



BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0127/10)

rendered by

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Raj Parker

in the arbitration proceedings

Mr. Justas Sinica

- Claimant 1 -

UAB “East Players”, S. Žukausko St. 49-92, 09131 Vilnius, Republic of Lithuania

- Claimant 2 -

Both represented by Mr. Linas Jakas of ADLEX law firm, Gynėjų St. 16, 01109 Vilnius, Republic of Lithuania.

vs.

Viešoji Įstaiga “Krepšinio Rytas”, Ozo St. 14a, 08200 Vilnius, Republic of Lithuania.

- Respondent -

1. The Parties

1.1 The Claimants

1. Mr. Justas Sinica (hereinafter "Claimant 1" or the "Player") is a Lithuanian citizen and a professional basketball player.
2. UAB "East Players" (hereinafter "Claimant 2" or the "Agency") is a basketball agency registered in Lithuania.
3. In these proceedings Claimant 1 and Claimant 2 (together "the Claimants") are represented by Mr. Linas Jakas, attorney at law, ADLEX law firm, Gynėjų St. 16, 01109 Vilnius, Republic of Lithuania.

1.2 The Respondent

4. Viešoji Įstaiga "Krepšinio Rytas" (hereinafter the "Respondent" or the "Club") is a Lithuanian basketball club. The Respondent is not represented by legal counsel.

2. The Arbitrator

5. On 28 October 2010, the President of the Basketball Arbitral Tribunal (the "BAT") appointed Raj Parker as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (hereinafter the "BAT Rules").

6. By email dated 1 November 2010, the Arbitrator accepted his appointment. None of the Parties has raised objections to the appointment of the Arbitrator or to the declaration of independence issued by him.

3. Facts and Proceedings

3.1 Background Facts

7. On 23 July 2008 the Claimants and the Respondent signed a Contract on Sporting Activities (hereinafter, the “Contract”). The Contract contains, among others, the following provisions:

“2. Validity of the Contract

2.1 This contract shall be made according to the 3+1 Model. The contract shall come into force at the moment of signing hereof and shall remain in force until 31st May 2012 or until 31st May 2011, provided that the other Club pays to the Club the buy-back established herein. The said period shall include 2008/09, 2009/10, 2010/11 and 2011/12 basketball seasons.

[...]

3. Rights and Duties of the Parties

3.2. The Player undertakes as follows: [...]

3.2.2 To perform all instructions of the Club's administration, coaches and other Club's specialists in regards to the preparation for sport games and participation therein [...]

3.2.9 To conserve his health and to follow recommendations of the Team's doctor and other specialists in regards to the healthcare [...]

3.2.12 In the event of injure [sic] or disease, immediately to notify to this effect the

Team's coach and medical doctor.

[...]

3.4. The Club undertakes as follows:

[...]

3.4.4 To arrange for the Player the proper medical care and treatment in the event of his disease or injury and to cover expenses in regards thereto.

[...]

5. Financial Obligations of Parties

5.1 The Club shall pay the Player payouts for sporting activities for each month, starting from August 2008 and up to May 2012, both aforesaid months included. Both Parties come to agreement that taxes due for all payouts applicable in procedure defined by the Law of the Republic of Lithuania shall be paid by the Club on behalf of the Player, i.e. all amounts of payouts due to the Player shall be treated herein as NET.

5.2 For 2008-2009 basketball season the Club shall pay the Player EUR 90,000.00 (ninety thousand Euros), i.e. EUR 9,000.00 (nine thousand Euros) per month. For 2009-2010 basketball season the Club shall pay the Player EUR 125,000.00 (one hundred twenty five thousand Euros), i.e. EUR 12,500.00 (twelve thousand five hundred Euros) per month. For 2010-2011 basketball season the Club shall pay the Player EUR 170,000.00 (one hundred seventy thousand Euros), i.e. EUR 17,000.00 (seventeen thousand Euros) per month. For 2011-2012 basketball season the Club shall pay the Player EUR 220,000.00 (two hundred twenty thousand Euros), i.e. EUR 22,000.00 (twenty two thousand Euros) per month.

5.3 Should the Club head the list in the Lithuanian Basketball League (LKL), the Club shall pay the Player the bonus amounting from EUR 2,500.00 (two thousand five hundred Euros) to EUR 5,000.00 (five thousand Euros).

5.4 Should the Club head the list in the Baltic Basketball League (BBL), the Club shall pay the Player the bonus amounting from EUR 1,500.00 (one thousand five hundred Euros) to EUR 3,000.00 (three thousand Euros).

5.5 Should the Club win the cup of the Lithuanian Basketball Federation (LKF), the Club shall pay the Player the bonus amounting from EUR 1,500.00 (one thousand five hundred Euros) to EUR 3,000.00 (three thousand Euros).

5.6 Should the Club win the EURO CUP, the Club shall pay the Player the bonus amounting from EUR 5,000.00 (five thousand Euros) to EUR 10,000.00 (ten thousand Euros).

5.7 Should the Club reach Euroleague TOP16 stage as forth-place [sic], the Club shall pay the Player the bonus amounting to EUR 2,000.00 (two thousand Euros), or the bonus amounting to EUR 3,000.00 (three thousand Euros), should the Club reach Euroleague TOP16 stage as third-place, or the bonus amounting to EUR 4,000.00 (four thousand Euros), should the Club reach Euroleague TOP16 stage as second-place, or the bonus amounting to EUR 5,000.00 (five thousand Euros), should the Club reach Euroleague TOP16 stage as first-place team.



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5.8 Should the Club reach Euroleague TOP8 stage, the Club shall pay the Player the bonus amounting from EUR 2,500.00 (two thousand five hundred Euros) to EUR 5,000.00 (five thousand Euros).

5.9 Should the Club reach Euroleague final four, the Club shall pay the Player the bonus amounting from EUR 3,500.00 (three thousand five hundred Euros) to EUR 7,000.00 (seven thousand Euros).

5.10 Should the Club reach Euroleague final, the Club shall pay the Player the bonus amounting from EUR 5,000.00 (five thousand Euros) to EUR 10,000.00 (ten thousand Euros).

5.11 Should the Club head the list in Euroleague, the Club shall pay the Player the bonus amounting from EUR 10,000.00 (ten thousand Euros) to EUR 20,000.00 (twenty thousand Euros).

5.12 All payouts specified herein shall be paid either in Litas and/or Euro (pursuant to the rate fixed by the Bank of Lithuania on the said day).

5.13 All aforesaid payouts shall be paid before 10th day of the each month, bonuses - before 10th day of the next month. Should the Club delay to pay the Player the salary in time, the former shall pay the Player default interest amounting to 0.02 per cent of delayed amount for each day of delay.

[...]

7. Validity of the Contract

7.1 This contract shall be secured, should the Club unilaterally terminate the contract, all rest payouts provided for herein must be paid to the Player immediately [...]

8. Validity, Amendment and Termination of the Contract

8.1 The contract shall come into effect on the day of signing hereof and shall remain effective until 31st May 2012 with opportunity to terminate this Contract in terms and conditions set herein.

[...]

10. Agent

10.1 The Club undertakes for services rendered by the Agent on signing this contract to pay the Agent the remuneration amounting to EUR 9,000.00 (nine thousand Euros) for agency. The value added tax shall make up EUR 1,620.00 (one thousand six hundred twenty Euros). The remuneration amounting to EUR 10,620.00 (ten thousand six hundred two hundred [sic]) must be paid until 15th September 2008. The remuneration can be paid in Litas and/or Euros (at the rate fixed by the Bank of Lithuania on the day of payment)...

10.3 The Club undertakes to pay the Agent for 2009/2010, 2010/2011 and 2011/2012 seasons the 10% (ten per cent) agency fee and the value added tax of the Player's net salary for the respective season until 15th September of the current season.

10.4 Delay to pay out in time the aforesaid fee to the Agent shall be considered by

parties as and shall draw to the Club the same liability as for delay to pay payouts to the Player pursuant to Part 5 hereof, i.e. in case of delay to pay the Agent in the set time, the Agent shall be entitled unilaterally to terminate this Contract, having forwarded the warning to the Club. All other default interest and other forfeit liabilities in such case shall remain the same as defined in Part 5 hereof.

[...]

12. Settlement of Disputes

12.1 Parties shall select for settlement of disputes the FIBA Arbitral Tribunal and arbitration rules that make compulsory to indicate herein the following text in English:

12.2 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 in accordance with the FAT Arbitration Rules by a single arbitrator appointed by the FAT President.

12.3 The seat of the arbitration shall be Geneva, Switzerland.

12.4 The arbitration shall be governed by Chapter 12 of the Swiss Act on Private International Law (PIL), irrespective of the parties' domicile.

12.5 The language of the arbitration shall be English.

12.6 Awards of the FAT can be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland. The parties expressly waive recourse to the Swiss Federal Tribunal against awards of the FAT and against decisions of the Court of Arbitration for Sport (CAS) upon appeal, as provided in Article 192 of the Swiss Act on Private International Law.

12.7 The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono [...]"

8. In early 2010, Claimant 1 felt sharp pain in the area of his [...]. After various medical examinations it was found that the pain was being caused by [...]. Claimant 1 underwent surgery in Austria on 2 June 2010 to rectify the problem.
9. By letter dated 20 July 2010, the Respondent purported to terminate the Contract.

3.2 The Proceedings before the BAT

10. On 13 October 2010 the Claimants filed a Request for Arbitration in accordance with the BAT Rules. On 1 October 2010 the BAT received the non-reimbursable handling fee of EUR 4,000.00 from the Claimants.

11. By letter dated 11 November 2010, the BAT Secretariat fixed a time limit until 3 December 2010 for the Respondent to file the Answer to the Request for Arbitration. By the same letter, and with a time limit for payment until 26 November 2010, the following amounts were fixed as the Advance on Costs:

| | |
|--|-------------------|
| <i>"Claimant 1 (Mr. Justas Sinica)</i> | <i>EUR 4,500</i> |
| <i>Claimant 2 (UAB "East Players")</i> | <i>EUR 1,500</i> |
| <i>Respondent (Viešoji I staiga "Krepšinio Rytas")</i> | <i>EUR 6,000"</i> |

12. By letter dated 23 November 2010 the Respondent requested that the deadline of 3 December 2010 set for submitting the Answer to the Request for Arbitration be extended until 31 December 2010. This extension was granted and notified to the Claimants and the Respondent by the BAT Secretariat by letter dated 26 November 2010.
13. Claimant 1 paid his share of the Advance on Costs on 19 November 2010. Claimant 2 paid its share of the Advance on Costs on 25 November 2010. The Respondent paid its share of the Advance on Costs on 30 November 2010.
14. By Procedural Order dated 31 January 2011, the BAT Secretariat informed the Parties that all Parties had paid their respective shares of the Advance on Costs and that the Respondent had filed an Answer to the Request for Arbitration.
15. In the same Procedural Order dated 31 January 2011, the Arbitrator requested more information from the Claimants and the Respondent by no later than 11 February 2011. On 11 February 2011 the Claimants and the Respondent responded to the Procedural Order.
16. By Procedural Order dated 23 February 2011, the Arbitrator requested further

information from Claimant 1 and the Respondent by no later than 7 March 2011. On 7 March 2011 the Claimants and the Respondent responded to the Procedural Order.

17. By Procedural Order dated 9 March 2011, the Arbitrator declared the exchange of documents complete, and requested that the Parties submit detailed accounts of their costs.
18. On 18 March 2011, the Claimants submitted the following account for costs:

| <i>SUMMARY AND TOTAL AMOUNT OF COSTS INCURRED BY THE CLAIMANT 1</i> | |
|---|---|
| <i>Type of costs</i> | <i>Total amount of incurred costs</i> |
| <i>Handling fee and advance on costs</i> | <i>8,500,00 EUR</i> |
| <i>Costs of translation services</i> | <i>5,402,22 LTL/1,564,59 EUR</i> |
| <i>Costs of collection of evidence</i> | <i>5,500,00 LTL/1,592,91 EUR</i> |
| <i>Costs of legal services</i> | <i>-</i> |
| <i>Total amount of all costs incurred by Claimant 1 (EUR):</i> | <i>11,657,50 EUR</i> |

| <i>SUMMARY AND TOTAL AMOUNT OF COSTS INCURRED BY THE CLAIMANT 2</i> | |
|---|---------------------------------------|
| <i>Type of costs</i> | <i>Total amount of incurred costs</i> |
| <i>Handling fee and advance on costs</i> | <i>1,500,00 EUR</i> |
| <i>Costs of translation services</i> | <i>-</i> |
| <i>Costs of legal services</i> | <i>10,077,41 EUR</i> |
| <i>Total amount of all costs incurred by Claimant 2 (EUR):</i> | <i>11,577,41 EUR</i> |

19. On 29 March 2011, the Respondent submitted the following account for costs:

“Costs of translation services – 3750,75 LTL (1087 EUR);

Costs of legal services – 9000 LTL (2609 EUR).”

20. By email dated 1 April 2011, the BAT Secretariat invited the Parties to submit any comments on the opposite party’s account of costs by no later than 8 April 2011.

None of the Parties submitted any such comments.

21. By letter dated 4 April 2011, the BAT Secretariat informed the Parties that the FIBA Arbitral Tribunal (FAT) had been renamed to Basketball Arbitral Tribunal (BAT) and that, unless any one of the Parties objected by 11 April 2011, the new name would be applied also to the present proceedings. None of the Parties raised any objections within the time limit.
22. Since none of the Parties filed an application for a hearing, the Arbitrator decided, in accordance with Article 13.1 of the BAT 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 Claimants' Submissions

23. Claimant 1 submits that he had no knowledge of his [medical condition] prior to joining the Club. Claimant 1 claims that he informed the Respondent's team medical doctor (hereinafter the "Respondent's Doctor") as soon as he felt pain in his [...]. Claimant 1 submits that he followed all directions given to him by the Respondent's Doctor and kept the Respondent informed about all aspects of his treatment, which Claimant 1 paid for at his expense.
24. Claimant 1 submits that the Respondent, on hearing of the diagnosis of [...], unilaterally and unjustly terminated the Contract without just cause from 8 August 2010, giving

notice of this by way of letter dated 20 July 2010.

25. Claimant 1 submits that there are a number of outstanding salary and bonus payments that are due to him under the Contract from the Respondent, both for services that Claimant 1 provided to the club in the 2009/2010 season and for monies due under the Contract for the period following the date on which the Respondent terminated the Contract.
26. Claimant 2 submits that the Respondent owes it agency fees under the Contract for the 2009/2010, 2010/2011 and 2011/2012 seasons.
27. The Claimants' request for relief requests that the Arbitrator:

"To award EUR 4,959.14 (four thousand nine hundred and fifty nine Euros, 14 ct.) of the unpaid salary for March 2010 of the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 13 April 2010 to the moment of payment of the amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 12,500.00 (twelve thousand five hundred Euros) of the unpaid salary for April 2009 of the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 10 April 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 12,500.00 (twelve thousand five hundred Euros) of the unpaid salary for April 2009 of the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 10 May 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 4,387.10 (four thousand three hundred and eighty seven Euros, 10 ct.) of the unpaid salary for the first eight days of August 2010 of the basketball season of year 2010/2011 plus interest at rate of 5 % per annum on such amount for the period from 10 August 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 1,500.00 (one thousand five hundred Euros) of the unpaid bonus for winning the LKF cup for the basketball season of year 2008/2009 plus interest at rate of 5 % per annum on such amount for the period from 10 February 2009 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in

favour of the Claimant I Justas Sinica;

To award EUR 1,500.00 (one thousand five hundred Euros) of the unpaid bonus for winning the first place in BBL for the basketball season of year 2008/2009 plus interest at rate of 5 % per annum on such amount for the period from 10 May 2009 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 5,000.00 (five thousand Euros) of the unpaid bonus for winning the EUROCUP cup for the basketball season of year 2008/2009 plus interest at rate of 5 % per annum on such amount for the period from 10 May 2009 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 2,500.00 (two thousand five hundred Euros) of the unpaid bonus for winning the first place in LKL for the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 10 February 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 1,500.00 (one thousand five hundred Euros) of the unpaid bonus for winning the LKF cup first place in BBL for the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 10 March 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 2,500.00 (two thousand five hundred Euros) of the unpaid bonus for winning the first place in LBL for the basketball season of year 2009/2010 plus interest at rate of 5 % per annum on such amount for the period from 10 June 2010 to the moment of payment of this amount from the Respondent VIEŠOJI TSTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 275,612.90 (two hundred and seventy five thousand six hundred and twelve Euros, 90 ct.) as compensation from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica for termination of the Contract without just cause;

To award EUR 445.88 (four hundred and forty five Euros, 88 ct.) of interest for the periods from 11 August 2008 to 13 April 2010 for undue performance of financial obligations from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 9,111.74 (nine thousand one hundred and eleven Euros, 74 ct.) of the expenses incurred by the Claimant I Justas Sinica, relating to treatment of the injury from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant I Justas Sinica;

To award EUR 15,125.00 (fifteen thousand one hundred and twenty five Euros) of the unpaid agency fee for the basketball season of year 2009/2010 plus interest at rate of 5

% per annum on such amount for the period from 15 September 2009 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant II UAB "East Players";

To award EUR 20,570.00 (twenty thousand five hundred and seventy Euros) of the unpaid agency fees for the basketball season of year 2010/2011 plus interest at rate of 5 % per annum on such amount for the period from 8 August 2010 to the moment of payment of this amount from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimant II UAB "East Players";

To award EUR 26,620.00 (twenty six thousand six hundred and twenty Euros) of the unpaid agency fee for the basketball season of year 2011/2011 [sic] plus interest at rate of 5 % per annum on such amount for the period from 8 August 2010 to the moment of payment of this amount from the Respondent VIEŠOJI TSTAIGA "KREPŠINIO RYTAS" in favour of the Claimant II UAB "East Players";

To order the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" to pay applicable taxes defined by the law of the Republic of Lithuania on behalf of the Claimant I Justas Sinica on the awarded unpaid salaries, bonuses and compensation from the Respondent in favour of the Claimant I Justas Sinica after examination of the present request and submit documents certifying payment of such taxes to the Claimant I Justas Sinica;

To award legal fees and other expenses incurred by the Claimants Justas Sinica and UAB "East Players" in connection with the proceedings of arbitration from the Respondent VIEŠOJI ISTAIGA "KREPŠINIO RYTAS" in favour of the Claimants Justas Sinica and UAB "East Players".

4.2 The Respondent's Submissions

28. The Respondent admits that Claimant 1 was not paid wages for part of the 2009/2010 season. The Respondent submits that this is because Claimant 1 did not agree to sign a payroll so that such wages could be paid in cash.
29. The Respondent submits that Claimant 1 was aware of his [medical condition] when he signed the Contract with the Respondent, and that Claimant 1 deliberately concealed his [medical condition] from the Respondent.
30. The Respondent submits that Claimant 1 did not keep the Respondent properly informed of Claimant 1's diagnosis and treatment. The Respondent submits that it was

not made fully aware of Claimant 1's [medical condition] until 30 June 2010 when Claimant 1 emailed to the Respondent copies of medical documents regarding the surgery that Claimant 1 had already undergone.

31. The Respondent submits that Claimant 1 was required to obtain written consent from the Respondent before undergoing any surgery, and that he did not do so.
32. The Respondent submits that Claimant 1 has entered into a new contract of sports activities with a different basketball club and so, and in any event, further compensation should not be awarded.
33. The Respondent submits that Claimant 2 automatically lost his right to agency fees when the Contract was terminated because Claimant 2 did not provide any agency services after the Contract had been terminated.

5. Jurisdiction and other Procedural Issues

5.1 The Jurisdiction of the BAT

34. Pursuant to Article 2.1 of the BAT Rules, “[t]he seat of the BAT and of each arbitral proceeding before the Arbitrator shall be Geneva, Switzerland”. Hence, this BAT arbitration is governed by Chapter 12 of the Swiss Act on Private International Law (PILA).
35. The jurisdiction of the BAT presupposes the arbitrability of the dispute and the

existence of a valid arbitration agreement between the parties.

5.1.1 Arbitrability

36. 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

5.1.2 Formal and substantive validity of the arbitration agreement

37. The existence of a valid arbitration agreement is to 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."

38. Clause 12.2 of the Contract states as follows:

"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 in accordance with the FAT Arbitration Rules by a single arbitrator appointed by the FAT President."

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

40. With respect to substantive validity, the Arbitrator considers that there are no indications which could cast doubt on the validity of the arbitration agreement under

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

Swiss law (cf. Article 178(2) PILA).

41. The Respondent submits that the current dispute is beyond the jurisdiction of the BAT because it is likely that any award of the BAT will not be enforceable in the Republic of Lithuania.
42. The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was ratified in the Republic of Lithuania on 17 January 1995 and in reference to the aforementioned Convention, paragraph 2(1) of Article 40 of the Law on Commercial Arbitration of the Republic of Lithuania states that foreign arbitral awards cannot be recognised and enforced if the *“subject of the dispute may not be a subject of arbitral proceedings according to the laws of the Republic of Lithuania”*.
43. Paragraph 1 of Article 11 of the Law on Commercial Arbitration of the Republic of Lithuania which states that *“disputes arising out of constitutional, employment, family or administrative legal relations may not be submitted to the arbitration”*.
44. The Arbitrator finds that the BAT does have jurisdiction to hear this dispute. This is because Article 2 of the BAT Rules (as well as Clause 12 of the Contract) provides that *“the seat of the arbitration shall be Geneva, Switzerland”* and *“the arbitration shall be governed by Chapter 12 of the Swiss Act on Private International Law (PIL), irrespective of the parties' domicile.”* This is consistent with the Swiss Supreme Court's well-established case law that the arbitrability of a dispute where the seat of the arbitration is Switzerland shall be determined exclusively pursuant to Article 177(1) PILA. The Lithuanian legislation upon which the Respondent relies is therefore irrelevant. The Arbitrator notes that this finding is consistent with the Court of Arbitration for Sport's decision in *CAS 2010/A/2234 Basquet Menorca SAD v. Vladimer Boisa*, following an appeal against the award in the case FAT 0074/10.

6. Discussion

6.1 Applicable Law – *ex aequo et bono*

45. 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 authorise the arbitrators to decide “*en équité*”, as opposed to a decision according 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 authorise the arbitral tribunal to decide ex aequo et bono”.

46. Clause 12.7 of the Contract stipulates that “*The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono*”. Consequently, the Arbitrator shall adjudicate the claims *ex aequo et bono*.

47. 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*² (Concordat),³ 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

² That is the Swiss statute that governed international and domestic arbitration before the enactment of the PILA (governing international arbitration) and, most recently, the Swiss Code of Civil Procedure (governing domestic arbitration).

³ P.A. KARRER, Basler Kommentar, No. 289 *ad* Art. 187 PILA.

*not inspired by the rules of law which are in force and which might even be contrary to those rules.*⁴

48. 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”.⁵
49. This is confirmed by Article 15.1 of the BAT Rules *in fine* according to which the arbitrator applies “general considerations of justice and fairness without reference to any particular national or international law”.
50. In light of the foregoing matters, the Arbitrator makes the following findings:

6.2 Findings

6.2.1 Claimant 1’s Injury

51. The Arbitrator has considered the exhibits that Claimant 1 has submitted, which detail Claimant 1’s medical history. There is nothing in those exhibits which suggests to the Arbitrator that Claimant 1 was aware that he had a [...] when he joined the Club. The Respondent has not provided evidence to prove that Claimant 1 was aware of the condition when he joined the Club.
52. The Arbitrator finds that, as Claimant 1 was not aware of the [medical condition], he

⁴ JdT 1981 III, p. 93 (free translation).

⁵ POUURET/BESSION, *Comparative Law of International Arbitration*, London 2007, No. 717, pp. 625-626.

could not have deliberately concealed that [condition] when he entered into the Contract with the Respondent.

6.2.2 Termination of the Contract

53. The Respondent submits that Claimant 1 did not obtain written consent from the Respondent prior to his surgery. However, the Contract does not provide that written consent is required before Claimant 1 may undergo treatment. Indeed, Clause 3.2.9 provides that Claimant 1 is obliged to “follow recommendations of the Team’s doctor and other specialists in regards to the healthcare”.
54. In determining whether or not Claimant 1 followed the recommendations of the Respondent’s Doctor and other specialists, the Arbitrator has had regard to various correspondence submitted by the Claimants.
55. The Claimants submitted email correspondence between the Respondent’s Doctor (Dr. Audrius Gocentas) and a specialist orthopaedic surgeon, Dr. Kristoff Corten. On 7 April 2010 the Respondent’s Doctor wrote an email to Dr. Corten, stating:

*“Dear Dr. Corten,
The images (3 CD) were sent by TNT on Friday. Could you confirm the receipt of this data? Have you had some time for evaluation of the images?
Best regards,
Audrius Gocentas”*

56. Dr. Corten responded to Dr. Gocentas’s email as follows:

*“Dear Dr Gocentas,
I have been able to review the XR and MRI images.
This is quite a complex case, I am afraid.
Your patient obviously has [...]. This can be treated arthroscopically

[...]

I think that the best solution would be a [...].”*

However, this surgery is not without risks and takes a very long time to recover [...]. Depending how bad he is, I think that you could give it a go with an arthroscopic [...]

[...]"

57. The Respondent submits that there are “reasonable doubts” over the “objectives and authenticity” of the above emails. The Respondent submits that Claimant 1 is not mentioned by name in either of the emails. The Arbitrator agrees that Claimant 1’s name is not mentioned in the emails, however the Arbitrator notes that the date and content of the emails appear entirely congruent with the Claimants’ assertion that the emails refer to Claimant 1. The Arbitrator finds that there is nothing in the emails to suggest that they do not refer to Claimant 1. The Respondent has not suggested how the Claimants would have obtained the email correspondence, if the correspondence did not relate to Claimant 1. Accordingly, the Arbitrator finds that the Respondent has not proven that the email correspondence does not refer to Claimant 1.
58. The Arbitrator finds that there is nothing within the email correspondence which casts reasonable doubt on the authenticity of the emails, and the Arbitrator notes that the correspondence has been certified by the Claimants’ attorney as a true copy. The Arbitrator therefore does not accept the Respondent’s assertion that the emails may be inauthentic.
59. The Claimants have also submitted a letter from Dr. Heinz Freithofnig of the Althofen Clinic (the clinic where Claimant 1 underwent surgery on his [...]). The letter, which contains no addressee and is dated 10 February 2011, states:

“[...]

In the spring of 2010 Private Clinic Althofen was addressed by Mr. Dr. A. Gocentas (Physician of the basketball club Lietuvos Rytas) regarding the sportsman Justas Sinica who was feeling pain in the area of [...]. The clinical and X-ray examination confirmed the [...] and Mr. Justas Sinica was recommended to have surgical treatment. On 02/06/10 Mr. Justas Sinica had the arthroscopy of [...].

[...]"

60. The Arbitrator finds that there is no reason to cast doubt over the validity or authenticity of this letter.
61. In light of the Parties' submissions; the email correspondence between the Respondent's Doctor and Dr. Kristoff Corten; and the letter from the Althofen Clinic, the Arbitrator finds that Claimant 1 did follow the recommendations of the Respondent's Doctor by seeking specialist advice. Claimant 1 then took the specialist's advice by having surgery on [...].
62. The Respondent submitted a "Director Order" dated 1 September 2008. The Director Order states:
- "4. Players of Lietuvos Rytas' basketball team may not undergo any treatment procedures or surgeries without the written permission of the team physician and the director of VSI Krepsinio Rytas."*
63. Claimant 1 submits that he never saw or received a copy of the Director Order. The Arbitrator notes that the Respondent only produced the Director Order in response to the Second Procedural Order, despite claiming in its Answer that Claimant 1's failure to obtain consent from the Respondent for the surgery permitted the Respondent to terminate the Contract. The Arbitrator finds that the Respondent has not proven that Claimant 1 agreed to the terms of the Director Order at any point. Accordingly, the Arbitrator finds that Claimant 1 did not require the prior written consent of the Respondent to undergo surgery.
64. In any event, the Arbitrator finds that the Respondent was aware that Claimant 1 would undergo surgery because the Respondent's Doctor was made aware of this fact, as evidenced by the email correspondence between the Respondent's Doctor and Dr. Kristoff Corten, and by the letter from the Althofen Clinic.
65. In light of the above findings in relation to Claimant 1's injury, the Arbitrator finds that the Contract was unilaterally terminated without just cause from 8 August 2010 by the

Respondent, by way of the letter from the Respondent to the Claimants dated 20 July 2010.

6.2.3 Bonuses for the 2008/2009 Season

66. Claimant 1 claims EUR 10,500.00 in bonuses due in the 2008/2009 season. The Respondent does not contest this claim in its Answer and admits in its response to the Procedural Order dated 31 January 2011 that it has not paid Claimant 1 a bonus of EUR 1,500.00 for winning the Lithuanian Basketball Federation Cup.
67. The Arbitrator finds that the Respondent has not paid any bonuses to Claimant 1 for the 2008/2009 season. Accordingly, Claimant 1 is entitled to the following bonus payments:

| Achievement | Date of achievement | Bonus amount (EUR) |
|-------------------------|---------------------|--------------------|
| Winning the LKF Cup | 24 January 2009 | 1,500.00 |
| The first place in BBL | 25 April 2009 | 1,500.00 |
| Winning the Eurocup cup | 5 April 2009 | 5,000.00 |
| The first place in LKL | 18 May 2009 | 2,500.00 |
| Total | | 10,500.00 |

6.2.4 Bonuses for the 2009/2010 Season

68. Claimant 1 claims EUR 4,000.00 for bonuses due in the 2009/2010 season. The Respondent does not contest this claim in its Answer. The Arbitrator finds that the Respondent has not made any bonus payments to Claimant 1 for the 2009/2010 season. Accordingly, Claimant 1 is entitled to the EUR 4,000.00 outstanding for the 2009/2010 season, calculated in the following way:

| Achievement | Date of achievement | Amount payable (EUR) |
|------------------------|---------------------|----------------------|
| Winning the LKF Cup | 20 February 2010 | 1,500.00 |
| The first place in LKL | 24 May 2010 | 2,500.00 |
| | | 4,000.00 |

6.2.5 Salary for the 2009/2010 Season

69. Claimant 1 claims EUR 29,959.14 in unpaid salary for the 2009/2010 season. The Respondent admits in its response to the Procedural Order dated 31 January 2011 that it owes Claimant 1 EUR 29,000.00 for salary and bonus payments for the 2009/2010 season. The Arbitrator found, in paragraph 68 above, that the Respondent failed to pay Claimant 1 EUR 4,000.00 of bonuses for the 2009/2010 season. Deducting this sum from the amount of EUR 29,000.00 for which the Respondent admits liability, leaves the amount of EUR 25,000.00 for which the Respondent admits liability, in respect of salary payments.
70. The Respondent submits that it has attempted to pay Claimant 1 his outstanding salary for the 2009/2010 season, however Claimant 1 refused to sign the Respondent's payroll, and so was not permitted to take his salary payments.
71. The Claimants and the Respondent disagree over how much of Claimant 1's salary for the 2009/2010 season is unpaid. In determining what amount of Claimant 1's salary is in fact unpaid, the Arbitrator has had regard to the amount of salary payable under the Contract and the payments that have been made to Claimant 1. The Contract sets out Claimant 1's monthly salary in Euros, however the bank statement submitted by Claimant 1, which sets out what payments have been made to Claimant 1 by the Respondents, shows payments made in Lithuanian Litas (hereinafter "LTL").

72. The payments made by the Respondent to Claimant 1 for the 2009/2010 season were irregular and do not match the payment schedule set out in the Contract. This notwithstanding, the Arbitrator finds that the bank statement produced by Claimant 1 does not prove that the Respondent owes more than EUR 25,000.00 in unpaid salary payments. The Arbitrator therefore finds that the Respondent owes Claimant 1 EUR 25,000.00 in unpaid salary payments.

6.2.6 Salary for the 2010/2011 Season

73. Clause 7.1 of the Contract provides that if the Contract is unilaterally terminated by the Respondent all remaining payments due under the Contract must be paid to Claimant 1 immediately. As stated above, the Arbitrator finds that the Contract was unilaterally terminated without just cause by the Respondent.

74. Claimant 1 has a duty to mitigate any losses arising from the breach of the Contract. The Arbitrator finds that Claimant 1 has done so by entering into a new contract with basketball club "PRIENAI". The Arbitrator considers that it is reasonable that Claimant 1 was not able to begin playing under the new contract until 26 November 2010 because he was recovering from the surgery to his [...]. Accordingly, Claimant 1 is entitled to receive his salary under the Contract in full up until this date.⁶

75. Accordingly, the Arbitrator finds that the Respondent is obliged to pay Claimant 1 his full salary for the 2009/2010 season, less the amount of remuneration that Claimant 1 will receive under the new contract.⁷ The Arbitrator calculates this to be EUR 170,000.00 less 25,000.00 LTL.

⁶ This principle was set out in BAT (then FAT) decision 0009/08 (*Smith v PBC Lukoil Academic Sofia Basketball Club*, at 79).

76. 25,000.00 LTL converts to EUR 7,240.50 on the date of this award.⁸ Accordingly, the Arbitrator awards EUR 162,759.50 to Claimant 1 in relation to unpaid salary for the 2010/2011 season.

6.2.7 Salary for the 2011/2012 Season

77. Claimant 1's salary in full for the 2011/2012 season also falls due pursuant to Clause 7.1 of the Contract.

78. Claimant 1 does not have a new contract in place for the 2011/2012 season. The Arbitrator shall therefore determine, *ex aequo et bono*, a sum appropriate as compensation for Claimant 1. In doing so, the Arbitrator has consideration to several factors, including the following: (i) Clause 7.1 of the Contract, which provides that the Contract is secured; (ii) the fact that Claimant 1 earns significantly less under his new contract than under the original Contract; (iii) the fact that Claimant 1 has been recovering from surgery and so will have likely found it more difficult to obtain a new contract with terms as favourable as the original Contract; (iv) the fact that Claimant 1 may never fully recover from his surgery; (v) and the fact that the compensation relates to the 2011/2012 season and so Claimant 1 will have greater opportunity to seek a more favourable contract than the one signed with basketball club "PRIENAI". Accordingly, the Arbitrator finds that the Respondent shall pay Claimant 1 EUR 66,000.00, representing 30% of Claimant 1's salary for the 2011/2012 season.

⁷ This principle was set out in BAT (then FAT) decision 0014/08 (*van de Hare v Azoumash Mariupol Basketball Club* at 72-73).

⁸ Using a rate of 1 LTL = 0.28962 EUR, obtained from the website www.xe.com

6.2.8 Taxation

79. Claimant 1 has requested that the Respondent pay the applicable taxes on any unpaid salaries, bonuses and compensations that are awarded by the Arbitrator. Clause 5.1 of the Contract states:

“The Club shall pay the Player payouts for sporting activities for each month, starting from August 2008 and up to May 2012, both aforesaid months included. Both Parties come to agreement that taxes due for all payouts applicable in procedure defined by the Law of the Republic of Lithuania shall be paid by the Club on behalf of the Player, i.e. all amounts of payouts due to the Player shall be treated herein as NET.”

80. The Arbitrator therefore finds that the Respondent shall pay all applicable taxes on the salary and bonus payments that are awarded to Claimant 1 pursuant to this Award.

81. Claimant 1 has requested that the Respondent submit documents certifying payment of such taxes to Claimant 1, following payment of the taxes. The Arbitrator notes that there is no provision in the Contract requiring the Respondent to submit such documents to Claimant 1, and that no evidence has been submitted to the Arbitrator which indicates that the Respondent has an obligation to provide Claimant 1 with such documents. The Arbitrator therefore finds that the Respondent is not required to submit documents certifying payment of taxes to Claimant 1.

6.2.9 Medical Expenses

82. Claimant 1 has claimed EUR 9,111.74 for his medical expenses. This comprises EUR 6,605.58 for surgery in the Althofen Clinic in Austria; EUR 1,520.00 for rehabilitation treatment in the Althofen Clinic; and EUR 986.16 for the flights to and from the Althofen Clinic. Claimant 1 has provided receipts to the BAT in relation to these expenses. The Respondent submits that Claimant 1 did not seek the necessary permission before undergoing the treatment and so contests the claim for medical expenses.

83. Under Clause 3.4.4 of the Contract, the Respondent undertakes to arrange for Claimant 1 to have “proper medical care and treatment in the event of disease or injury and to cover expenses in regards thereto”. The Arbitrator finds that Claimant 1’s [...] is a disease for the purposes of Clause 3.4.4 of the Contract.
84. As noted above, the Contract does not require Claimant 1 to obtain written permission for medical treatment. Accordingly, the Arbitrator finds that Claimant 1 is entitled to EUR 9,111.74 for medical expenses incurred in relation to his [...] injury.

6.2.10 Agency Fees

85. Claimant 2 claims for unpaid agency fees amounting to EUR 62,315.00 for the seasons 2009/2010, 2010/2011 and 2011/2012. The Respondent has refuted this claim, submitting that any right to agency fees was lost on termination of the Contract.
86. Pursuant to Clause 10 of the Contract, Claimant 2 is entitled to a “10% agency fee and the value added tax of the Player’s net salary for the respective season.”
87. The Arbitrator notes that Claimant 1 played for the Respondent for the duration of the 2009/2010 season. The Respondent has not disputed the Claimants’ claim that it did not pay Claimant 2 an agency fee for the 2009/2010 season. Therefore, in relation to the 2009/2010 season, the Arbitrator finds that the Respondent owes Claimant 2 EUR 15,125.00 in agency fees which fell due, but were unpaid.
88. The Arbitrator notes that Clause 7.1 of the Contract provides that if the Respondent unilaterally terminates the Contract, all sums due “to the Player” under the Contract become payable immediately. There is no corresponding provision in the Contract that all sums due to the Agency become payable immediately if the Respondent unilaterally terminates the Contract. Furthermore, the fact that the agency’s fee is payable annually under the Contract, and not up front in a single lump sum is an indication that the fee

relates to annual services. In light of the foregoing, the Arbitrator finds that no agency's fee is payable by the Respondent to Claimant 2 in relation to the 2010/2011 and 2011/2012 seasons, because Claimant 1 will not be playing for the Respondent in those seasons, pursuant to the Contract.

6.2.11 Interest

89. The Claimants have claimed interest on the unpaid amounts owing under the Contract at a rate of 5% per annum.
90. Clause 5.13 of the Contract provides that if salary payments to Claimant 1 are late, a default interest rate of 0.02% per day shall apply. However, Claimant 1 has claimed 5% interest per year in relation to unpaid salary payments. The rate of 0.02% per day is a higher rate of interest than 5% per year. The Arbitrator finds that interest is payable under the Contract and so the Arbitrator finds that the Respondent shall pay Claimant 1 at a rate of 5% per year on all unpaid salary from the date on which payment was due under the Contract.
91. There is no provision in the Contract in relation to interest on late bonus payments or late agency fee payments. The Arbitrator considers that payment of interest is customary and necessary compensation for late payment and there is no reason why the Claimants should not be awarded interest in relation to unpaid bonus payments and agency fees. The Arbitrator considers, in line with the jurisprudence of the BAT, that 5% per year is a reasonable rate of interest and should be applied to the unpaid bonus payments and agency fees, from the date on which payment fell due under the Contract.
92. Interest on unpaid sums is therefore due as follows:
 - a) Bonuses for the 2008/2009 Season

| Achievement | Amount payable (EUR) | Date from which interest accrues |
|-------------------------|----------------------|----------------------------------|
| Winning the LKF Cup | 1,500.00 | 10 February 2009 |
| The first place in BBL | 1,500.00 | 10 May 2009 |
| Winning the Eurocup cup | 5,000.00 | 10 May 2009 |
| The first place in LKL | 2,500.00 | 10 June 2009 |

b) Salary for the 2009/2010 Season

As noted in paragraphs 71 to 72, the Contract sets out Claimant 1's monthly salary in Euros, however the bank statement submitted by Claimant 1, which sets out what payments have been made to Claimant 1 by the Respondents, shows payments made in Lithuanian Litas. Furthermore, the payments made by the Respondent to Claimant 1 for the 2009/2010 season were irregular and do not match the payment schedule set out in the Contract. As such, it is not possible to state the dates from which interest is due on exact amounts of unpaid salary. The Arbitrator notes that the Respondent made salary payments to Claimant 1 up until 13 April 2010. The Arbitrator therefore decides, *ex aequo et bono*, that interest shall accrue on the sum of EUR 25,000.00 from the last payment date specified in the Contract for the payment of salary in the 2009/2010 season, namely 10 May 2010.

c) Bonuses for the 2009/2010 Season

| Achievement | Amount payable (EUR) | Date from which interest accrues |
|------------------------|----------------------|----------------------------------|
| Winning the LKF Cup | 1,500.00 | 10 March 2010 |
| The first place in LKL | 2,500.00 | 10 June 2010 |

d) Medical Expenses

As discussed above, Claimant 1 is entitled to certain medical expenses, from the Respondent. The Arbitrator has determined the date from which interest accrues on the expenses by reference to the receipts and invoices provided by the Claimants. Interest is therefore due as follows:

| Expense | Amount payable (EUR) | Date from which interest accrues |
|--------------------------|----------------------|----------------------------------|
| Flights | 511.47 | 26 May 2010 |
| Surgery | 6,605.58 | 9 June 2010 |
| Flights | 474.69 | 19 July 2010 |
| Rehabilitation treatment | 1,520.00 | 6 August 2010 |

e) Agency Fees

The Arbitrator finds that Claimant 2 is entitled to interest on the unpaid agency fees of EUR 15,125.00 for the 2009/2010 season, accruing from 15 September 2009 at a rate of 5% per annum.

7. Costs

93. Article 17.2 of the BAT Rules provides that the final amount of the costs of the

arbitration shall be determined by the BAT President and may either be included in the award or communicated to the parties separately. Furthermore, Article 17.3 of the BAT Rules provides that the award shall grant the prevailing party a contribution towards its reasonable legal fees and expenses incurred in connection with the proceedings.

94. On 8 May 2011, considering that pursuant to Article 17.2 of the BAT Rules “the BAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of BAT and the fees and costs of the BAT 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 BAT 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 BAT President determined the arbitration costs in the present matter at EUR 11,500.00.
95. The Arbitrator notes that all Parties paid their respective share of the Advances on Costs totalling EUR 12,000.00. The Arbitrator notes that the Claimants were successful in part in establishing their claims in relation to the sums owing under the Contract, and the claims for interest thereon. The Arbitrator considers it appropriate that the Claimants are entitled to the payment of a contribution towards their reasonable legal fees and expenses (Article 17.3 of the BAT Rules). The Arbitrator considers it appropriate to take into account the non-reimbursable fee when assessing the expenses incurred by the Claimants in connection with these proceedings. Hence, and after having reviewed and assessed the Claimants’ submissions, the Arbitrator fixes the contribution towards Claimant 1’s legal fees and expenses at EUR 5,000.00, and Claimant 2’s legal fees and expenses at EUR 4,000.00. Thus, the Arbitrator decides that in application of Article 17.3 of the BAT Rules:
- BAT shall reimburse EUR 500.00 to the Claimants, being the difference between the costs advanced by the Parties and the arbitration costs fixed by the BAT President;



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- The Respondent shall pay to the Claimants EUR 11,500.00, being the difference between the costs advanced by the Claimants and the amount that the Claimants are going to receive in reimbursement from the BAT; and
- The Respondent shall pay to the Claimants the amount of EUR 9,000.00 in respect of their legal fees and expenses.

8. AWARD

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

- 1. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 1,500.00 with 5% interest per annum from 10 February 2009 for the 2008/2009 season LKF cup bonus payment.**
- 2. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 1,500.00 with 5% interest per annum from 10 May 2009 for the 2008/2009 season BBL league bonus payment.**
- 3. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 5000.00 with 5% interest per annum from 10 May 2009 for the 2008/2009 season Eurocup bonus payment.**
- 4. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 2,500.00 with 5% interest per annum from 10 June 2009 for the 2008/2009 season LKL league bonus payment.**
- 5. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 25,000.00 with 5% interest per annum from 10 May 2010 for the 2009/2010 season salary payments.**
- 6. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 1,500.00 with 5% interest per annum from 10 March 2010 for the 2009/2010 season LKF cup bonus payment.**
- 7. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 2,500.00 with 5% interest per annum from 10 June 2010 for the 2009/2010 season LKL league bonus payment.**
- 8. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR**

162,759.50 as compensation for the 2010/2011 season salary payments.

- 9. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 66,000.00 as compensation for the 2011/2012 season salary payments.**
- 10. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 511.47 with 5% interest per annum from 26 May 2010 for the cost of flights to the Althofen Clinic.**
- 11. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 6,605.58 with 5% interest per annum from 9 June 2010 for the cost of surgery at the Althofen Clinic.**
- 12. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 474.69 with 5% interest per annum from 19 June 2010 for the cost of flights to the Althofen Clinic.**
- 13. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica EUR 1,520.00 with 5% interest per annum from 6 August 2010 for the cost of rehabilitation treatment at the Althofen Clinic.**
- 14. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to UAB “East Players” EUR 15,125.00 with 5% interest per annum from 15 September 2009 for the 2009/2010 season agency fees.**
- 15. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica and UAB “East Players” EUR 11,500.00 as a reimbursement of the advance of BAT costs.**
- 16. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica and UAB “East Players” EUR 9,000.00 as a contribution towards their legal fees and expenses.**
- 17. Viešoji Įstaiga “Krepšinio Rytas” is ordered to pay to Justas Sinica all applicable taxes on the salary and bonus payments awarded to Justas Sinica pursuant to this award.**
- 18. Any other or further requests for relief are dismissed.**



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Geneva, seat of the arbitration, 9 May 2011

Raj Parker
(Arbitrator)