



BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0148/10)

rendered by

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Stephan Netzle

in the arbitration proceedings between

Ms. Milica Dabovic

- Claimant -

represented by Mr. Salim Baki, Osmaniye Mah Mine Sk,
Emre Konullari A Blok D 26, 34144 Bakirköy-Istanbul, Turkey

vs.

BC Athlitikos Omilos Paleo Faliro

Marina Flisvou, DAK Paleou Falirou, Athens, Greece

- Respondent -

1. The Parties

1.1 The Claimant

1. Ms. Milica Dabovic (hereinafter "Player" or "Claimant") is a professional basketball player of Serbian nationality. She is represented by Mr. Salim Baki, attorney-at-law in Turkey and certified FIBA agent, as her counsel.

1.2 The Respondent

2. BC Athlitikos Omilos Paleo Faliro (hereinafter "Club" or "Respondent") is a professional basketball club located in Athens, Greece. Respondent is not represented by counsel.

2. The Arbitrator

3. On 11 December 2010, the President of the "Basketball Arbitral Tribunal" (the "BAT") appointed Dr. Stephan Netzle as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (hereinafter the "BAT Rules").
4. Neither 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

5. On 28 August 2009, Claimant and Respondent signed an employment contract

(hereinafter referred to as the “Player Contract”) according to which Claimant was employed by Respondent as a basketball player for the 2009-2010 season. According to Article I of the Player Contract, the employment would start on 1 September 2009 and end on 30 April 2010¹.

6. In Article II para. 1 of the Player Contract the Player and the Club agreed on net salaries in a total amount of EUR 48,000.00, payable as follows:

“1. The Club will pay to the Player a net salary (after taxes) of 48,000 Euro to be paid according to the following payment schedule:

After passing the medical examinations no later than September 3, 2009. - 3,000 Euro

September 25, 2009 – 3,000 Euro

October 25, 2009 – 6,000 Euro

November 25, 2009 – 6,000 Euro

December 25, 2009 – 6,000 Euro

January 25, 2010 – 6,000 Euro

February 25, 2010 – 6,000 Euro

March 25, 2010 – 6,000 Euro

April 15, 2010 – 6,000 Euro

The money are guaranteed and will be paid in Euro only.” (sic)

7. In addition to the salaries, the Club agreed to pay one additional round trip airplane ticket (Athens – Tivat – Athens) to be used by the Player in any competition break determined by the Club (Article II para. 6 of the Player Contract). Moreover, Article II para. 8 of the Player Contract stipulated that it was a “no-cut guaranteed agreement”.
8. On 13 September 2009, the Player arrived in Athens and participated in training sessions and matches. More than two months later, the Club’s President told the

¹ The exact wording of the pertinent part of Article I of the Player Contract reads as follows: *“The present contract has a duration of eight (8) months, beginning on September 1, 2009 and ending on April 30 ,2009.”* (sic). Considering the payment schedule in Article II of the Player Contract and all other circumstances of the case, the Arbitrator finds that “30 April 2009” was a typing error and must read “30 April 2010”.

Player that her services were no longer needed and that she would be free to leave the Club. All the efforts by the Player and her agent to learn more about the reasons for the dismissal failed. Until today the Player has not received any payments from the Club.

9. On 20 November 2009, the Player left Greece by plane and returned to her home country. The flight costs were allegedly paid by the Player. Later, the Club offered her a settlement payment of EUR 6,000.00 which was however rejected by the Player.
10. From the end of November 2009 to the beginning of January 2010, the Player played several matches with the Armenian basketball club Hatis Yerevan. There was an oral agreement only. The Player received a compensation of USD 2,000.00.
11. On 22 January 2010, the Player signed a new employment contract with the Polish basketball club Pruszkowskie Towarzystwo Sportowe "LIDER" for the period of three months beginning on 25 January 2010 and ending on 25 April 2010. According to this employment contract the Player was entitled to salaries in the total amount of USD 15,000.00. However, the Player stayed only one month with this team and received the amount of USD 5,000.00 in total.

3.2 The Proceedings before the BAT

12. On 1 December 2010, Claimant's counsel filed on behalf of Claimant a Request for Arbitration in accordance with the BAT Rules, which was received by the BAT on the same date.
13. By email of 14 December 2010, Claimant's counsel informed the BAT Secretariat about Claimant's current residential address.
14. By letter dated 5 January 2011, the BAT Secretariat confirmed receipt of the Request for Arbitration as well as the payment of the non-reimbursable handling fee of EUR 1,967.50 received in the BAT bank account on 12 November 2010, and informed the

Parties about the appointment of the Arbitrator. Furthermore, a time limit was fixed for Respondent to file its Answer to the Request for Arbitration in accordance with Article 11.2 of the BAT Rules by no later than 26 January 2011. The BAT Secretariat also requested the Parties to pay the following amounts as an Advance on Costs by no later than 19 January 2011:

<i>"Claimant (Ms. Milica Dabovic)</i>	<i>EUR 2,500</i>
<i>Respondent (BC Paleo Faliro AO)</i>	<i>EUR 2,500"</i>

15. By letter of 28 January 2011, the BAT Secretariat acknowledged receipt of Claimant's share of the Advance on Costs in a total amount of EUR 2,500.00 and informed the Parties that Respondent had failed to submit its Answer and to pay its share of the Advance on Costs. Furthermore, the BAT Secretariat noted that in accordance with Article 9.3 of the BAT Rules the arbitration would not proceed until the full amount of the Advance on Costs was received. Therefore, Claimant was requested to effect payment of Respondent's share of the Advance on Costs by no later than 9 February 2011.
16. By letter of 23 February 2011, the BAT Secretariat acknowledged receipt of the full amount of the Advance on Costs. In the same letter, Claimant was requested to make further submissions by no later than 2 March 2011. Claimant submitted the requested information by letter dated 2 March 2011.
17. On 14 March 2011, the BAT Secretariat forwarded Claimant's submissions to Respondent, upon which the latter was invited to submit any comments by no later than 18 March 2011. Respondent did not submit any comments.
18. By letter of 29 March 2011, the Arbitrator declared the exchange of documents complete and invited the Parties to submit a detailed account of their costs until 4 April 2011.
19. On 1 April 2011, Claimant submitted an account of costs as follows:

"List of costs

<i>Non-reimbursable handling fee</i>	<i>2,000.00 Euro</i>
<i>Advance on costs</i>	
<i>Milica Dabovic's share</i>	<i>2,500.00 Euro</i>
<i>Respondent's share</i>	<i>2,500.00 Euro</i>
<i>Legal fees</i>	<i>7,200.00 Euro</i>
TOTAL	<i>14,200.00 Euro"</i>

20. Respondent did not submit an account of costs.
21. Respondent was invited to submit its comments, if any, on Claimant's account of costs by no later than 8 April 2011. Respondent did not submit any comments.
22. By letter dated 4 April 2011, the BAT Secretariat informed the Parties that the FIBA Arbitral Tribunal (FAT) had been renamed into Basketball Arbitral Tribunal (BAT) and that, absent any objections by the Parties on or before 11 April 2011, the new name would be applied also to the present proceedings. Neither of the Parties raised any objections within the said time limit.
23. The Parties did not request the BAT to hold a hearing. The Arbitrator therefore 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 available.

4. The Positions of the Parties

4.1 Summary of Claimant's Submissions

24. Claimant's position can be outlined as follows:

- (a) The Club failed to pay any of the amounts agreed in the Player Contract. According to Article IV par. 2 of the Player Contract the Club is obliged to pay all

salaries in the total amount of EUR 48,000.00 if it is more than 10 days late with any contractual payment.

- (b) On or around 15 November 2010, the Club's president told the Player that *"they do not count on her anymore, do not want her in the team and she is free to go"*. After this notice, the Player and her agent tried to contact the Club's president or other Club officials to sign an agreement for termination and the payment of the open amounts but these attempts failed. Only after the Player's return to her home country, the Club offered a settlement payment of EUR 6,000.00 which was rejected by the Player.
- (c) The Player paid all costs of her return home and is therefore entitled to a reimbursement of EUR 400.00 for plane tickets.
- (d) According to the oral agreement with the Armenian basketball club Hatis Yerevan, the Player was entitled to salaries in the amount of USD 4,000.00 in total but received only one payment in the amount of USD 2,000.00. With regard to her employment contract with the Polish basketball club Pruszkowskie Towarzystwo Sportowe "LIDER", the Player returned home after one month because her mother had fallen ill. Therefore, the Player received only USD 5,000.00 instead of the total amount of USD 15,000.00.

4.2 Claimant's Request for Relief

25. Claimant submits the following request for relief:

"According to the facts submitted above the Claimant requests:

- 1 48.400 Euro for the unpaid salaries and plane tickets and interest payment at the applicable Swiss statutory rate from the due date of each payment*
- 2 Compensation of arbitration fees and costs*
- 3 A contribution towards her legal fees and expenses"*

4.3 Summary of Respondent's Submissions

26. Despite several invitations by the BAT, Respondent neither engaged in the arbitration proceedings at hand nor made any submissions within the time limits set by the Arbitrator in accordance with the BAT Rules.

5. Jurisdiction

27. As a preliminary matter, the Arbitrator wishes to emphasize that, since the Respondent did not participate in the arbitration, he will examine his jurisdiction *ex officio*, on the basis of the record as it stands.²
28. 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).
29. The jurisdiction of the BAT presupposes the arbitrability of the dispute as well as the existence of a valid arbitration agreement between the parties.

² Decision of the Swiss Federal Tribunal of 19 April 1994, reported in ATF 120 II 155, 162.

5.1 Arbitrability

30. 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.³

5.2 Formal and substantive validity of the arbitration agreement

31. 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 concluded in writing, by telegram, telex, telefax or any other means of communication which allow proof of the agreement by text.

2 Furthermore, the arbitration agreement shall be valid if it conforms to the law chosen by the parties, to the law governing the dispute, in particular the principal contract, or to Swiss law."

32. The Arbitrator finds that the jurisdiction of the BAT over the dispute between Claimant and Respondent results from Article VII of the Player Contract which reads as follows:

"Any dispute arising from or related to the present contract shall be submitted to the FIBA Arbitrate Tribunal (FAT) in Geneva, Switzerland and shall be resolved in accordance with the Arbitration Rules by a single arbitrator appointed by FAT President.

The seat of the arbitration shall be Geneva, Switzerland.

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

The language of the arbitration shall be english.

Awards of 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 decisions of the CAS upon appeal, as provided in article 192 of the Swiss Act on Private International Law.

³ Decision of the Swiss Federal Tribunal 4P.230/2000 dated 7 February 2001, cons. 1, reported in ASA Bulletin 2001, p. 523 et seq., with reference to the decision of the Swiss Federal Tribunal dated 23 June 1992, BGE 118 II 353, 356, cons. 3b.

The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono.”
(sic)

33. The Player Contract is in written form and thus the arbitration agreement fulfills the formal requirements of Article 178(1) PILA.
34. 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 agreements under Swiss law (cf. Article 178(2) PILA). In particular, the wording “[a]ny dispute arising from or related to the present contract” in Article VII of the Player Contract clearly covers the present dispute.⁴
35. The Arbitrator thus finds that he has jurisdiction to decide the claims of Claimant.

6. Other Procedural Issues

36. Article 14.2 of the BAT Rules, which the Parties have declared to be applicable in the Player Contract, specifies that “the Arbitrator may nevertheless proceed with the arbitration and deliver an award” if “the Respondent fails to submit an Answer”. The Arbitrator's authority to proceed with the arbitration in case of default by one of the parties is in accordance with Swiss arbitration law⁵ and the practice of the BAT.⁶

⁴ See for instance BERGER/ KELLERHALS: International and domestic Arbitration in Switzerland, Berne 2010, N 466.

⁵ Decision of the Swiss Federal Tribunal dated 26 November 1980, in: Semaine Judiciaire (SJ) 1982, p. 613 et seq., p. 621; KAUFMANN-KOHLER/RIGOZZI: Arbitrage international - Droit et pratique à la lumière de la LDIP, Bern 2010, N 483; LALIVE/POUDRET/REYMOND: Le droit de l'arbitrage interne et international en Suisse, Lausanne 1989, Art. 182 PILA N 8; RIGOZZI: L'Arbitrage international en matière de sport, Basel 2005, N 898; SCHNEIDER, in: Basel commentary to the PILA, 2nd ed., Basel 2007, Art. 182 PILA N 87; VISCHER, in: Zurich Commentary to the PILA, 2nd ed., Zurich/Basel/Geneva 2004, Art. 182 PILA N 29.

⁶ See for instance FAT 0001/07, Ostojic and Raznatovic vs. PAOK KAE; FAT 0018/08, Nicevic vs. Beşiktaş; FAT 0030/09, Vujanic vs. Enterprise Men's Basketball Club “Dynamo” Moscow; FAT 0093/09, A.S.D. Pallacanestro Femminile Schio vs. Braxton.

However, the Arbitrator must make every effort to allow the defaulting party to assert its rights.

37. This requirement is met in the current case. Respondent was informed of the initiation of the proceedings and of the appointment of the Arbitrator in line with the relevant rules. It was also given opportunity to respond to Claimant's Request for Arbitration, to Claimant's further submissions and to her account on costs. Still, Respondent has chosen not to respond within the time limits set by the Arbitrator according to the BAT Rules.

7. Applicable Law – *ex aequo et bono*

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*", as opposed to a decision according to the rules 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".

39. In their arbitration agreement in Article VII of the Player Contract, the Parties have explicitly directed and empowered the Arbitrator to decide the dispute *ex aequo et bono*. Consequently, the Arbitrator will decide the present matter *ex aequo et bono*.

40. 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* of 1969⁷ (Concordat),⁸ 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 those rules."*⁹

41. In substance, it is generally considered that the arbitrator deciding *ex aequo et bono* receives

"the mandate to give a decision based exclusively on equity, without regard to legal rules. Instead of applying general and abstract rules, he must stick to the circumstances of the case at hand".¹⁰

42. 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*".

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

⁷ 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).

⁸ KARRER, in: Basel commentary to the PILA, 2nd ed., Basel 2007, Article 187 PILA N 289.

⁹ JdT (Journal des Tribunaux), III. Droit cantonal, 3/1981, p. 93 (free translation).

¹⁰ POUURET/BESSON: Comparative Law of International Arbitration, London 2007, N 717, pp. 625-626.

8. Findings

8.1 Is Claimant entitled to outstanding salaries in the amount of EUR 48,000.00?

44. According to the Player's own statement, she left the Club after the Club's President told her that her services were no longer needed and that she was free to leave the Club. The statement of the President could be understood as a notice of termination of the Player Contract and the Player's departure as an evidence of her agreement. However, the Arbitrator finds it difficult to accept that the Player would have waived her rights as an employee (especially the right to compensation) *voluntarily and without any further reasons*.

45. Furthermore, a consensual termination of the employment seems to be unlikely when the wording of the Player Contract is taken into consideration: the Player Contract provides for the possibility of an early termination of the employment by the Club only in very exceptional cases. According to Article IV para. 1 of the Player Contract, the Club may terminate the employment only in case of "serious professional misconduct" of the Player. In addition, the notice of termination must be in writing:

"1 Under no circumstances other than serious professional misconduct (if Player does not comply with rules and regulations of the Greek League Federation, the team regulations, FIBA regulations and during testing and doping control) to be notified to the player by registered mail within 48 hours, can the Club cut the Player."

46. This is further confirmed by Article II para. 8 of the Player Contract, according to which the Club shall not be entitled to terminate the employment because of lacking skills, bad performance or injury:

"8. The Club agrees that this Agreement is no-cut guaranteed agreement and that the Club shall not have right to suspend or release the Player in the event that the Player does not exhibit skill or competitive ability, or in the event that an injury shall befall the Player unless such injury or illness to the Player is nonbasketball related and caused by Player's misconduct or negligence. In case of injury or disease so serious to stop the sport activities, on practises or on game for the Club, the Club shall continue to pay the Player her guaranteed salary payment and provide the

housing as it is in the contract (until the end of the present contract).”

47. Respondent failed to demonstrate any reasons to justify an early termination of the employment. The Arbitrator finds therefore that the Club was not authorized to terminate the Player Contract. As a consequence, the Player is entitled to the contractually agreed payments.
48. According to Article IV para. 2 of the Player Contract, all outstanding payments become due when “the Club is more than 10 (ten) working days late on any payment to the Player”. Since the Club made no payments at all and thus missed all payment dates provided in the Player Contract, the Player is entitled to all amounts agreed therein, subject to paras. 49 – 51 below.
49. The Player’s primary claim concerns the salary of EUR 48,000.00. However, according to the consistent jurisprudence of the BAT, any other payments received during the contractual period for which compensation is sought, must be taken into account as a consequence of the Claimant’s duty to mitigate the damages. In the present case, the Player confirms that she played for the Armenian basketball club Hatis Yerevan and for the Polish basketball club Pruskowskie Towarzystwo Sportowe “LIDER” and was paid a salary by both clubs.
50. Although there was an oral agreement with Hatis Yerevan that Claimant would receive USD 4,000.00, she was paid only USD 2,000.00. The Arbitrator finds that the obligation to mitigate the damages does not require Claimant to sue the Armenian club for the balance of this salary but accepts that the amount of USD 2,000.00 which she actually received shall be deducted from the amount claimed in this arbitration.
51. On the other hand, there was an agreement with the Polish basketball club Pruskowskie Towarzystwo Sportowe “LIDER” which provided for a salary of USD 15,000.00 over three months. However, Claimant left the Polish club after one month and returned home to take care of her ill mother. She was therefore paid only USD 5,000.00. The Arbitrator finds that it was Claimant’s own decision to discontinue her

engagement with the Polish club, and she would have had to accept a similar cut in her salary payments if she had left Respondent for the same reason. Thus, the entire amount to which she was entitled under the agreement with the Polish club (USD 15,000.00) shall be deducted from her claim which is subject to the present arbitration.

8.2 Is Claimant entitled to a reimbursement of flight costs in the amount of EUR 400.00?

52. According to Article II para. 6 of the Player Contract, Claimant is entitled to “one additional round trip plane ticket Athens – Tivat – Athens” to be used “for Christmas or any other break in Greek Championship determinate determined by the Club” (sic).

53. The Claimant’s allegation that she paid all costs of her return to her home country, i.e. the costs for the plane ticket, is not disputed. However, she failed to prove the exact amount of these costs. Claimant has only submitted copies of two invoices for flights on 13/14 September 2009 and 30 September 2009, and two tickets for flights on 30 September 2009 and 20/23 November 2009. However, these documents do not correspond with the date of her alleged departure from Greece or with the claimed costs. The Arbitrator finds therefore that the claim of compensation of EUR 400.00 is not substantiated and must be dismissed.

8.3 Is Claimant entitled to interest from the due date of each failed payment?

54. Claimant requests interest at the applicable Swiss statutory rate from the due date of each payment. No such obligation is stipulated in the Player Contract.

55. According to BAT jurisprudence, default interest can be awarded even if the underlying agreement does not explicitly provide for an obligation to pay interest on overdue

salaries¹¹. Although the Player Contract does not provide for the obligation of the debtor to pay default interest, this is a generally accepted principle which is embodied in most legal systems. The Arbitrator, deciding *ex aequo et bono*, considers an interest rate of 5% p.a., which also correspond to the claimed Swiss statutory rate, to be fair and equitable in the present case.

56. Claimant requests interest “*from the due date of each payment*”. The Arbitrator finds that such payments are the payments due under the Player Contract’s terms. Considering that in accordance with Article II para. 1 of the Player Contract the first three installments were due before the Player’s dismissal the Player is entitled to interest of 5% on EUR 3,000.00 since 4 September 2009, of 5% on EUR 3,000.00 since 26 September 2009 and of 5% on EUR 6,000.00 since 26 October 2009.
57. The commencement date for the running of interest on the further amounts is the day after the date on which all payments according to Article IV para. 2 of the Player Contract became due. Article IV para. 2 of the Player Contract provides that the Player may request all outstanding payments if the Club is late by more than 10 days on any agreed payment. Lacking any evidence of such request of payment but considering the Player’s and her agent’s efforts to learn more about the reasons for her dismissal after the Club President’s statement, the Arbitrator finds *ex aequo et bono* that all payments became due 10 days after her dismissal (mid-November 2009) namely on 25 November 2009.
58. The deductions of USD 17,000.00 (USD 2,000.00 + USD 15,000.00) as set out above in paras. 50 - 51, are to be converted into EUR as of the date of the award and correspond to EUR 11,997.30.

¹¹ See 0092/10 FAT, Ronci, Coelho vs. WBC Mizo Pecs 2010; 0069/09 FAT, Ivezic, Draskicevic vs. Basketball Club Pecs Noi Kosariabda Kft; 0056/09 FAT, Branzova vs. Basketball Club Nadezhda.

59. The Arbitrator decides that Respondent has to pay the amount of EUR 36,002.70 (i.e. EUR 48,000.00 – EUR 11,997.30) plus interest of
- 5% p.a. on EUR 3,000.00 since 4 September 2009,
 - 5% p.a. on EUR 3,000.00 since 26 September 2009,
 - 5% p.a. on EUR 6,000.00 since 26 October 2009 and
 - 5% p.a. on EUR 24,002.70 since 26 November 2009.

9. Costs

60. 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 states that the award shall grant the prevailing party a contribution towards its reasonable legal fees and expenses incurred in connection with the proceedings.
61. On 29 April 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 5,000.00.

62. In the present case, in line with Article 17.3 of the BAT Rules and considering that Claimant has been awarded about 75% of her claims and that there is no indication that either the financial resources of the Parties or any other circumstances compel otherwise, the Arbitrator finds it fair that 75% of the fees and costs of the arbitration shall be borne by Respondent and 25% by Claimant.
63. Given that Claimant paid the totality of the Advance on Costs of EUR 5,000.00, the Arbitrator decides that:
- (i) Respondent shall pay to Claimant 75% of the costs advanced by her, i.e. EUR 3,750.00.
 - (ii) Furthermore, the Arbitrator considers it adequate that Claimant is entitled to the payment of a contribution towards her legal fees and other expenses (Article 17.3. of the BAT Rules). The Arbitrator holds it adequate to take into account the non-reimbursable handling fee of EUR 1,967.50 and the further legal costs of EUR 7,200.00 when assessing the expenses incurred by Claimant in connection with these proceedings. After having reviewed and assessed all the circumstances of the case at hand, the Arbitrator fixes the contribution towards Claimant's legal fees and expenses at EUR 6,875.00

10. AWARD

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

- 1. BC Athlitikos Omilos Paleo Faliro is ordered to pay to Ms. Milica Dabovic outstanding salaries in the amount of EUR 36.002,70.**
- 2. BC Athlitikos Omilos Paleo Faliro is ordered to pay to Ms. Milica Dabovic interest of 5% p.a. on the amount of**
 - EUR 3,000.00 since 4 September 2009,**
 - EUR 3,000.00 since 26 September 2009,**
 - EUR 6,000.00 since 26 October 2009 and**
 - EUR 24.002.70 since 26 November 2009.**
- 3. BC Athlitikos Omilos Paleo Faliro is ordered to pay to Ms. Milica Dabovic the amount of EUR 3,750.00 as a reimbursement of the advance on arbitration costs.**
- 4. BC Athlitikos Omilos Paleo Faliro is ordered to pay to Ms. Milica Dabovic the amount of EUR 6,875.00 as a contribution towards her legal fees and expenses.**
- 5. Any other or further-reaching claims for relief are dismissed.**



BASKETBALL
ARBITRAL TRIBUNAL

Geneva, seat of the arbitration, 2 May 2011

Stephan Netzle
(Arbitrator)