



BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0306/12)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Prof. Dr. Ulrich Haas

in the arbitration proceedings between

Ms. Edita Šujanová

- Claimant -

vs.

Lover Sport KFT (Uni Seat Győr)

Kiskút liget 5764/1, 9027 Győr, Hungary

- Respondent -

represented by Mr. Balogh Gyula, General Manager

1. The Parties

1.1 The Claimant

1. The Claimant, Ms. Edita Šujanová, is a professional basketball player from the Czech Republic (hereinafter referred to as “Player” or “Claimant”).

1.2 The Respondent

2. Lover Sport KFT / Uni Seat Győr (hereinafter referred to as “Club” or “Respondent”) is a professional basketball club located in Győr, Hungary. The Club is represented by its general manager, Mr. Gyula Balogh.

2. The Arbitrator

3. On 2 August 2012, Prof. Richard H. McLaren, the President of the Basketball Arbitral Tribunal (the "BAT") appointed Prof. Dr. Ulrich Haas as arbitrator (the “Arbitrator”) pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (the "BAT Rules"). Neither of the Parties has raised any objections to the appointment of the Arbitrator nor to his declaration of independence.

3. Facts and Proceedings

3.1 Summary of the Dispute

4. On 5 May 2011, the Parties signed a “Player’s Agreement” (hereinafter referred to as “the Agreement”), according to which Respondent engaged the Player as a professional basketball player for the 2011/2012 season.
5. Article 2 of the Agreement entitled “Compensation” provides as follows:

“a. As full compensation for her services under this Contract and the rights guaranteed [sic] of the Club under this contract, the Player shall receive the Base Salary set forth in Exhibit 1a.

b. The Player shall receive certain bonuses (related to individual and / or Club performances) during the term of this Agreement set forth in Exhibit 1b. [...]”

6. Moreover, Article 3 of the Agreement states the following:

“In connection with the Player’s employment the Club on behalf of the Player shall make the following arrangements:

- under law of EU login player to social and health insurance and after termination of the player’s contract upload player legally valid documents for payments by the club has done for her in terms of European Union legislation.”

7. Appendix 1 (entitled “Base salary and bonuses”) to the Agreement reads as follows:

“A. Base salary.

Season 2010-2011 [sic!]

For rendering her services as a basketball player, The Club agrees to pay the Player a base salary of 45,000 € (fourty five thousand eur [sic]) for the 2011-2012 season according to the following schedule:

Upon arrival and passing medical exam / no later august 5 / - 2248 € (two thousand and two hundred fourty eight eur)

<i>2011 September 15.</i>	<i>2,250 €</i>
<i>2011 October 15</i>	<i>5.786 €</i>
<i>2011 November 15.</i>	<i>5.786 €</i>
<i>2011 December 15.</i>	<i>5.786 €</i>
<i>2012 January 15.</i>	<i>5.786 €</i>
<i>2012 February 15.</i>	<i>5.786 €</i>
<i>2012 March 15.</i>	<i>5.786 €</i>
<i>2012 April 15.</i>	<i>5.786 €</i>

In case the Club uses the services of the Player after April 30, 2011 [sic], the Player will be paid 192 € per day of service.

B. Bonuses for seasons 2011-2012.



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Hungarian League

- Reaching 2nd place of the Hungarian League: net 10% of the base salary.
- Winning the Hungarian League: net 15% of the base salary.

Hungarian Cup

- Reaching 2nd place of the Hungarian Cup: net 5% of the base salary.
- Reaching the 1st place of the Hungarian Cup: net 10% of the base salary.

FIBA Cup

Reaching the Best of 4 of the FIBA Euroleague: net 10% of the base salary.

Reaching the 2nd place of the FIBA Euroleague: 15% of the base salary.

Reaching the 1st place of the FIBA Euroleague: net 20% of the base salary.

The bonuses are not cumulative and all final bonuses shall be paid to the Player before the Player's final departure from Hungary.

The Club shall make all arrangements necessary within banking system to allow the Player to transfer funds to an account in a bank designated by the Player, and pay all [sic] the wire transfer fees.

Payments, which are received later than 10 days of the dates noted, shall be subject to a penalty of 20.00 EURO per day of delay. In the case of payment not being made by the Club within fifteen days to the Player, the Player, and her representatives shall be entitled to all monies due in accordance with the Agreement, but the Player shall not have to perform in practice sessions or games until all scheduled payments have been made, plus appropriate penalties."

8. The Player started rendering her services according to the Agreement and participated in the Club's trainings and games during the entire season 2011/2012. In return, the following payments were made by the Respondent:

25 September 2011	EUR 1,000
30 September 2011	EUR 1,315
25 October 2011	EUR 660
4 November 2011	EUR 3,000
18 November 2011	EUR 1,760
2 December 2011	EUR 1,000
21 December 2011	EUR 7,783
24 January 2012	EUR 1,000

27 January 2012	EUR 1,000
4 April 2012	EUR 3,000
20 May 2012	EUR 5,000

This amounts to a paid total of EUR 26,518. The difference between the amount agreed upon and the amount received, i.e. EUR 18,842, remains unpaid up to this day.

9. The Club won the Hungarian League (first place) and reached the second place of the Hungarian Cup¹. Nevertheless, Claimant did not receive any bonus payments up to this date.
10. In addition, Respondent did not make the necessary arrangements in connection with the Player's social and health insurance. As a consequence the Player had to pay the Czech social and health insurance system in the amount of Kč 18,229.

3.2 The Proceedings before the BAT

11. On 25 May 2012, Claimant filed a Request for Arbitration in accordance with the BAT Rules. The non-reimbursable fee of EUR 2,000 was received in the BAT bank account on 28 June 2012.
12. On 2 August 2012, the BAT informed the Parties that Prof. Dr. Ulrich Haas had been appointed as Arbitrator in this matter, invited the Respondent to file its Answer in accordance with Article 11.2 of the BAT Rules by no later than 23 August 2012 (the "Answer"), and fixed the amount of the Advance on Costs to be paid by the Parties no later than 13 August 2012 as follows:

¹ See publicly available information:
<http://www.eurobasket.com/team.asp?Cntry=Hungary&Team=7697&Page=5&Women=1> (visited: 6 February 2013).

“Claimant (Ms. Edita Šujanová)
Respondent (Lover Sport KFT)

EUR 3,000
EUR 3,000”

13. On 24 August 2012, the BAT Secretariat acknowledged receipt of the Claimant's share of the Advance on Costs (in the amount of EUR 3,000) and informed the Parties that Respondent had failed to submit its share of the Advance on Costs as well as the Answer. Hence, it invited Claimant to substitute for Respondent's share of the Advance on Costs by 3 September 2012 and granted Respondent another opportunity for submission of its Answer until 31 August 2012.
14. On 10 September 2012, the BAT Secretariat confirmed receipt of Respondent's share of the Advance on Costs paid by the Claimant (in the amount of EUR 3,000). Furthermore, it informed the Parties that Respondent had failed to submit an Answer and, therefore, accorded to the Respondent a final *délai de grâce* to file its Answer by no later than 21 September 2012.
15. On 21 January 2013, the BAT Secretariat informed the Parties that Respondent had failed to submit an Answer. Furthermore, it requested the Claimant reply to a series of questions arising from the previous submissions by no later than 29 January 2013.
16. On 28 January 2013, Claimant submitted answers (including exhibits) to the questions raised by the Arbitrator (hereinafter referred to as “Reply”).
17. On 29 January 2013, the BAT Secretariat acknowledged receipt of the Reply and forwarded the latter to Respondent. Respondent was invited to submit its comments, if any, on the Reply by 6 February 2013.
18. Respondent did not submit any comments regarding Claimant's Reply. However, on 30 January 2013, Respondent submitted a letter containing a draft settlement agreement that reads as follows:

"Dear Edita!

Dear Lubo!

We would like to ask you to sign an agreement with us about our payment system in the future. Our Team has a very difficult days now and we are trying to do our best. We would like to fix every debt what we have. Based on this reason I ask you to sign for us this agreement because it means for us the future and alive this hard time.

I hope you can help us.

...

Agreement

Between the parties The Lővér Sport Ltd. (HAT-AGRO UNI Győr basketball team) Hungary, Győr, Egyetem Tér 1. and Edita Sujanova (Citizen: Czech Republik Born. 23.05.1985. and the player's representative Lubo Rysavy Fiba players agent: 2007019238 an agreement has been reached about the future payment system will be based on this plan:

1. instalment: 25. February 2013. --- > 11.480Euro

2. instalment: 30. March 2013 ---- > 22.000Euro and 18.299 Czech Crowns.

..."

19. On 31 January 2013, the BAT Secretariat forwarded Respondent's letter to Claimant for comments.
20. By correspondence dated 5 February 2013, Claimant rejected Respondent's offer to conclude a settlement agreement.
21. By letter dated 8 February 2013, the BAT Secretariat on behalf of the Arbitrator declared the exchange of submissions closed.

4. The Positions of the Parties

4.1 Claimant's Position

22. Claimant submits the following in substance:

- According to Article 2.a of the Agreement, in connection with part A of its Appendix 1, the Claimant shall be paid a base salary totalling EUR 45,000. While the Player has duly fulfilled all her obligations according to the Agreement, Respondent has only paid an amount of EUR 26,518. Therefore, she sees herself entitled to claim the outstanding salaries for the season 2011/2012 amounting to EUR 18,480.
- Furthermore, pursuant to Article 2 of the Agreement, in connection with part B of the Appendix 1, the Club shall pay EUR 20 per day of delay for payments which are received later than 10 days after the due date. The Claimant sees herself entitled to claim late penalty payments for 193 days which amounts to EUR 3,860.
- As a result of the Club's sporting performance in the 2011/2012 season, the Claimant sees herself entitled to the bonuses mentioned in Article 2.b of the Agreement, in connection with part B of Appendix 1, namely the following: 15% of the base salary for winning the Hungarian League, being EUR 6,750, and 5% of the base salary for reaching the second place in the Hungarian Cup, amounting to EUR 2,250.
- According to the Claimant, the Club further breached the Agreement by failing to honour Article 2.3 of the Agreement. According thereto, the Club must make the appropriate arrangements under EU law in respect of social and health insurance. Since Player had to pay the contribution to social and health insurance herself, she sees herself entitled to a reimbursement of those payments in the amount of Kč 18,229.

23. As a result, Claimant requests in her Request for Arbitration, that an award be rendered against Respondent that awards her:

“... 31,480 € ... [€ 18,480 salary; € 9000 bonuses and € 3860 late penalty payments]² plus default interest 8% and 18,229 Kč [reimbursement of payments to the Czech health and social insurance system]³ ... plus 2,000 € ... fee for the BAT.”

24. In her letter to the BAT Secretariat dated 28 January 2013, Claimant clarified that she miscalculated the total amount requested in her Request for Arbitration and that the actual amount claimed corresponds to Kč 18,229 and EUR 31,340.

4.2 Respondent's Position

25. The Respondent has neither submitted an Answer to the Claimant's Request for Arbitration, nor commented on the Claimant's Reply. The Respondent did not contest any of the allegations made by the Player, but submitted a draft settlement agreement according to which Claimant would receive a total of EUR 33,480 and Kč 18,229.

5. Jurisdiction

26. Pursuant to Art. 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).
27. The jurisdiction of the BAT presupposes the arbitrability of the dispute and the existence of a valid arbitration agreement between the parties.

² Added for better understanding.

³ Added for better understanding.

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 Art. 177(1) PILA⁴.

5.2 Formal and substantive validity of the arbitration agreement

29. Article 11 of the Agreement contains an arbitration clause that reads as follows:

“Any dispute arising from or related to the present contract shall be submitted to the Basketball Arbitral Tribunal (BAT) in Geneva, Switzerland and shall be resolved in accordance with the BAT Arbitration Rules by a single arbitrator appointed by the BAT 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 (PILA), irrespective of the parties’ domicile.

The language of the arbitration shall be English.

The arbitrator shall decide the dispute ex aequo et bono.”

30. This arbitration clause included in the Agreement and signed by both parties fulfils the formal requirements of Article 178(1) PILA.
31. With respect to substantive validity, the Arbitrator considers that there is no indication in the file which could cast any doubt on the validity of the arbitration agreement in the present matter under Swiss law (cf. Article 178(2) PILA). In particular, the wording “Any

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

dispute arising from or related to the present contract” in Article 11 of the Agreement clearly covers the present dispute.⁵

32. Finally, the Arbitrator notes that the jurisdiction of the BAT has not been contested by either Claimant or Respondent in their letters / submissions to the BAT. In view of all the above, the Arbitrator therefore holds that he has jurisdiction to decide the present dispute.

6. Applicable Law

33. 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 reads as follows:

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

34. Under the heading "Applicable Law", Article 15.1 of the BAT 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.”

35. Article 11 of the Agreement provides in relation to the applicable law as follows:

“[...] The arbitrator shall decide the dispute ex aequo et bono.”

36. Consequently, the Arbitrator will decide the present matter *ex aequo et bono*.

⁵ See for instance BERGER/ KELLERHALS: International and domestic Arbitration in Switzerland, Berne 2010, N 466.

37. 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 1969⁶ (Concordat),⁷ under which Swiss courts have held that “arbitrage en *équité*” is fundamentally different from “arbitrage 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.”⁸

38. 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.”⁹

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

7. Findings

40. In essence, Claimant requests the payment of (outstanding) salaries (7.1), penalties on the outstanding salaries (7.2), bonuses (7.3), as well as the reimbursement of social and health insurance payments (7.4) and the payment of default interests (7.5).

⁶ This Swiss statute governed international and domestic arbitration prior to the enactment of the PILA (governing international arbitration) and, most recently, the Swiss Code of Civil Procedure (governing domestic arbitration).

⁷ KARRER, in: Basel commentary to the PILA, 2nd ed., Basel 2007, Art. 187 PILA N 289.

⁸ JdT (Journal des Tribunaux), III. Droit cantonal, 3/1981, p. 93 (free translation).

⁹ POUURET/BESSON, Comparative Law of International Arbitration, London 2007, N 717, pp. 625-626.

7.1 Salaries in the amount of EUR 18,480

41. It is undisputed that Claimant and Respondent are parties to the Agreement, which was entered into on 5 May 2011. It is further undisputed that, according to Article 2.a of the Agreement, in connection with part A of its Appendix 1, a total salary of EUR 45,000 was to be paid by the Club in accordance the payment schedule set out in Appendix 1.
42. Claimant provided evidence that, until today, only the amount of EUR 26,518 was paid by Respondent. At the same time, there is no evidence that Claimant did not duly fulfil all her obligations according to the Agreement. Accordingly, and also taking into account the Claimant's request and that – as she admits in the Reply – some payments were made in KČ and some others in HUN, which leads into a discrepancy of 2 EUR when calculating the total amounts in EUR, Respondent still owes Claimant outstanding salaries in the amount of EUR 18,480.

7.2 Penalties on late payments in the amount of EUR 3,860

43. The Agreement contains in part B of Appendix 1, the following clause with regards to late payment:

"[...] Payments, which are received later than 10 days of the dates noted, shall be subject to a penalty of 20.00 EURO per day of delay. [...]"

44. The first outstanding installment of EUR 2,248 fell due on 5 August 2011. Thereafter, payments were due by the 15th of every month, being EUR 2,250 on 15 September 2011 and EUR 5,786 in every following month with the last payment on 15 April 2012. The Club's obligation to pay penalties were in each case triggered 10 days after the mentioned due dates, namely 15 August 2011 for the first installment and the 25th of every month for the following installments. Respondent made several payments, which are evidenced in the following schedule:



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Due Date + 10 days	Amount due [EUR]	Total amount due [EUR]	Payment date	Total amount paid [EUR]	Difference [EUR]	Delay of >10 days
15/08/2011	2,248	2,248	-	-	2,248	✓
25/09/2011	2,250	4,498	25/09/2011	1,000	3,498	✓
25/10/2011	5,786	10,284	30/09/2011 25/10/2011	2,975	7,309	✓
25/11/2011	5,786	16,070	04/11/2011	7,735	8,335	✓
25/12/2011	5,786	21,856	18/11/2011 02/12/2011 21/12/2011	16,518	5,338	✓
25/01/2012	5,786	27,642	24/01/2012	17,518	10,124	✓
25/02/2012	5,786	33,428	27/01/2012	18,518	14,910	✓
25/03/2012	5,786	39,214	-	18,518	20,696	✓
25/04/2012	5,786	45,000	04/04/2012	21,518	23,482	✓
			20/05/2012	26,518	18,482	✓

45. This chart shows that Respondent was constantly more than 10 days late with its payments as from 15 August 2011.
46. BAT Arbitrators have frequently dealt with late payment clauses comparable to the one at hand in the past. As a general rule, two principles can be derived from that jurisprudence:
47. First, penalty clauses are interpreted as to their scope of applicability in a restrictive way in order not to lead to excessive results. On several occasions, BAT Arbitrators

have decided that such a clause – absent any indications to the contrary in the contract – is intended such that the penalty payments only accrue between the date of late payment and the date that the respective obligation is or can be terminated (BAT 0100/10 paras. 47 et seq.; 0109/10, paras. 55 seq.). However, this jurisprudence cannot be applied in the case at hand, since part B of Appendix 1 explicitly stipulates otherwise and orders late payment penalty also to apply once the obligation of the Player to render his services is terminated. The latest point in time, however, that BAT Arbitrators are prepared to accept late payment penalties to accrue is the filing of the Request for Arbitration (BAT 185/11, paras. 65). Still, the latter only applies if the creditor has pursued his claim in a diligent and timely manner.

48. Second, BAT Arbitrators have repeatedly held that penalty clauses are subject to judicial review. In BAT 0036/09 (marg. no. 53 et seq.) the Arbitrator held:

“In most jurisdictions, contractual penalties are subject to judicial review and can be adjusted if they are excessive. Whether a contractual penalty is excessive is usually left to the discretion of the judge and depends on the individual circumstances. As a general rule, a contractual penalty is considered to be excessive if it is disproportionate to the basic obligation of the debtor.”

49. In view of the above, the Arbitrator holds that in the present case, late penalty payments started to accrue from 15 August 2011. Furthermore, the Arbitrator finds that Claimant could not be expected to file a Request of Arbitration against Respondent while still being under contract with it. However, a diligent and timely manner to pursue the claim required Claimant to file the Request for Arbitration as soon as (or shortly after) the contractual relationship had come to an end, i.e. on 1 May 2012. The lapse of time between 15 August 2011 and 1 May 2012 covers more than the 193 days claimed by Claimant. Pursuant to the principle that the Arbitrator shall not act *ultra petita*, the Arbitrator cannot grant more late payment penalties than the claimed amount. Finally, the Arbitrator finds that the amount of EUR 3,860 is not excessive or disproportionate. To conclude, the Arbitrator grants the Claimant late payment penalties in the amount of EUR 3,860.

7.3 Bonus payments in the amount of EUR 9,000

50. Part B of Appendix 1 to the Agreement foresees that the Club shall pay a bonus of net 15% of the base salary for winning the Hungarian League and a bonus of net 5% of the base salary for reaching the second place of the Hungarian Cup. As the base salary is EUR 45,000, the bonus for winning the Hungarian league amounts to EUR 6,750 (15% of EUR 45,000) and the bonus for the second place in the Hungarian Cup is EUR 2,250 (5% of EUR 45,000).
51. Respondent did reach the first place in the Hungarian League and the second place in the Hungarian Cup.¹⁰
52. Appendix 1 of the Agreement further states that “[...] *all final bonuses shall be paid to the Player before the Player’s final departure from Hungary.*” There is no evidence as to when the Claimant left Hungary. However, the will of the parties when formulating this clause was to terminate their contractual relationship with all its obligations by the time the Player leaves the club / country. Without the necessity to determine the exact date when the bonus payments fell due, the Arbitrator regards as evident that they are owed to Claimant.
53. The Arbitrator finds that in light of the clear and express provision in the Agreement (in connection with its Appendix 1), Respondent is under a duty to pay the abovementioned bonuses of EUR 6,750 for the Hungarian League and EUR 2,250 for the Hungarian Cup, amounting to total bonus payments of EUR 9,000.

¹⁰ See publicly available information:
<http://www.eurobasket.com/team.asp?Cntry=Hungary&Team=7697&Page=5&Women=1> (visited:
6 February 2012).

7.4 Reimbursement of social and health insurance payments of Kč 18,229

54. Claimant requests to be reimbursed for the payments made for social and health insurance in the Czech Republic, claiming that Respondent did not fulfil its obligations to make the relating necessary arrangements under EU law.

55. Article 3 of the Agreement contains the following clause:

“In connection with the Player’s employment the Club on behalf of the Player shall make the following arrangements: under law of EU login player to social and health insurance and after termination of the player s contract upload player legally valid documents for payments by the club has done for her in terms of European Union legislation.”

56. The Player provided evidence that she had to pay social and health insurance in the amount of Kč 18,229. It is constant jurisprudence that if one party fails to fulfil its obligations according to a contract, the other party is to be put in a position as if all duties had been carried out accurately. Had Respondent submitted the necessary documents pursuant to European legislation, Claimant would not have had to pay the abovementioned contributions to health and social insurance. Therefore, she has to be reimbursed for the aforementioned amount.

7.5 Interests

57. Claimant requests in her Request for Arbitration to be awarded default interest in the amount of 8% p.a. The Arbitrator finds that Claimant cannot ask for late payment penalties and for default interest covering the same period of time. Therefore, Claimant is only entitled to interests as of 2 May 2012. With regard to the interest rate the Arbitrator – in conformity with the standing jurisprudence of BAT – holds that 5% p.a. is fair and equitable. However, interest can only be claimed with regard to outstanding salaries (EUR 18,480), outstanding bonuses (EUR 9,000) and compensation for social and health insurance (Kč 18,229).

7.6 Conclusion

58. Claimant is entitled to:

- EUR 18,480 in outstanding salaries plus 5% interest as of 2 May 2012;
- EUR 9,000 in outstanding bonuses plus 5% interest as of 2 May 2012;
- EUR 3,860 in late payment penalties and
- Kč 18,229 in compensation for social and health insurance plus 5% interest as of 2 May 2012.

59. The principal amounts claimed by Claimant (EUR 31,340 and Kč 18,229) correspond – approximately, as they are somewhat lower – with the amount offered by Respondent to Claimant in its draft for a settlement agreement.

8. Costs

60. Article 17 of the BAT Rules provides that the final amount of the costs of the arbitration shall be determined by the BAT 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.

61. On 18 March 2013 – 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”, 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”, and 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 to be EUR 6,000.

62. Considering that Claimant prevailed nearly in all of her claims, the Arbitrator holds it fair that all of the fees and costs related to this arbitration be borne by Respondent and that Respondent be required to cover its own legal costs. Since Claimant had no professional assistance in these proceedings, no legal fees can be claimed by her.
63. Given that Claimant paid both shares of the Advance on Costs in the amount of EUR 3,000 each (in total EUR 6,000), the Arbitrator decides that in application of Article 17.3 of the BAT Rules:
- (i) Respondent shall pay EUR 6,000 to Claimant, being the costs advanced by her to the BAT.
 - (ii) Furthermore, the Arbitrator considers it appropriate to take into account the non-reimbursable handling fee of EUR 2,000 when assessing the legal expenses incurred by the Claimant in connection with these proceedings. Hence, the Arbitrator fixes the contribution towards the Claimant's legal expenses at EUR 2,000.

9. AWARD

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

- 1. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová outstanding salaries in the amount of EUR 18,480.00 plus interests of 5% p.a. on this amount as of 2 May 2012.**
- 2. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová bonuses in the amount of EUR 9,000.00 plus interests of 5% p.a. on this amount as of 2 May 2012.**
- 3. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová compensation in the amount of Kč 18,229.00 plus interests of 5% p.a. on this amount as of 2 May 2012.**
- 4. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová late penalty payments in the amount of EUR 3,860.00.**
- 5. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová EUR 6,000.00 as reimbursement of the arbitration costs.**
- 6. Lover Sport KFT is ordered to pay to Ms. Edita Šujanová the amount of EUR 2,000.00 as a contribution towards her legal expenses.**
- 7. Any other or further-reaching requests for relief are dismissed.**

Geneva, seat of the arbitration, 21 March 2013

Ulrich Haas
(Arbitrator)