

ARBITRAL AWARD

(BAT 1940/23)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Clifford J. Hendel

in the arbitration proceedings between

Mersin Yenisehir Belediyesi Cukurova Basketbol Kulübü
Limonluk Mah. 2404 Sk. No:15, Yenisehir/Mersin, Turkey

- Claimant -

represented by Mr. Arda Güney, attorney at law,

vs.

Ms. Jonquel Jones

- Respondent -

represented by Mr. Jonathan A. Jordan, attorney at law,

1. The Parties

1.1 The Claimant

1. Mersin Yenisehir Belediyesi Cukurova Basketbol Kulübü ("the Club") is a professional basketball club competing in the Turkish Women Basketball League.

1.2 The Respondent

2. Ms. Jonquel Jones is a Bahamian/Bosnian Herzegovinian professional basketball player ("the Player", and together with the Claimant, "the Parties"). She has been named five times all-star in the American WNBA as well as MVP of that league in 2021.

2. The Arbitrator

3. On 19 March 2023, Prof. Ulrich Haas, the President of the Basketball Arbitral Tribunal (the "BAT"), appointed Mr. Clifford J. Hendel as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal in force as from 1 January 2022 (hereinafter the "BAT Rules"). None of the Parties has raised any objections to the appointment of the Arbitrator or to his declaration of independence.

3. Facts and Proceedings

3.1 Summary of the Dispute

4. The relevant facts and allegations presented in the written submissions and evidence are summarised below. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows.
5. Although the Arbitrator has considered all the facts, allegations and evidence submitted

in the present proceedings, he refers in this Award only to those necessary to explain its reasoning.

3.1.1 The Agreement

6. On 13 May 2022, the Player (represented by her [agent], who is not a party to the present dispute) and the Club entered into an agreement, executed in the English language, whereby the latter engaged the Player for the 2022/2023 basketball season (the “Agreement”).¹

7. According to Article 1 of the Agreement (“*Term of Contract*”):

“1.a. The term of this Employment Agreement is for the 2022-23 basketball season.

1.b. The Player will arrive in Turkey no later than October 15, 2022.

[...]

1.d. The Player will also be given a reasonable break to travel to her [relative's] wedding on December 24, 2022. The break should allow the Player to get to the place of the wedding in the Bahamas at least two days before the wedding.

1.e. Club accepts and agrees that the Player will be free to sign with any club around the world (including Turkey) at the end of the hereby agreement without any compensation.

1.f. The Club agrees that the Player will be allowed to opt out of this Agreement to go back to UMMC Ekaterinburg at any point during the course of this Agreement.”

8. Article 2 of the Agreement provides for the Player’s compensation: a (fully-guaranteed) base salary in the amount of USD 500,000.00, as detailed in Exhibit 1.A of the Agreement, plus certain bonuses agreed under Exhibit 1.B of the Agreement.

9. According to Article 9 of the Agreement (“*PLAYER’S LIABILITIES*”), section 9.1.12:

¹ Annex 1 to the Request for Arbitration (“RfA”) / Exhibit 1 to the Answer.

“If the Player unilaterally terminates this Agreement without just cause prior to the end of the regular season, without the approval of the Club, she shall reimburse the Turkish Basketball Federation licence registration fee as well as 30% of the total amounts she has received.”

10. Additionally, Article 17 of the Agreement (“*Entire Agreement*”) provides:

“This Agreement contains the entire agreement between the parties and there are no oral or written inducements, promises, or agreements, except as contained herein. Any changes to this Agreement must be made in writing and signed by all parties. Signed pdf copies shall be deemed binding.”

3.1.2 Factual background of the dispute

11. At the time Russia invaded Ukraine in February 2022, the Player was under contract with the Russian team UMMC Ekaterinburg for the 2022/2023 and the 2023/2024 basketball seasons.²
12. The Player left Russia at the beginning of March 2022 and joined the WNBA team Connecticut Sun in April 2022 for the 2022 WNBA season.
13. On 13 May 2022, Club and Player entered into the Agreement. The Player started performing for the Club on 15 October 2022, as agreed under Article 1.b of the Agreement (see previous section).
14. On 24 December 2022, the Player attended her [relative’s] wedding in Bahamas, thus taking the break agreed under Article 1.d of the Agreement.
15. On 26 December 2022, the Player’s agent informed the Club, via WhatsApp message,
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² Exhibit 7 to the Rejoinder.

that the Player wanted to exercise her contractual opt-out clause to return to UMMC Ekaterinburg. The Club's General Manager tried to persuade the Player to fly back to Turkey for the Turkish Women Basketball Cup's final that was to be held on 28 December 2022. However, the Player did not return to Turkey, nor rejoin the team.³

16. On 30 December 2022, the Player, represented by her [agent], signed a new contract with her former team UMMC Ekaterinburg for the 2022/2023 basketball season (the "UMMC Contract"). According to Stipulation First.A) of the UMMC Contract, the Player was expected to arrive in Ekaterinburg on 1 February 2023.⁴

17. On 31 December 2022, the Club sent a letter to the Player stating the following:⁵

31.12.2022

Ms. Jonquel Jones,

As per the Contract you signed with the Club on May 13th, 2022, you are an employee of the Club and have contractual obligations.

On December 28th, 2022, our team has a game against Fenerbahçe S.K. in Presidential Cup which you have been informed of the extreme importance, several times.

However, you stated through your agent that you opted out of the Contract on December 27th, 2022, which is only a day before the biggest game of the early season and you have not justified your reasons to opt out with any document or concrete evidence.

As the roster of the game has already been decided and you were the key player of team, your decision to opt out of the Contract is clearly against *ex aequo et bono* and *pacta sunt servanda* principles.

In this situation, the Club has been extremely harmed by both prestigious and sporting means. The Club, therefore states that your decision to opt out of the Contract before the day of the Presidential Cup Championship, is strictly unacceptable.

Please note that, for the reasons explained above, the Club declares that it will pursue all its legal rights and actions against your side.

18. On 15 January 2023, the Player was traded by the Connecticut Sun to the WNBA team

³ Exhibit 2 to the Answer.

⁴ Exhibit 3 to the Answer.

⁵ Annex 3 to the RfA.

New York Liberty. The following day, on 16 January 2023, New York Liberty announced the signing of the Player on the media.⁶

19. On 24 January 2023, the Player injured _____. She received medical treatment from the New York Liberty medical staff during the following weeks.⁷
20. On 26 January 2023, the Player and UMMC Ekaterinburg signed a “First Amendment” to the UMMC Contract by means of which the Player’s arrival to the Club was postponed to 1 March 2023 “*because of an injury to _____*”.⁸
21. On 24 February 2023, an MRI was performed by the New York Liberty medical staff and the Player was diagnosed with _____.⁹
22. On 26 February 2023, the Player and UMMC Ekaterinburg signed a “Second Amendment” to the UMMC Contract, whereby they agreed:¹⁰
 - The Player would not return to UMMC Ekaterinburg for the remainder 2022/2023 season “*because of an injury _____*”;
 - If the Player decided to play overseas (meaning outside of the USA) in the 2023/2024 season, UMMC Ekaterinburg would have the right of first refusal.
23. The Player’s agent and the Club’s General Manager maintained conversations via _____

⁶ Annex 4 to the RfA.

⁷ Exhibit 4 to the Answer.

⁸ First Amendment to the UMMC Contract, Stipulation First.A), Exhibit 5 to the Answer.

⁹ Exhibit 4 to the Answer.

¹⁰ Exhibit 6 to the Answer.

WhatsApp on the possible return of the Player to the Club until the beginning of March 2023.¹¹

3.2 The Proceedings before the BAT

24. On 13 March 2023, the Claimant filed a Request for Arbitration dated 8 March 2023, in accordance with the BAT Rules, and the non-reimbursable handling fee in the amount of EUR 6,000.00 was received in the BAT bank account.
25. On 20 March 2023, the BAT informed the Parties that Mr. Clifford J. Hendel had been appointed as the Arbitrator in this matter, invited the Respondent to file her Answer by 12 April 2023, and fixed the advance on costs to be paid by the Parties as follows:
- | | |
|--------------------------------------|----------------------|
| <i>"Claimant (Mersin Yenisehir)</i> | <i>EUR 6,000.00</i> |
| <i>Respondent (Ms Jonquel Jones)</i> | <i>EUR 6,000.00"</i> |
26. On 31 March 2023, the BAT received an advance on costs paid by Claimant in the amount of EUR 6,000.00.
27. On 12 April 2023, Respondent submitted her Answer.
28. On 13 April 2023, the BAT informed the Parties that the Respondent had failed to pay her share of the advance on costs and, accordance with Article 9.3 of the BAT Rules, invited the Claimant to substitute for Respondent's share by 20 April 2023.
29. On 19 April 2023, Claimant paid Respondent's share of the advance on costs in the amount of EUR 6,000.00.

¹¹ Exhibit 2 to the Answer.

30. On 25 April 2023, after review of the documents submitted by the Parties, the Arbitrator decided to give the Claimant the right to comment on the Answer by 9 May 2023. Upon receipt of the Claimant's comments, Respondent would have the right to reply.
31. On 10 May 2023, Claimant submitted its Reply dated 9 May 2023. Respondent was invited to submit her Rejoinder by 24 May 2023.
32. On 23 May 2023, Respondent submitted her Rejoinder.
33. On 7 June 2023, the Arbitrator declared that the exchange of submissions was closed in accordance with Article 12.1 of the BAT Rules. The Parties were granted a deadline until 14 June 2023 to set out how much of the applicable maximum contribution to costs should be awarded to them and why, and to include a detailed account of their costs, including any supporting documentation in relation thereto.
34. On 9 June 2023, the Respondent filed her costs submission dated 8 June 2023.
35. On 14 June 2023, the Claimant filed its cost submission.

4. The Positions of the Parties

4.1 The Claimant's Position

36. The core of the Club's case is that the Player terminated the Agreement without just cause.
37. The Club contends that the Player used "*her opt-out clause as a cover even if she did not have any intention to go to UMMC Ekaterinburg*". By not returning to her former club in Russia and by joining the New York Liberty instead, the Player breached the Agreement.

38. The Club alleges that the opt-out clause in Article 1.f of the Agreement “*should not be interpreted broadly*” and that “*it is completely contrary to the principles of pacta sunt servanda and bona fides for the Respondent to report that she opted out of the Contract hours before a very important game*”. As stated in its letter to the Player of 31 December 2022, “*you have not justified your reasons with any document or concrete evidence [...] your decision to opt out is clearly against ex aequo et bono and pacta sunt servanda principles.*”
39. In its Reply, the Club adds that “[s]ince the beginning of negotiations, it was clear that Club wanted to stipulate the opt out clause under a condition, which is either if UMMC Ekaterinburg plays in Euroleague or -as the Respondent’s agent stated- if the war/invasion in Ukraine ends”.
40. In response to the evidence submitted by the Player -namely, the UMMC Contract- the Club contends that, prior to this arbitration, the Player “*did not provide the Club with any proof related to her signing a new contract with UMMC Ekaterinburg*” and “*did not even bother to notify the Club that she had signed a new contract*”.
41. Accordingly, the Club submits that the Player must compensate “*all damages the Club suffered due to the termination of the Contract without just cause*”. The Club requests the following damages:
- TL 100,000.00 representing the Turkish Basketball Federation licence registration fee, plus USD 60,000.00 “*as the 30% of the total amounts [the Player] has received until termination*” of the Agreement, both in application of the penalty clause included in Article 9.1.12 of the Agreement.
 - TL 142,857.00 representing “*on-going costs the Claimant has to pay after the termination*” of the Agreement for the house and the car the Club rented for the use of the Player.

- TL 299,636.12 for the plane tickets the Club purchased both for the Player and for [another team member] so they could return to Turkey for the Cup final.
- “*Claimant’s extra costs for signing replacement players after the termination of the Contract*” including TL 375,000.00 for the replacement players’ registration fees, TL 390,000.00 for their house and car rentals, and EUR 7,000.00 and USD 12,000.00 for their agents’ fees.
- Finally, the Club requests a “special indemnity” in the amount of USD 187,500.00, representing 37.5% of the Player’s annual remuneration.

42. Additionally, the Club requests default interest at a rate of 5% per annum.

43. In its Request for Arbitration, the Club requested relief -which it reiterated in its Reply- as follows (emphases in the original):

"With consideration in the above mentioned, the Claimant requests the Hon. Arbitrator to upheld [sic] all claims and decide the Respondent to be obliged to pay:

- ***towards the Claimant 259.500-USD and 1.307.493,12-TL and 7.000-EUR (All in EUR: 317.660,12-EUR)***
- ***All arbitration costs of the Claimant***
- ***All legal fees and expenses incurred in these proceedings***

4.2 Respondent's Position

44. The Player contends that there is no breach of the Agreement because the Parties agreed in Article 1.f that the Player “*would have an opt-out to return to UMMC Ekaterinburg at any time during the season*”.

45. It is the Player’s position that the language of the opt-out clause is clear in the Agreement

and that the exercise of such right is not subject to conditions. According to the Player, *“Claimant previously attempted to add conditions like ‘End of the Ukraine War’ or ‘right to leave for [UMMC Ekaterinburg] if they play in EuroLeague.’ Respondent’s agent, _____ discussed the language with Respondent and UMMC Ekaterinburg but the language was never agreed to”*. At the time of the negotiation, the Player was under contract with UMMC Ekaterinburg and Club was well aware of that. The Player argues that UMMC Ekaterinburg would have not released her *“unless her return to Russia had no conditions in the Opt-Out language”*.

46. The Player exercised her right to opt out of the Agreement on 26 December 2022 and, immediately after, she signed a new contract with UMMC Ekaterinburg on 30 December 2022 for the remainder of the 2022/2023 season. The Player had to push back her return to Ekaterinburg due to the injury she suffered _____. The UMMC Contract and its two amendments show that the *“Respondent had every intention to return to UMMC Ekaterinburg. However, an injury prevented her from doing so”*. *“It was outside factors that kept her from returning to Russia”*.
47. Therefore, the Player contends that she lawfully terminated the Agreement, and that the Club is not entitled to any of the damages it requests.
48. Additionally, the Player states that the Club never requested proof or information of her return to UMMC Ekaterinburg; instead, the Club relied on the news published on the social media. The Player emphasises that she had no contractual duty under the Agreement to provide a reason for her decision to opt-out – she could terminate the Agreement to return to UMMC Ekaterinburg *“at any point during the course of this agreement”*.
49. The Player concludes that *“[t]his arbitration was instituted because Respondent terminated her Employment Agreement dated 13 May 2022 against Claimant’s wishes”* and because the Club *“did not believe that Respondent had a contract with UMMC*

Ekaterinburg to return to Russia”, which “has been proven unequivocally false”. In the Player’s view, the Club “attempt[s] to punish [the Player] for exercising a duly negotiated, contractual opt-out in her Employment Agreement”.

50. For these reasons, the Player requests the following relief:

- “1. Dismissal of all of Claimant’s Requests for Relief;*
- 2. Reimbursement by Claimant for Respondent’s in [sic] Legal Fees; and*
- 3. Claimant shall be held responsible for all of the arbitration fees and their own legal fees.”*

5. The jurisdiction of the BAT

51. 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).

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

53. The dispute is of a financial nature and is thus arbitrable within the meaning of Article 177(1) PILA¹².

54. The jurisdiction of the BAT over the dispute results from the arbitration clause contained under Article 15 of the Agreement (“Dispute Resolution”), which reads as follows:

“Any dispute arising from or related to the present contract shall be submitted to the

¹² Decision of the Federal Tribunal 4P.230/2000 of 7 February 2001 reported in ASA Bulletin 2001, p. 523.

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 (PIL), irrespective of the parties' domicile. The language of the arbitration shall be English. The arbitrator shall decide the dispute ex aequo et bono."

- 55. The Agreement is in written form and thus the arbitration agreement fulfils the formal requirements of Article 178(1) PILA.
- 56. With respect to substantive validity, the Arbitrator considers that there is no indication in the file that could cast doubt on the validity of the arbitration agreement under Swiss law (referred to by Article 178(2) PILA).
- 57. The jurisdiction of BAT over the Claimant's claims arises from the Agreement. The wording "[a]ny dispute arising from or related to the present contract [...]" clearly covers the present dispute. Moreover, the Respondent has fully participated in the proceeding, thus accepting the jurisdiction of the BAT.
- 58. For the above reasons, the Arbitrator has jurisdiction to adjudicate the Claimant's claim.

6. Other Procedural Issues

- 59. Neither of the Parties requested a hearing. In accordance with Article 13.1 of the BAT Rules, the Arbitrator will decide the Claimant's claims based on the written submissions and the evidence on record.

7. Discussion

7.1 Applicable Law – *ex aequo et bono*

60. With respect to the law governing the merits of the dispute, Article 187(1) PILA provides that the arbitral tribunal must decide the case according to the rules of law chosen by the parties or, in the absence of a choice, according to the rules of law with which the case has the closest connection. Article 187(2) PILA adds that the parties may authorize the arbitrators to decide “*en équité*” instead of choosing the application of rules of law. Article 187(2) PILA is generally translated into English as follows:

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

61. Under the heading “*Law Applicable to the Merits*”, Article 15 of the BAT Rules reads as follows:

“15.1 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.

15.2 If, according to an express and specific agreement of the parties, the Arbitrator is not authorised to decide ex aequo et bono, he/she shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to such rules of law he/she deems appropriate. In both cases, the parties shall establish the contents of such rules of law. If the contents of the applicable rules of law have not been established, Swiss law shall apply instead.”

62. Article 15 of the Agreement expressly provides that the Arbitrator shall decide the dispute *ex aequo et bono*.
63. Consequently, the Arbitrator shall decide *ex aequo et bono* the issues submitted to him in this proceeding.
64. 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*¹³ (Concordat),¹⁴ 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.”¹⁵

65. 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*”.
66. In light of the foregoing considerations, the Arbitrator makes the findings below.

7.2 Findings

67. The main issue in dispute in this arbitration is whether the Player, by opting out of the Agreement in the factual circumstances described above, terminated the Agreement without just cause. Only if the Arbitrator reaches the conclusion that the Player unlawfully terminated the Agreement will he analyse the various claims for compensation submitted by the Club.
68. For this purpose, the Arbitrator must interpret Article 1.f of the Agreement, in the context of the entire Agreement and on the basis of the evidence on the record.

¹³ 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).

¹⁴ P.A. Karrer, Basler Kommentar, No. 289 ad Art. 187 PILA.

¹⁵ JdT 1981 III, p. 93 (free translation).

69. Article 1.f of the Agreement is a rather simple provision:

“The Club agrees that the Player will be allowed to opt out of this Agreement to go back to UMMC Ekaterinburg at any point during the course of this Agreement”.

70. The Club submits that it *“should not be interpreted broadly”*, as *“a broad interpretation of the clause may lead up to such conclusion that a player’s arbitrary departure hours before an important match would have no consequences”*.

71. Additionally, the Club alleges that during the negotiations of the Agreement *“it was clear that Club wanted to stipulate the opt out clause under a condition, which is either if UMMC Ekaterinburg plays in Euroleague or -as the Respondent’s agent stated- if the war/invasion in Ukraine ends”*.

72. The Club further submits that the Player *“did not provide the Claimant with any proof or information”* on her signing of a new contract with UMMC Ekaterinburg.

73. Conversely, the Player argues that the opt-out clause is clear and that its *“language puts no condition on the Opt-Out”*.

74. Regarding the proof or information about the UMMC Contract, the Player contends that *“it is not Respondent’s duty to proactively provide proof of contract”* and that, in any case, the Club never requested such proof.

75. In the Arbitrator’s view, the Club’s interpretation goes beyond the agreement of the Parties stipulated in Article 1.f of the Agreement. The opt-out clause was drafted in very ample terms. The expression *“at any point during the course of this Agreement”* could not be clearer; it includes no temporal restriction on the exercise of the Player’s right to opt out of the Agreement.

76. Additionally, it is also clear that the Parties did not subject the right to opt-out to any other

conditions as long as the Player exercised it “to go back to UMMC Ekaterinburg”. The Parties’ exchanges during the negotiations prior to the Agreement are irrelevant to this purpose. As set out above (Section 3.1.1), Article 17 of the Agreement provides that “[t]his Agreement contains the entire agreement between the parties and there are no oral or written inducements, promises, or agreements, except as contained herein.”

77. The Arbitrator takes note of the Club’s assertion that “[i]t is completely contrary to the principles of *pacta sunt servanda* and *bona fides* for the Respondent to report that she opted out of the Contract hours before a very important game. It should be noted that, due to the principle of fairness, the time and manner of the use of the opt-out in question are extremely important when approaching such dispute.”. Yet the Arbitrator finds to the contrary, that the doctrines of *pacta sunt servanda*, *ex aequo et bono* and fairness require that the clause be applied and interpreted in accordance with its plain language, notwithstanding any damage incurred to the counterparty as a foreseeable consequence.
78. Under the circumstances of the case, it is understandable that the opt-out clause was negotiated in such an ample manner and that it was so favourable to the Player (and her former club). At the time Russia invaded Ukraine, the Player was under contract with UMMC Ekaterinburg for the 2022/2023 and the 2023/2024 seasons. The Club was presented with the opportunity to sign the Player -“a highly ranked professional basketball player who is five times WNBA All-Star and MVP of the 2021 season in WNBA” in the Club’s words- only when the Player decided to leave Russia because of the invasion of Ukraine. The Parties were surely aware that the Player’s intention was to return to her former team as soon as the circumstances allowed it.
79. On the basis of the evidence on the record it has been proven that:
- The Player left Turkey to attend her [relative’s] wedding in Bahamas on 24 December 2022, as expressly permitted by Article 1.d of the Agreement.

- On 26 December 2022, the Player, through her agent, notified the Club of her decision to exercise her right to opt-out of the Agreement under its Article 1.f.
- On 30 December 2022, the Player signed the UMMC Contract, with the aim to arrive in Ekaterinburg on 1 February 2023.
- The UMMC Contract was amended in two occasions -essentially to postpone the Player's arrival to Ekaterinburg- due to the injury that the Player suffered _____ on 24 January 2023.

80. While it is true that the flow of information between the Parties could have been more transparent and that the timing for the exercise of the opt-out in the eve of an important game was inconvenient for the Club, none of these circumstances entail a breach of the Parties' agreement expressed in Article 1.f of the Agreement.
81. The Player had the right to opt out "*at any point during the course of [the] Agreement*". The exercise of such right was not subject to any condition apart from the Player returning to her former club, UMMC Ekaterinburg. It was not subject to any formal requirements either.
82. The Player and UMMC Ekaterinburg signed a new contract immediately after the Player opted out of the Agreement, i.e., on 30 December 2022. The evidence on the record shows that if the Player did not return to Ekaterinburg, it was due to the injury she suffered on 24 January 2023. The fact that the Player did not physically return to Russia due to an injury cannot in any way turn the exercise of her opt-out right unlawful.
83. Additionally, the Player had no contractual obligation to provide any proof or information of the UMMC Contract to the Club, and there is no evidence that the Club requested it to her at any point.

84. Therefore, the Arbitrator concludes that the Player's termination of the Agreement was not without just cause. Consequently, all the Club's claims are dismissed.

8. Costs

85. In respect of determining the arbitration costs, Article 17.2 of the BAT Rules provides as follows:

"At the end of the proceedings, the BAT President shall determine the final amount of the arbitration costs, which shall include the administrative and other costs of the BAT, the contribution to the BAT Fund (see Article 18), the fees and costs of the BAT President and the Arbitrator, and any abeyance fee paid by the parties (see Article 12.4). [...]"

86. On 7 August 2023, the BAT President determined the arbitration costs in the present matter to be EUR 8,025.00.

87. As regards the allocation of the arbitration costs as between the Parties, Article 17.3 of the BAT Rules provides as follows:

"The award shall determine which party shall bear the arbitration costs and in which proportion. [...] When deciding on the arbitration costs [...], the Arbitrator shall primarily take into account the relief(s) granted compared with the relief(s) sought and, secondarily, the conduct and the financial resources of the parties."

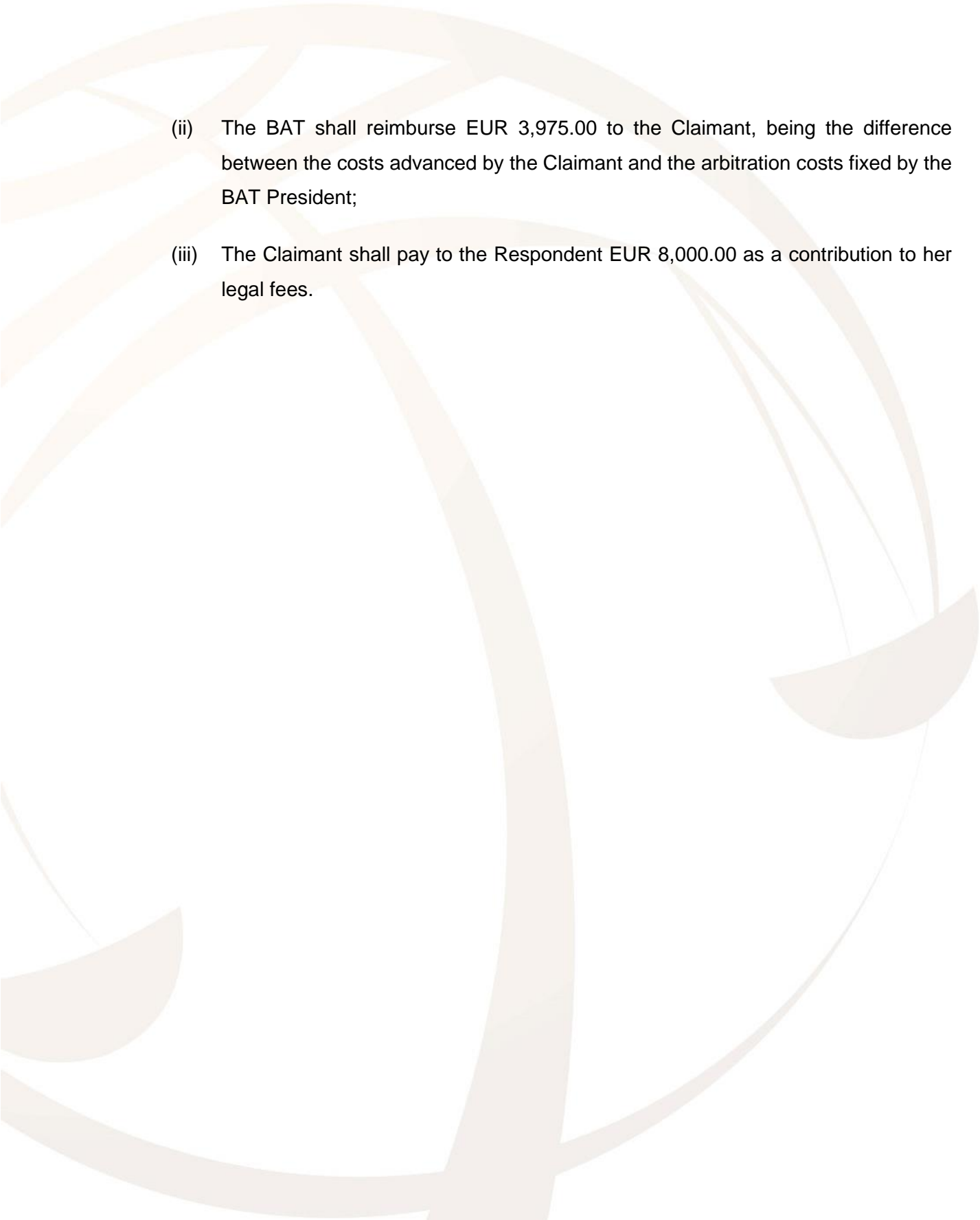
88. While the Respondent was the prevailing party in this arbitration, the Arbitrator considers it is appropriate to allocate a portion of the costs to her. The BAT Rules allow to take the procedural behaviour of the Parties into account when deciding on cost allocation- the Respondent refused to provide the Claimant with documentation about the Ekaterinburg Contract prior to the arbitration. In the Arbitrator's view if the Respondent had been more transparent in the pre-procedural stage, there is a chance that the Claimant would have never filed this case. Therefore, Respondent shall bear 25% of the costs of the arbitration in the amount of EUR 2,006.25, and Claimant shall bear the remaining 75%. Additionally, given that the Claimant paid the entire Advance on Costs in the amount of

EUR 12,000.00, EUR 3,975.00 will be reimbursed to the Claimant by the BAT.

89. In relation to the Parties' legal fees and expenses, Article 17.3 of the BAT Rules provides that

"as a general rule, the award shall grant the prevailing party a contribution towards any reasonable legal fees and other expenses incurred in connection with the proceedings (including any reasonable costs of witnesses and interpreters). When deciding [...] on the amount of any contribution to the parties' reasonable legal fees and expenses, the Arbitrator shall primarily take into account the relief(s) granted compared with the relief(s) sought and, secondarily, the conduct and the financial resources of the parties."

90. Moreover, Article 17.4 of the BAT Rules provides for maximum amounts that a party can receive as a contribution towards its reasonable legal fees and other expenses (in this case, up to EUR 15,000.00).
91. By submission dated 8 June 2023, Respondent has claimed legal fees in the total amount of EUR 14,707.03. By submission dated 14 June 2023, the Claimant has claimed legal fees in the total amount of EUR 15,000.00.
92. Taking into account that the Respondent is the prevailing party in this arbitration, that the proceedings have been considerably long -including two rounds of submissions, and that the merits of the case are relatively straightforward, the Arbitrator considers it fair and reasonable to award the amount of EUR 8,000.00 in legal fees to the Respondent while the Claimant has to bear its own legal fees.
93. In summary, therefore, the Arbitrator decides that in application of Articles 17.3 and 17.4 of the BAT Rules:
- (i) The Claimant shall bear 75% of the costs of this arbitration. The Respondent shall bear the remaining 25%. Thus, the Respondent shall pay EUR 2,006.25 to the Claimant;

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- (ii) The BAT shall reimburse EUR 3,975.00 to the Claimant, being the difference between the costs advanced by the Claimant and the arbitration costs fixed by the BAT President;
 - (iii) The Claimant shall pay to the Respondent EUR 8,000.00 as a contribution to her legal fees.

9. AWARD

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

- 1. The Claimant's requests for relief are dismissed in their entirety.**
- 2. Mersin Yenisehir Belediyesi Cukurova Basketbol Kulübü shall bear 75 % of the costs of this arbitration. Ms. Jonquel Jones shall bear the remaining 25%. Thus, Ms. Jonquel Jones shall pay EUR 2,006.25 to Mersin Yenisehir Belediyesi Cukurova Basketbol Kulübü.**
- 3. Mersin Yenisehir Belediyesi Cukurova Basketbol Kulübü shall pay Ms. Jonquel Jones an amount of EUR 8,000.00 as a contribution to her legal fees and expenses.**

Geneva, seat of the arbitration, 14 August 2023

Clifford J. Hendel
(Arbitrator)