



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

ARBITRAL AWARD

(0095/10 FAT)

by the

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Ulrich Haas

in the arbitration proceedings between

Mr. Nikita Shabalkin, 5A Stroitelley st., Appt. 92, Khimki, Russia

represented by Mr. Gregory Kurziner and Ms. Lynn Kurziner, Attorneys at law,
Jabotinsky 5, 12th floor, Ramat Gan, Israel 52520

- Claimant -

vs.

“Khimki” Basketball Club, 27 Kirov st., 11 400 Moscow Area, Khimki, Russia

- Respondent -



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

1. The Parties

1.1. The Claimant

1. Mr. Nikita Shabalkin (the "Player" or "Claimant") is a professional basketball player of Russian nationality, who during the 2007-2008 and 2008-2009 seasons was playing for the Basketball Club "Khimki".

1.2. The Respondent

2. Basketball Club "Khimki" (the "Club" or "Respondent") is a professional basketball club in Russia.

2. The Arbitrator

3. On 26 May 2010, the President of the FIBA Arbitral Tribunal (the "FAT") appointed Prof. Dr. Ulrich Haas as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the FIBA Arbitral Tribunal (hereinafter the "FAT Rules"). Neither of the Parties has raised objections to the appointment of the Arbitrator or to his declaration of independence.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

3. Facts and Proceedings

3.1. Summary of the Dispute

4. On 30 June 2007, the Parties entered into an employment contract entitled “Basketball Player Labor Agreement” according to which the Club engaged the Claimant as a player for its team for the seasons 2007-2008 until 2009-2010 (“Contract”).
5. In its relevant parts the Contract reads as follows:

“4. REMUNERATION

4.1 As remuneration for fulfilment of the Player’s obligations under this Agreement the Club shall pay salary to the Player stipulated in an additional agreement to this Agreement, and this additional agreement is an integral part of this Agreement. The salary shall be paid in accordance with the laws of the Russian Federation in force within the time as set out by the Club.

4.2 The Player may receive bonuses according to his skills and results to such amount and on such conditions as provided by the internal documents effective in the Club or under additional agreements signed by and between the Parties.

4.3 The bonuses paid to the Player as given in appendices or supplements to this Agreement shall be paid out in accordance with the procedure and on conditions provided by these documents.

4.4 If this Agreement is terminated early, the Player shall receive salary for the time actually worked.

4.5 If the Club fails to pay the salary in due time, pay for leave, resignation allowances and other amounts due to the Player, the Club shall pay all these amounts with interest (monetary compensation) in such rates and on such conditions as provided by the labor laws of the Russian Federation in force.

5. TERMINATION OF THE AGREEMENT

5.1 This Agreement expires upon expiration of the effective period of the Agreement, by agreement between the Parties and in other cases provided by the Labor Code of the Russian Federation.

6. SETTLEMENT OF DISPUTES

6.1 All disputes, differences or claims arising out of or in connection with this



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

Agreement, including those related to its performance, violation, termination or invalidity, shall be settled exclusively subject to the laws of the Russian Federation in force.”

6. On the same day the parties signed an Addendum to the Contract which *inter alia* stipulated the amounts payable to the Player (“Addendum”) and in its relevant part reads as follows:

“Parties agreed that the salary of Player is set as detailed:

From June 30, 2007 to June 30, 2008 – 350,000 (three hundred and fifty thousand) US dollars per year.

From July 1, 2008 to June 30, 2009 – 400,000 (four hundred thousand) US dollars per year.

From July 1, 2009 to June 30, 2010 – 400,000 (four hundred thousand) US dollars per year.

Salary is paid monthly in equal parts during the entire season.

In the event and during the 2008-2009 playing season, Player appeared in opening five of not less than 50% of games conducted by basic part of the team, or played an average of 18 minutes of playing time in each game of the basic composition of the team, the salary of Player will be reconsidered in the 2009-2010 season and increased by 20% to 35% per year from annual amount of the 2009-2010 season.

[...]

Bonus system:

Following bonuses are set for Player, depending on achievement of following team results in the 2007-2010 seasons:

Union of European League of Basketball Cup:

- appearance in finals – 8% of annual contract amount*
- cup winning – 10% of annual contract amount*

Super league Championship:

1st place – 10% of annual contract amount

2nd place – 8% of annual contract amount

3rd place – 4% of annual contract amount

Russia Cup:

- appearance in final – 4% of annual contract amount*



We Are Basketball

FIBA Arbitral Tribunal (FAT)

- Cup winning – 8% of annual contract amount

Bonuses are not summed up in one competition.

Parties also agreed:

In case Player concludes warranted contract with NBA by August 10, 2007, this contract can be terminated on Player's initiative under conditions of paying compensation to Club totalling \$ 350,000 (three hundred and fifty thousand) US dollars.

In case Player concludes warranted contract with NBA by August 10, 2008 or by August 10, 2009, this contract can be terminated on Player's initiative under conditions of paying compensation to Club totalling \$ 500,000 (five hundred thousand) US dollars.

Club recognizes that all negotiations with Player regarding this contract, as well as in future, should be held with the participation of Player's Agent and Agent's signature on Player's contract is legitimate and necessary.

Parties agreed that in case of discrepancy in terms of this contract and basic contract, terms of this contract will prevail."

7. The Player played for the Club during the 2007-2008 and 2008-2009 seasons.
8. After the end of the 2008-2009 season, on 31 August 2009 the Parties signed an agreement which put an end to their employment relationship ("Termination Agreement") and provided as follows:

"1. Club undertakes as follows: Within 7 days after signing this agreement, to issue permitting letter to Player in accordance with the regulating documents of Russian Basketball Federation (RBF).

Up to December 31, 2009 to pay to Player an amount totalling \$140,619 for the 2008/2009 season and compensation totalling 360,000 (three hundred and sixty thousand) Rubles for renting an apartment for Player, as per the agreement of June 30, 2007 between "Khimki" NCPBC and N.A. Shabalkin. Payment of the amount, indicated in paragraph 1.2, is carried out in Rubles in accordance with exchange rate established by Central Bank of Russian Federation on the day of payment.

2. Parties agree that, in the event of signing this agreement and fulfilment of paragraph 1.1 by Club, commitments per agreement between "Khimki" NCPBC and N.A. Shabalkin are considered as having been appropriately fulfilled.

3. In event of non fulfilment of the commitments envisaged in par. 1 of this agreement on the part of Club, Player and Agent are entitled to apply sanctions, envisaged by the acting legislation of Russian Federation.

4. All arguments, and disagreements or requirements, arising from this agreement or



We Are Basketball

FIBA Arbitral Tribunal (FAT)

connected to it, are resolved by negotiations. In case the parties do not reach a compromise settlement, the matter is brought to Arbitration Court of FIBA.

5. This agreement is drawn up in 2 (two) copies, each sustaining equal legal authority, one to each party."

9. The Club subsequently paid to the Player the amount of USD 140,619 for salaries, RUB 360,000 for apartment rent and also provided its consent for the Player's transfer to another Russian club, namely Triumph Club of Lyubertsy ("Triumph").
10. The Player through his counsel contacted several times the Club's representatives requesting payment of outstanding bonuses in the amount of USD 64,000.
11. The Club did not reply nor make any further payments to the Player.

3.2. The Proceedings before the FAT

12. On 19 May 2010, the Claimant filed a Request for Arbitration in accordance with the FAT Rules. The non-reimbursable fee of EUR 3,000 had already been paid on 10 May 2010.
13. On 31 May 2010, the FAT informed the Parties that Prof. Dr. Ulrich Haas had been appointed as the Arbitrator in this matter and fixed the amount of the Advance on Costs to be paid by the Parties as follows:

*"Claimant 1 (Mr. Shabalkin) EUR 4,000
Respondent (BC Khimki) EUR 4,000"*

14. On 11 June 2010, the Claimant paid the amount of EUR 4,044.76 as an advance on costs and on the same day the Respondent paid its share of EUR 4,000.



FIBA

We Are Basketball

FIBA Arbitral Tribunal (FAT)

15. On 21 June 2010, the Club timely filed with FAT its answer and, later on the same day, an addendum to the answer (jointly referred to as the “Answer”).
16. In compliance with the Arbitrator’s procedural directions of 24 June 2010
17. the Claimant filed on 2 July 2010 his comments on the Answer (“Rejoinder”), and
18. the Respondent replied to said comments on 14 July 2010 (“Reply”).
19. On 5 August 2010, considering that neither party had solicited a hearing, the Arbitrator 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 Parties’ written submissions. The Arbitrator accordingly issued a Procedural Order providing that the exchange of documents was completed and inviting the Parties to submit their cost accounts.
20. On 12 August 2010, the Claimant submitted the following account of costs:

<i>“Attorney fees</i>	<i>\$ 18,515</i>
<i>[...]</i>	
<i>Trave[l]ing expenses for participation in committee in FIBA Russia (sic)</i>	<i>\$ 2,705</i>
<i>[...]</i>	
<i>Request for arbitration fee to FAT.</i>	<i>€ 7,000</i>
<i>Misc. expenses for telephone calls, faxes, secretarial services and office expenses.</i>	<i>\$ 2,000</i>
<i>Total \$</i>	<i>\$ 23,220</i>
<i>plus Total €</i>	<i>€ 7,000”</i>

21. On 17 August 2010, the Respondent submitted the following account of costs.

“1. Advance on costs – 4000 EUR



We Are Basketball

FIBA Arbitral Tribunal (FAT)

2. Legal services 1000 EUR

So the expenses of the BC KHIMKI, caused by the case [...], consist in total of 5 000 EUR”

4. The Positions of the Parties

4.1. The Claimant's Position

22. The Claimant submits the following in substance:

- At the end of the 2008-2009 season the Club owed a total amount of USD 216,619 to the Player for salaries, apartment rent and bonuses. After many requests by the Player's counsel, the Club partially settled its debts leaving an unpaid amount of USD 64,000 for bonuses, i.e. USD 32,000 for 2nd place in the Russian Championship and USD 32,000 for winning the Russian Cup.
- Despite the Player's efforts to settle the matter amicably, the Club did not reply to the Player's letters, telephone calls and written requests for payment.
- The Termination Agreement was signed as a result of the Club's "non-payment" and it reflected the Parties' agreement to *extend* the payment dates under the Contract and to submit any dispute to the jurisdiction of FAT. The Termination Agreement does not refer to bonuses because the Contract did not specify on which date the bonuses should be paid and "the creation of the [Termination Agreement was] meant to settle the overdue payment owed to the Player due to completion of the employment relationship between the parties".



We Are Basketball

FIBA Arbitral Tribunal (FAT)

- Although the Contract does not mention a payment date for bonuses, the Claimant provided the Club with reasonable and fairly necessary time to comply with an obligation which arose during the 2008-2009 season, before filing his Request for Arbitration in May 2010.

23. In his Request for Arbitration dated 10 May 2010, the Claimant requested the following relief:

“Subject to the terms and conditions of the agreements signed by the parties and attached to the request for arbitration. Khimki Moscow shall pay bonuses in the sum of \$64,000 in addition to incurred unexpected expenses resulted in the non-payment of said sum, late payment fee, interests, costs of the arbitration in the sum of EUR 3,000 and repay of legal fees in the sum of \$20,000.

Total: \$84,000 + EUR 3,000 + late payment fees and interests.”

4.2. Respondent's Position

24. The Respondent submits the following in substance:

- FAT has no jurisdiction to decide the case since article 6.1 of the Contract refers to Russian legislation and the latter expressly provides that labour disputes are resolved by the competent Russian commissions and courts. The FAT is only competent to decide disputes arising from the Termination Agreement; however, the Claimant seeks payment of bonuses mentioned only in the Contract and its Addendum and not in the Termination Agreement.
- On 31 August 2009 the Parties met to find an arrangement regarding the Club's outstanding debts to the Player. During the meeting the Player expressed a desire to transfer to another club. Although the Claimant is a highly skilled basketball player and his Contract would not expire before the end of the



We Are Basketball

FIBA Arbitral Tribunal (FAT)

following (2009-2010) season, the Club agreed to release him without requesting a transfer fee while the Player agreed to waive his right on claiming bonuses.

- The fact that no payment of bonuses was stipulated in the Termination Agreement was a deliberate choice of the Parties, as confirmed by the Player's agent, Mr. Tarakanov, who was present at the negotiations. The purpose of said agreement was to end the Parties' employment relationship and settle all pending financial issues between them. Indeed, the Club paid the amounts agreed in the Termination Agreement and allowed the Player's transfer to Triumph. No bonuses were paid because no bonuses were owed any longer.

25. In its Answer dated 17 September 2009, the Respondent requested the following relief:

- "1. To void the adjudication of the claim of the basketball player N.A. Shabalkin towards BC Khimki, as it is beyond the competence of the FIBA Arbitral Tribunal.*
- 2. To refuse the basketball player Shabalkin N.A. the full satisfaction on the Claim (sic).*
- 3. To surcharge the basketball player Shabalkin N.A. 1000 (One thousand) Euro for legal services."*

5. Jurisdiction

26. 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).

27. The jurisdiction of the FAT presupposes the arbitrability of the dispute and the



We Are Basketball

FIBA Arbitral Tribunal (FAT)

existence of a valid arbitration agreement between the parties.

5.1. 5.1. Arbitrability

28. The Arbitrator finds that the dispute referred to him is of a financial nature and is thus arbitrable within the meaning of Article 177(1) PILA¹.

5.2. 5.2. Formal and substantive validity of the arbitration agreement

29. Article 4. of the Termination Agreement reads:

“4. All arguments, and disagreements or requirements, arising from this agreement or connected to it, are resolved by negotiations. In case the parties do not reach a compromise settlement, the matter is brought to Arbitration Court of FIBA.”

30. The Termination Agreement is in written form and thus the arbitration agreement fulfills the formal requirements of Article 178(1) PILA.
31. With respect to substantive validity, the Arbitrator notes the Club's submission that the FAT has no jurisdiction to decide on a claim for bonuses which arises from the Contract and its Addendum rather than from the Termination Agreement.
32. The Arbitrator does not endorse the Club's interpretation.

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



We Are Basketball

FIBA Arbitral Tribunal (FAT)

33. Firstly, it is the Club's own submission that "the Contract, the Addendum and the [Termination] Agreement are three integral parts of the relationships (sic) between BC Khimki and Mr. Shabalkin". Indeed, the Termination Agreement which contains an arbitration clause in favor of FAT is closely connected with the Contract, since it makes direct reference to it (see article 1, para. 2). In addition, it has remained undisputed that the Termination Agreement was meant to deal with the Club's (non-)fulfilment of several terms of the Contract and of the Addendum.
34. Secondly, the Club expressly accepts FAT's jurisdiction for matters arising from or connected to the Termination Agreement (see p.1, para. 3 of the Answer) but goes on to suggest that the bonuses do not fall under this scope. The Arbitrator disagrees and finds the Club's submissions to be - in this respect - conflicting: if a party suggests that a claim (for bonuses) was tacitly waived through an agreement (Termination Agreement) it cannot suggest at the same time that the same claim is not even connected to the said agreement.
35. Thirdly, it is evident that the Parties terminated their contractual relationship on 31 August 2009. Thus, considering that the Termination Agreement produced major legal effects² on the Contract and the Addendum, matters arising from the latter also fall under the jurisdiction of FAT.
36. The Arbitrator is comforted in this position not only by the explicit language of the arbitration agreement quoted above (see para 8), which envisages FAT arbitration for "*all arguments, and disagreements or requirements, arising from this agreement or*

² See FAT decision 0001/07 dated 16 August 2007, Ostojic, Raznatovic vs. PAOK KAE pp.11-12.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

connected to it", but also by the openly "liberal" case law of the Swiss Federal Tribunal with respect to arbitration agreements by reference³ and the predisposition of the Federal Tribunal to take into account the interconnection between different contracts when examining the substantive validity of an arbitration agreement.⁴

37. In view of all these close ties between the three contracts, the Arbitrator holds that the arbitration clause in Article 4 of the Termination Agreement covers the present dispute.

6. Discussion

6.1. Applicable Law

38. 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*" instead of choosing the application of rules of law. Article 187(2) PILA is generally translated into English as follows:

³ Decision of the Swiss Federal Tribunal of 16 October 2003, reported in ATF 129 III 727, 735 using the word "liberal" with reference to ATF 121 III 38, 45 and the decisions 4P.126/2001 of 18 December 2001 reported in ASA Bulletin 2002, p. 482; 4C.40/2003 of 19 May 2003 at 4, reported in ASA Bulletin 2004, p. 344; see also decision 4P.230/2000 of 7 February 2001 reported in ASA Bulletin 2001, p. 523.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

“the parties may authorize the arbitral tribunal to decide ex aequo et bono”.

39. 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.”

40. Article 3 of the Termination Agreement reads:

“3. In event of non fulfilment of the commitments envisaged in par. 1 of this agreement on the part of Club, Player and Agent are entitled to apply sanctions, envisaged by the acting legislation of Russian Federation.”

41. The Arbitrator considers that in the present case the Parties' common intention was to account for the rules of local labour law (in this case the laws of Russia). This interpretation is corroborated by Article 4.1 of the Contract which provides that “The salary shall be paid in accordance with the laws of the Russian Federation”, and by the reference made to the "Labor Code fo the Russian Federation" in Article 5.1 (see para. 5 *supra*).

42. Consequently, the Arbitrator will adjudicate the present matter on the basis of Russian law. The relevant provisions will be referred to and interpreted, to the extent necessary for the resolution of the dispute, when discussing the merits of this case.

43. In light of the foregoing considerations, the Arbitrator makes the findings below:

⁴ Decision of 8 December 1999, reported in ASA Bulletin 2000, p. 546.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

6.2. Findings

6.2.1. Did the claim for bonuses survive the Termination Agreement?

44. The Player claims two bonuses of USD 32,000 each, in connection with the Club's sporting achievements during the 2008-2009 season. The Club has not raised any objections regarding the facts triggering the bonuses or the amount requested.
45. Thus, the main issue at dispute is whether the Club, after signing the Termination Agreement with the Player, still owes him the said bonuses.
46. At the outset, the Arbitrator notes that both Parties have acknowledged the validity of the Termination Agreement. Also under Russian labour law, "A labour agreement can be terminated at any time upon mutual agreement of all sides."⁵
47. The Arbitrator now turns to the text of the Termination Agreement.
48. Article 1 sets out the Club's undertakings:
- to issue a letter allowing the Player's transfer to another club within 7 days;
 - to pay until 31 December 2009

⁵ Article 78 of the Labour Code of the Russian Federation (31.12.2001), as provided on the official website of the International Labour Organisation <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/60535/65252/E01RUS01.htm#chap12>



We Are Basketball

FIBA Arbitral Tribunal (FAT)

- an amount of USD 140,619 for the 2008/2009 season;
 - an amount of RUB 360,000 for the apartment's rent.
49. The Parties have provided different explanations on why the unpaid bonuses were not mentioned together with the other obligations of the Club. On the one hand, the Player argues that there was no need to extend a payment deadline for the bonuses because there was no such deadline stipulated in the Addendum. On the other hand, the Club contends that the Player waived the bonuses in return for his “freedom” to move to a new club without compensation.
50. The Arbitrator notes that, in principle, rights deriving from a written contract are abandoned also through a written declaration; this is even more so when it comes to employees’ claims against their employer and/or when the employment contract requires modifications to be made in writing. In the present case Article 10.1 of the Contract provides that “After a regular season is completed, the conditions of this Agreement may be reviewed by mutual agreement of the Parties in writing”. This clause is in compliance with Article 58 para. 5 of the Labour Code of the Russian Federation which reads: “Terms and conditions of the labor contract shall be amended by the written consent of the parties only.”⁶
51. The Arbitrator finds that these criteria are met in the matter at hand. More specifically, Article 2 of the Termination Agreement reads:

⁶ See *supra* footnote 5.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

"2. Parties agree that, in the event of signing this agreement and fulfilment of paragraph 1.1 by Club, commitments per agreement between "Khimki" NCPBC and N.A. Shabalkin are considered as having been appropriately fulfilled."

52. (emphasis added)
53. This provision does not leave much room for interpretation. The Club fulfilled all three conditions set out in Article 1.1 and had the legitimate expectation that its "commitments" under the Contract were "considered as having been appropriately fulfilled". Although the provision does not refer to "all" commitments, it is clear that the Termination Agreement was meant to resolve all open issues between the Parties: the unpaid amounts, the dissolution of the Contract, the Player's permission to move to another Club, the consequences for the Club in case it would not meet its obligations.
54. The Player's argument, that the Termination Agreement merely extended the time-limit for payment of two outstanding amounts (salaries and apartment rent) while the third (bonuses) remained due until an undefined future date, is unfounded and must be rejected. Such interpretation is not supported by the wording of the Termination Agreement either, since the due amount of USD 140,619 is followed by the indication "for the 2008/2009 season" which could be understood as covering all claims arising from the said season (i.e. salaries and bonuses) and not only salaries.
55. In any event, even if one assumes that the real intention of the Parties was to simply postpone payment, then Article 2 would not have been included in the Termination Agreement.
56. Besides, the Club's explanation about the Parties' interests is plausible. It is a common practice in the world of professional sports that a Player who wants to transfer to a club while under contract will have (either he or his future club) to compensate his current club for the premature ending of their collaboration. Setting off a part of outstanding debts against a claim for compensation would not be an unusual transaction between a



We Are Basketball

FIBA Arbitral Tribunal (FAT)

professional club that competes in the Euroleague and a 23-year old Player and member of the Russian national team⁷.

57. To sum up, the Arbitrator finds that the Termination Agreement was not signed “as a result of the non-payment” by the Club – as the Player argues – but rather as a result of the Parties’ mutual consent to terminate the Contract and to deal comprehensively with all issues relating to its execution up to that date. Hence, if the bonuses of USD 64,000 are not mentioned in the Termination Agreement, the better reasons speak in favour of the view that this was done deliberately and that these sums, therefore, are no longer owed by the Club.
58. As a consequence, the Player’s claim must fail in its entirety.

7. Costs

59. Article 19 of the FAT Rules provides that the final amount of the costs of the arbitration shall be determined by the FAT President and that the award shall determine which party shall bear the arbitration costs and in what proportion; and, as a general rule, shall grant the prevailing party a contribution towards its legal fees and expenses incurred in connection with the proceedings.

⁷ The Arbitrator refers to publicly available information http://www.fibaeurope.com/cid_KNce8jlnH7Qj1E5yH5rjn2.teamID_3123.compID_3PFNKyhLHWIYKHG2fZORY3.season_2007.roundID_5086.playerID_44968.html#{E91AFDC5-57F4-4283-9A62-3729B99232F4}.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

60. On 21 September 2010 – 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 to be EUR 6,950.00.
61. Considering that the Player’s claim was rejected and that the financial situation of the Parties does not compel otherwise, the Arbitrator holds that the fees and costs of the arbitration be borne by the Player and that he be required to cover his own legal fees and expenses as well as those of the Club, the latter being reasonable in amount.
62. Given that the Parties each paid their shares of the advance on costs for a total amount of EUR 8,044.76, the Arbitrator decides that in application of article 19.3 of the FAT Rules:
- (i) FAT shall reimburse EUR 1,094.76 to the Club, being the difference between the costs advanced by the parties and the arbitration costs fixed by the FAT President;
 - (ii) The Player shall pay EUR 2,905.24 to the Club, being the difference between the costs advanced by it and the amount it is going to receive in reimbursement from the FAT;
 - (iii) The Player shall pay EUR 1,000.00 to the Club, representing the amount of its legal fees and other expenses.



We Are Basketball

FIBA Arbitral Tribunal (FAT)

8. AWARD

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

1. **The claims of Mr. Nikita Shabalkin as against “Khimki” Basketball Club are dismissed in their entirety.**
2. **Mr. Nikita Shabalkin shall pay to “Khimki” Basketball Club an amount of EUR 2,905.24 as a reimbursement of the advance on costs paid by it to the FAT.**
3. **Mr. Nikita Shabalkin shall pay to “Khimki” Basketball Club an amount of EUR 1,000.00 as a contribution towards its legal fees and expenses.**
4. **Any other or further requests for relief are dismissed.**

Geneva, seat of the arbitration, 24 September 2010

Ulrich Haas
(Arbitrator)