the salaries.

4.4. Respondent's Request for Relief

40. Respondent requests the following:

> *"Respondent requests the Arbitral Tribunal to hold that the Contract was properly terminated by Respondent on 5 December 2008 in full conformity with the provisions of the Contract.*
>
> *Respondent requests the Arbitral Tribunal to hold that Respondent is not liable to pay Claimant any remaining salaries which Claimant was entitled to receive under the Contract after 5 December 2008.*
>
> *Respondent requests the Arbitral Tribunal to hold that Claimant shall bear all costs of the present arbitration.*
>
> *Respondent requests the Arbitral Tribunal to order Claimant to pay to Respondent its reasonable legal fees in connection with the present arbitration."*

5. Jurisdiction

41. Pursuant to Article 2.1 of the FAT Rules, "[t]he seat of the FAT and of each arbitral proceeding before the Arbitrator shall be Geneva, Switzerland". Hence, this FAT arbitration is governed by Chapter 12 of the Swiss Act on Private International Law (PILA).

42. The jurisdiction of the FAT presupposes the arbitrability of the dispute and the existence of a valid arbitration agreement between the parties.

5.1. Arbitrability

43. The Arbitrator notes that the dispute referred to him is clearly of a financial nature and is thus arbitrable within the meaning of Article 177(1) PILA.[1]

5.2. Formal and substantive validity of the arbitration agreement

44. The existence of a valid arbitration agreement will be examined in light of Article 178 PILA, which reads as follows:

> *"1 The arbitration agreement must be made in writing, by telegram, telex, telecopier or any other means of communication which permits it to be evidenced by a text.*
>
> *2 Furthermore, an arbitration agreement is valid if it conforms either to the law chosen by the parties, or to the law governing the subject-matter of the dispute, in particular the main contract, or to Swiss law."*

45. The jurisdiction of the FAT over the dispute between Claimant and Respondent results from Clause 6.2 of the Contract which reads as follows:

> ***"6. DISPUTE***
>
> *(…)*
> *6.2 Any dispute arising from or related to the present contract shall be submitted to the FIBA Arbitral Tribunal (FAT) in Geneva, Switzerland and shall be resolved definitely in accordance with the FAT Arbitration Rules.*
>
> *The arbitrator shall decide the dispute ex aequo et bono.*
>
> *Awards of the FAT can be appealed to the Court of Arbitration for Sport (CAS) Lausanne, Switzerland. To the extent legally possible under Swiss law recourse to the Swiss Federal Tribunal against awards of the FAT and against decisions of the Court of Arbitration for*

[1] Decision of the Federal Tribunal 4P.230/2000 of 7 February 2001 reported in ASA Bulletin 2001, p. 523.

Sport (CAS) upon appeal shall be excluded."

46. The Contract is in written form and thus the arbitration agreement fulfills the formal requirements of Article 178(1) PILA.

47. With respect to substantive validity, the Arbitrator considers that there is no indication in the file which could cast doubt on the validity of the arbitration agreement under Swiss law (cf. Article 178(2) PILA). In particular, the wording "[a]ny dispute arising from or related to the present contract" clearly covers the present dispute.[2]

6. Discussion

6.1. Applicable Law – *ex aequo et bono*

48. With respect to the law governing the merits of the dispute, Article 187(1) PILA provides that the arbitral tribunal must decide the case according to the rules of law chosen by the parties or, in the absence of a choice, according to the rules of law with which the case has the closest connection. Article 187(2) PILA adds that the parties may authorize the arbitrators to decide *"en équité",* as opposed to a decision according

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2 *See* for instance BERGER/KELLERHALS, Internationale und Interne Schiedsgerichtsbarkeit in der Schweiz, Bern 2006, No. 466, pp. 160-161.

to the rule of law referred to in Article 187(1). Article 187(2) PILA is generally translated into English as follows:

> *"the parties may authorize the arbitral tribunal to decide ex aequo et bono".*

49. Under the heading "Applicable Law", Article 15.1 of the FAT Rules reads as follows:

> *"Unless the parties have agreed otherwise the Arbitrator shall decide the dispute ex aequo et bono, applying general considerations of justice and fairness without reference to any particular national or international law."*

50. Clause 6.2 of the Contract, quoted above, provides that:

> *"[t]he* arbitrator shall decide the dispute ex aequo et bono.*"*

51. The Arbitrator will therefore decide the present matter *ex aequo et bono*.

6.1.1 The statutory concept of *ex aequo et bono* arbitration

52. The concept of équité (or ex aequo et bono) used in Article 187(2) PILA originates from Article 31(3) of the Concordat intercantonal sur l'arbitrage[3] (Concordat),[4] under which Swiss courts have held that arbitration en équité is fundamentally different from arbitration en droit :

> *"When deciding ex aequo et bono, the arbitrators pursue a conception of justice which is not inspired by the rules of law which are in force and which might even be contrary to*

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3 That is the Swiss statute that governed international and domestic arbitration before the enactment of the PILA. Today, the Concordat governs exclusively domestic arbitration.

4 P.A. KARRER, Basler Kommentar, No. 289 *ad* Art. 187 PILA.

those rules."[5]

53. In substance, it is generally considered that the arbitrator deciding *ex aequo et bono* receives "a mandate to give a decision based exclusively on equity, without regard to legal rules. Instead of applying general and abstract rules, he/she must stick to the circumstances of the case".[6]

54. This is confirmed by Article 15.1 of the FAT Rules *in fine* according to which the arbitrator applies "general considerations of justice and fairness without reference to any particular national or international law".

55. In light of the foregoing developments, the Arbitrator makes the following findings:

6.2. Findings

6.2.1 Content of the Contract

56. It is undisputed that the legal relationship between the Parties is defined by the Contract dated 26 May 2008, which was signed by Claimant and Respondent on 27 May 2008. When Respondent gave reasons for the unilateral termination of the Contract, it referred not only to the Contract but also to its Internal Regulations. Claimant contests that the Internal Regulations were relevant since he had never signed any document other than the Contract.

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5 JdT 1981 III, p. 93 (free translation).

6 POUDRET/BESSON, Comparative Law of International Arbitration, London 2007, No. 717, pp. 625-626.

57. The Contract contains three references to the Internal Regulations of the Respondent, namely in Clauses 1.4, 1.6 and 5.2. Nevertheless, Respondent bears the burden of proving that Claimant was aware of the Internal Regulations and had accepted them.

58. Together with its Answer, Respondent submitted a copy of the Internal Regulations. At the end of this document, it is stated: "I agree with these Rules" followed by Claimant's name and signature. Obviously, Respondent *has* submitted a copy of the Internal Regulations bearing the signature of Claimant. The authenticity of the signature has not been disputed and the Arbitrator has no reason to doubt that Claimant actually signed the Internal Regulations, which must therefore be considered as part of the Contract between the parties.

6.2.2 Respondent's Termination of the Contract

59. It has also remained undisputed that the Contract was terminated on or before 10 December 2008 i.e. the date on which Claimant, by his own admission, left the Club. The Parties, however, disagree on how the termination of the Contract was effected and whether or not the termination was justified.

60. Respondent submits that the Contract was terminated by its termination letter which was sent by email to Claimant's agent on 5 December 2008. Claimant asserts that he never received that message. Respondent as the employer bears the burden of proof that Claimant as the employee received the notice of termination of the labour agreement. For this purpose, termination letters are usually sent by registered mail. Communication by email is rather unreliable. The sender's copy of an email is definitely not evidence of receipt of the message by the addressee. Respondent does not provide any further evidence such as a message in response or a confirmation by the addressee that he had received Respondent's message. The Arbitrator therefore finds

that there is no sufficient evidence that Claimant received the termination letter. Thus the termination letter had no effect whatsoever.

61. However, since both parties concur that the Contract was terminated by Respondent there is no further need to explore the specific circumstances and form of the termination. In the absence of undisputed written evidence as to the date and circumstances in which the notice of termination was provided, the Arbitrator finds that such termination must have taken place on 10 December 2008 at the latest, i.e. the date when the Player left the Club.

6.2.3 Was the termination justified?

62. Respondent submits that it was entitled to terminate the Contract because of Claimant's very poor performance during the three games he played after recovery from his injury. This allegation is supported by a witness statement of Mr Zavalin, the coach of Respondent's team, and some video recordings which have been taken at the three games in question.

63. Claimant submits that Respondent cannot rely on grounds for termination which have not been indicated in the termination notice. He also submits that the true reason for termination was Claimant's refusal to accept Respondent's proposal to reduce his annual salary from EUR 430,000 to EUR 250,000.

64. The Arbitrator holds that the validity of the termination notice does not depend on whether or not it states the reasons for the termination. However, the terminating party must give the reasons if requested by the other party. It is for the Arbitrator to decide whether or not the reasons given by the terminating party existed and whether they justified the early termination.

65. Respondent relies on Clause 5.2 of the Contract and Clause 11.5 of the Internal Regulations. Clause 5.2 of the Contract reads as follows:

> *"If the Player does not abide by Club's Rules and Internal Regulations which are an integral part of this contract, then the club can apply sanctions` to the extent of termination of the contract."*

66. Clause 11.5 of the Internal Regulations reads as follows:

> *"In case of violation of sports regime, the loss of sports form, evasion from the struggle, weak will and indifference during the matches and breach of discipline, the Club has a right to impose monthly fines or terminate the contract. The decision according to the termination of contract is made by the Club Vice-President and Coach with the consecutive approval by the President of the Club."*

67. These provisions indeed provide for the termination of the Contract if a player shows a passive or indifferent behavior at the Club's games. However, termination of the contract is not the only possible sanction for such behavior, but, rather, the ultimate solution. The general principle of proportionality requires that any other available measures have been exhausted before the most extreme sanction is applied. The Arbitrator finds that Clause 5.2 of the Contract does not mandatorily require terminating the contract in case of non-compliance with the Internal Regulations but leaves room for other sanctions. Clause 11.5 of the Internal Regulations provides e.g. for "monthly fines" or the termination of the contract in case of breach of these Internal Regulations.

68. The Arbitrator finds it very difficult to follow the approach which was taken by Respondent when it concluded after only three games in which Claimant played 5 min 30 sec, 3 min 39 sec and 5 min 2 sec respectively, that his sporting performance was so bad that it had no other option but to immediately and unilaterally terminate the Contract. The Arbitrator also finds that the video recordings do not constitute conclusive evidence of a behavior by Claimant which would justify the immediate

termination of the Contract. When judging the sporting performance of Claimant, also the recent injury and the doctors' forecast of the healing process must be taken into consideration. It may well be that Claimant was still not in possession of his full playing capabilities.

69. In view of the above, the Arbitrator finds that the factual base upon which Respondent relied when it decided to terminate the Contract was far too weak. In any event the principle of proportionality requires that less radical measures should have been imposed (e.g. additional workouts or fines) before the ultimate sanction, i.e. the termination of the Contract, was applied. Thus, the Arbitrator holds that the early termination by Respondent was not justified. Respondent is therefore obliged to compensate Claimant for the damage suffered as a consequence of the unjustified termination of the Contract.

6.2.4 Compensation

70. The Parties agreed on the employment of Claimant for a fixed term until 1 June 2009. In case of unjustified termination of an employment, the employee is entitled to a compensation equal to the compensation he would have received if both parties had fully complied with the terms of the Contract. In other words, Claimant is entitled to the salary payments until the termination date provided in the contract, i.e. 1 June 2009. All income otherwise earned during that period shall be deducted. However, since there is no evidence of such alternative income, the Arbitrator will not make any such deductions.

71. In sum and deciding *ex aequo et bono*, the Arbitrator holds that Claimant is entitled to the full outstanding salary for the 2008 / 2009 season, i.e. EUR 301,000.

6.2.5 Default interest

72. Claimant requests payment of default interest of 5 %. Although the Contract does not explicitly provide that the debtor is to pay default interest, this is a generally accepted principle which is embodied in most legal systems. The Arbitrator, deciding *ex aequo et bono* and in line with the jurisprudence of the FAT decides that the interest rate of 5% per annum must be applied on the amounts due, starting on the day following the termination of the Contract, i.e. on 11 December 2008.

7. Costs

73. On 11 August 2009, considering that pursuant to Article 19.2 of the FAT Rules "the FAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of FAT and the fees and costs of the FAT President and the Arbitrator", and that "the fees of the Arbitrator shall be calculated on the basis of time spent at a rate to be determined by the FAT President from time to time", taking into account all the circumstances of the case, including the time spent by the Arbitrator, the complexity of the case and the procedural questions raised, the FAT President determined the arbitration costs in the present matter at EUR 5,700.00. In the present case, Claimant fully succeeded and the costs shall therefore be entirely borne by Respondent.

74. Given that Claimant has paid the totality of the Advance on the arbitration costs of EUR 7,997.00, as fixed by the Arbitrator, the Arbitrator decides that:

(i) the FAT shall reimburse EUR 2,297.00 to Claimant;

(ii) Respondent shall pay to Claimant the difference between the costs advanced by him and the amount which is going to be reimbursed to him by the FAT, i.e. EUR 5,700.00.

75. Furthermore, the Arbitrator considers it adequate that Claimant is entitled to the payment of a contribution towards his reasonable legal fees and other expenses (Article 19.3 of the FAT Rules). Since in the case at hand the payment by Claimant of the non-reimbursable handling fee was not taken into account when allocating the costs of the arbitration, the Arbitrator considers it adequate to take into account the non-reimbursable fee when assessing the expenses incurred by Claimant in connection with these proceedings. After having reviewed and assessed the submissions by Claimant, the Arbitrator fixes the contribution towards the legal fees and expenses of Claimant at EUR 9,200.

8. AWARD

For the reasons set forth above, the Arbitrator decides as follows:

1. **Azovmash Mariupol Basketball Club is ordered to pay to Mr. Panagiotis Liadelis EUR 301,000.00 together with 5% interest p.a. from 11 December 2008.**

2. **Azovmash Mariupol Basketball Club is ordered to pay to Mr. Panagiotis Liadelis EUR 5,700.00 as a reimbursement of the advance of FAT costs.**

3. **Azovmash Mariupol Basketball Club is ordered to pay to Mr. Panagiotis Liadelis EUR 9,200.00 as a contribution towards Mr. Panagiotis Liadelis' legal fees and expenses.**

4. **Any other or further-reaching claims for relief are dismissed.**

Geneva, 17 August 2009

Stephan Netzle

(Arbitrator)

FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

Notice about Appeals Procedure

cf. Article 17 of the FAT Rules
which reads as follows:

"**17. Appeal**

Awards of the FAT can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland and any such appeal must be lodged with CAS within 21 days from the communication of the award. The CAS shall decide the appeal *ex aequo et bono* and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure."