Arbitration CAS 2013/A/3268 Edik Sadzhaya v. Volga Nizhniy Novgorod, award of 31 January 2014

Panel: Mr Mark Hovell (United Kingdom), Sole Arbitrator

Football
Contract of employment between a player and a club
Obligation of a club towards a player related to relocation expenses
No obligation for an employee to provide receipts to receive outstanding payments
Interests due on late payments

1. **According to the applicable national labour law, the expenses of an employee who moves to another region pursuant to an employment agreement should be reimbursed by the employer. It is also common in sport in many countries that any expenses incurred by a sports person in relocating from one place of employment to another, are, within certain statutory and time limits, allowable against tax. For the tax authorities to confirm that an employer can pay its employee for the relocation expenses incurred free of tax, the tax authority would expect to see documentary evidence. The requirement for receipts is a condition precedent for the allowance of tax relief, not necessarily for payment of expenses *per se*.**

2. **There is no obligation for an employee to provide receipts to receive payments if a guarantee letter aimed at confirming the outstanding obligations of an employer towards an employee refers to "compensation" not "reimbursement".**

3. **Interest at a rate provided by the applicable regulations shall apply where nothing was provided in the contract by the parties in this respect and where no submissions was made by the debtor on this point.**

I. PARTIES

1. Mr Edik Sadzhaya (hereinafter: the "Appellant" or the "Player") is a professional football player of Georgian and Russian nationality. The Player is currently registered with the Georgian football club Chikhura Sachkhere. The Player has made numerous appearances for the Georgian national team.

2. FC Volga Nizhniy Novgorod (hereinafter: the "Respondent" or the "Club") is a football club with its registered office in Nizhniy Novgorod, Russia. The Club is registered with the Russian

Football Union (hereinafter: the "RFU"), which in turn is affiliated to the Fédération Internationale de Football Association (hereinafter: "FIFA").

II. FACTUAL BACKGROUND

A. Background Facts

3. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the parties and the evidence examined in the course of the proceedings. This background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

4. On 1 January 2010, the Player and the Club signed a labour agreement (hereinafter: the "Agreement") for a period from 1 January 2010 until 31 December 2010.

5. Article 9.5 of the Agreement, according to the Player's translation, provided:

"The Employer undertakes to compensate the expenses on the transition to work in Nizhniy Novgorod amounting to 4 500 000,00 (Four million five hundred thousand) Roubles till 31.12.2010".

6. Article 9.5 of the Agreement, according to the Club's translation, provided:

"The Employer shall reimburse for expenses connected with move to Nizhniy Novgorod for work in the amount of 4.500.000 (four million five hundred thousand) roubles till December 31, 2010".

7. On 1 January 2011, the Club sent a letter entitled "Guarantee Letter" to the Player that stated:

"The management of a non-commercial partnership "Football Club "Volga" hereby guarantees to you payment of our indebtedness for the 2010 salary amounting to 641 936,16 (Six hundred and forty one thousand nine hundred and thirty six) Roubles and 16 Kopecks (the amount indicated net of personal income tax) and compensation payments amounting to 1 500 000,00 (One million five hundred thousands) Roubles until "31"st of March, 2011".

8. On 16 February 2012, the Player wrote to the Club stating:

"…

Till present time FC "Volga" did not cover its indebtedness in full, namely the Club paid salary indebtedness of 641.916,16 Roubles and the indebtedness for the compensational payment of 500.000 (five hundred thousand) Roubles.

Therefore, current indebtedness of FC "Volga" in front of me amounts to 1.000.000 (One million) Roubles.

In view of the above I ask you to cover the pending indebtedness till 20.02.2012".

B. Proceedings before the RFU Dispute Resolution Chamber and Players Status Committee

9. On 4 April 2012, the Player lodged a claim with the RFU Dispute Resolution Chamber (hereinafter: the "DRC") seeking an order that the Club pay its indebtedness for compensation of transit expenses amounting to 1,000,000 Roubles.

10. On 10 January 2013, the Player received notification from the DRC that it had rejected the Player's claim.

11. On 16 January 2013, the Player lodged his appeal with the RFU Players Status Committee (hereinafter the "PSC") against the DRC's initial decision, asking it to revert the DRC's decision and to issue a new ruling in his favour.

12. On 30 January 2013, the PSC returned the Player's case to the DRC for a fresh consideration.

13. On 18 April 2013, the DRC made the following decision (hereinafter: the "DRC Decision"):

> *"1. To reject the Appeal lodged by football player Sadzhaya E. regarding non-fulfilment by FC "Volga" (Nizhniy Novgorod) the conditions of the Labour Agreement and inner Club's documents.*
>
> *2. Present Ruling comes into force as provided by Article 50 of FUR Dispute Regulations".*

14. On 29 May 2013, the Player lodged an appeal against the DRC Decision to the PSC again seeking an order that the Club pay its indebtedness for compensation of transit expenses amounting to 1,000,000 Roubles.

15. On 4 June 2013, the PSC made the following decision (hereinafter: the "Appealed Decision"):

> *"1. To reject the Appeal of professional football player Sadzhaya Edik regarding non-fulfillment by FC "Volga" (Nizhniy Novgorod) the conditions of the Labour Agreement and inner Club regulations.*
>
> *2. To affirm in full the Ruling issued by Dispute Resolutions Chamber on April 18, 2013".*

16. On 8 July 2013, the full written version of the Appealed Decision was provided to the Player.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

17. On 26 July 2013, in accordance with Articles R47 and R48 of the CAS Code, the Player filed a statement of appeal, accompanied by 4 exhibits, with the Court of Arbitration for Sport (hereinafter: the "CAS"), with the following request for relief:

> *"- to overturn the ruling of the FUR PSC in full;*
>
> *- to oblige FC "Volga" Nizhniy Novgorod to pay the pending indebtedness of 1.000.000 (one million) Roubles as per the Labour Agreement of 01.01.2010 plus interest for late payment".*

18. On 30 July 2013, the statement of appeal was notified to the Club and the RFU.

19. On 7 August 2012, in accordance with Article R51 of the CAS Code, the Player filed his appeal brief. This document contained his statement of the facts and legal arguments and was accompanied by 10 exhibits, with translations into English. The Appellant challenged the Appealed Decision, submitting the following, amended, requests for relief:

> *"1. To revert the ruling of FUR Player's Status Committee #090-12 dated04.06.2013 and the Ruling of FUR Dispute Resolution Chamber dated 18.04.2013.*
>
> *2. To issue new Ruling on the case, by which to satisfy the appeal of Edik Sadzhaya and to oblige the Club to pay 1.000.000 (one million) Roubles as the compensation of transition expenses.*
>
> *3. To oblige FC "Volga" Nizhniy Novgorod to pay the interest for the delay of compensation payment due to the player 301.125 (three hundred and one thousand one hundred and twenty-five) Roubles.*
>
> *4. To establish that all legal expenses that occurred for the player should be borne by FC "Volga" Nizhniy Novgorod".*

20. On 12 August 2012, the CAS Court Office informed the parties that, pursuant to Article R54 of the Code for Sports-related Arbitration (hereafter: the "CAS Code"), the Deputy President of the Appeals Arbitration Division had appointed Mr. Mark Hovell as Sole Arbitrator.

21. On 24 September 2013, in accordance with Article R55 of the CAS Code, the Club filed its answer, with 5 exhibits and translations into English, whereby it requested CAS to decide the following:

> *"The Claimant* [sic] *requests the Panel:*
>
> *i. accept this response against the appeal brief issued by the Player;*
>
> *ii. adopt an award rejecting the Appeal presented;*
>
> *iii. condemn the Respondent* [sic] *to the payment of the whole CAS administration costs and Panel fees;*
>
> *iv. fix a sum to be paid by the Respondent* [sic] *to the Club in order to cover its defence fees and costs in the amount of CHF 20,000".*

22. On 7 October 2013, the Appellant confirmed that he wished for the award to be issued based solely on the parties written submissions, whereas the Respondent remained silent with regard to the CAS Court Office's letter of 3 October 2013 by which it requested the parties to express their preference with respect to the question whether a hearing should be held or not

23. On 8 October 2013, the CAS Court Office, on behalf of the Sole Arbitrator, granted the parties a fourteen-day deadline to make a second round of submissions addressing particularly, but not limited to, the following points:

"1. The written submissions suggest that the Respondent paid 3,500,000 Roubles with regard to the Appellant's expenses. The parties, in particular the Respondent, are kindly requested to provide receipts, third party quotations, copy bank statements, etc (if any exist), relating thereto which resulted in that payment being made.

2. What is the background of the parties' agreement on the precise figure of 4,500,000 Roubles for the reimbursement/compensation of expenses in Article 9.5 of the employment contract? In particular: were the parties aware of the Appellant's potential expenses in relation to his transfer move before the signing; were there any third party quotations for instance?"

24. On 21 October 2013, the Club submitted its further submission with four exhibits in support of the same. Further, the Respondent reiterated its prayers for relief.

25. On 22 October 2013, the Player submitted his further submission. Further, the Player requested an extension of the deadline until 30 October 2013 to file the witness statement of Mr Goykhman, the former Vice-President of the Club, due to the illness of the witness.

26. On 23 October 2013, the CAS Court Office, on behalf of the Sole Arbitrator, granted the extension to file the witness statement.

27. On 29 October 2013, the Player filed the witness statement of Mr. Goykhman with the CAS Court Office, on 30 October 2013, duly provided a copy to the Respondent. The statement confirmed that Mr Goykhman had been responsible for negotiating the Agreement and setting the level of compensation for relocation expenses at 4.5 million Roubles. Mr Goykhman stated that the policy of the Club was not to ask for any receipts, but instead it was to pay the final sums in the player's contract. He stated that this was evidenced by the lack of any obligation upon the Player to provide any receipts; the contracts had a fixed sum; not a statement saying *"not more than… a certain amount"*; and by the fact that the Club settled all the taxes with the Tax authorities. Finally, he stated that at the date he left the Club, the Club still owed the Player 1 million Roubles from the 1.5 million Roubles he had confirmed were still due to the Player in the Guarantee Letter he had sent out on behalf of the Club.

28. On 7 November 2013, the CAS Court Office, for the second time, requested the Respondent to provide its preference regarding whether a hearing should be held in the matter or not. The Respondent failed to do so within the prescribed time limit and thereafter.

29. On 26 November 2013, the Sole Arbitrator decided, pursuant to Article R57 of the CAS Code, to render an award based solely on the parties' written submissions. At the same time, the Respondent was granted a deadline of seven days to reply to the witness statement of Mr. Goykhman.

30.. On 3 December 2013, the Respondent filed its response to the witness statement of Mr Goykhman, which is summarised below.

31, On 13 December 2013, the Appellant signed an Order of Procedure declaring, *inter alia*, its agreement that the Sole Arbitrator may decide the matter without conducting a hearing and that his right to be heard had been respected.

32. On 17 December 2013, such Order of Procedure was signed by the Respondent.

IV. SUBMISSIONS OF THE PARTIES

33. The submissions of the Player, in essence, may be summarized as follows:

34. Both the DRC and PSC held that the Player should only be reimbursed in accordance with Article 9.5 of the Agreement if the Player could provide certified original financial documents in support of the same. However, the parties did not prescribe in the Agreement the condition of presenting documents certifying actual transition expenses. Further, the Club has made payments to the Player in relation to expenses without the Player presenting any receipts or other documents.

35. The DRC and PSC misunderstood the real will of the parties expressed in the Agreement; the DRC Decision and the Appeal Decision violate the Player's *"basic rights and the principle of justice"* and thus should be cancelled.

36. Pursuant to Article 57 of the Russian Labour Code (hereinafter: the "Labour Code"), the Agreement could contain additional provisions, but only if they do not "deteriorate" the employee's position as to the one set by such labour legislation and other legal acts. To include provisions that the employee must collate receipts before he could be paid for his relocation or transition would significantly affect the employee's position. Such provisions could only have been included with the Player's consent.

37. Article 169 of the Labour Code states that compensation of the expenses related to the transition to another region are expenses related to both the actual transition to and the settlement at the new place. Expenses should not only cover the employee but also their family members. Also, there are no limits on the amount of compensation in the current labour legislation.

38. The Player relocated to Nizhniy Novgorod from Makhachkala; a distance of nearly 2,000 km. The Player did not have any accommodation in Nizhniy Novgorod and initially experienced difficulties relating to the transition and settlement at his new place of work. The Player could not present any documents certifying his transition expenses, as he had not saved these documents, as the Agreement did not include any duty to keep such documents. Further, the Player believed that the compensation to be paid was not within a prescribed limit, but the exact fixed amount in accordance with Article 9.5 of the Agreement.

39. The Club employed a number of players under a similar agreement in which they paid expenses without certified documents. When these players terminated their agreements with the Club, the players had the special provision that the compensation of transition expenses

was paid to the players in the amounts agreed. These players did not have to provide any receipts either.

40. In relation to the Club's argument that to pay the compensation without certifying documents would be in breach of Russian tax legislation, the tax legislation applies between the Club and the tax department. That is governed by a separate tax legislation and not the Labour Code. Moreover, the employer's duty to pay taxes or his right not to pay taxes in those circumstances cannot be the ground for the employer to change the terms and conditions of the labour agreement by his own will.

41. The Player also referred to other DRC jurisprudence involving a dispute between the Club and another player, Mr Burchenko, which supported the Player's assertions, yet this jurisprudence was ignored by the DRC.

42. The parties of the Agreement did not prescribe the employee's duty to report on his actual transition expenses. The acts of the parties, both when concluding the Agreement and when executing it, as well as after its expiration, show the principle of "dispositivity" and express the real will of the parties that compensation of the transition expenses shall be paid regardless of presenting any certified documents.

43. In conclusion the Player stated that the Appealed Decision was biased and illegal, violated the principle of justice and the principle of uniformity of legal practice and therefore was "subject to reverse".

44. The Player also claimed interest resulted from the delay in payment. The Player relied on Article 362 of the Labour Code in relation to the same and noted that the central bank refinancing rates, which is taken into calculation of the accrued interest, at present equates to 8.25% per annum.

45. In response in the second round of submissions, the Player reiterated that the Agreement, in particular Article 9.5, did not contain any provisions stating that the Player had to present any kind of document for the payment to be made. The Player confirmed that this was never mentioned or announced to the Player by the Club during the negotiations. Further, the Player confirmed that when the payment of 3,500,000 Roubles was made by the Club, the Player was not requested to present any kind of documentation.

46. The Player also confirmed that the precise figure of 4,500,000 Roubles was established during the negotiations between the Player and the Club. Further, that when the Player entered into the Agreement he also had a number of similar offers from other clubs. The Player confirmed that the amount specified in Article 9.5 of the Agreement was one of the factors that motivated the Player to sign a contract with the Club. Therefore, the Player when signing the Agreement had a clear understanding that the exact amount of 4,500,000 Roubles stipulated in Article 9.5 was to be paid to him in full.

47. The submissions of the Club, in essence, may be summarized as follows:

48. The Agreement did not provide that the Player had to provide evidence of expenses as it is already contained in the tax law of the country, as confirmed in the Federal Tax Service report dated 19 September 2011, which the Club appended to its Answer.

49. In relation to Article 169 of the Labour Code, the Player interpreted the provision in that no documentary justification needed to be requested to demonstrate the expenses. However, the request for documentary justification is not a limit to the amount of compensation but to ensure that the expenses that are to be reimbursed were really incurred and are reasonable. If the Player's interpretation was accepted, then any amount would be acceptable without limit. This would lead to a "nonsense". Further, the Club rejected the Player's argument that he only signed with the Club as they were offering the most compensation for relocation. If that was true, both parties would be breaching the Labour Code.

50. In relation to the Player's assertion that the compensation that should be paid is the exact fixed amount, the Club rejects this. There was no obligation on the Club to pay the exact amount for expenses. It is not a question of interpretation, "reimbursement" necessarily contains the obligation of a previous payment incurred by a person who wants to be reimbursed and thus the person who reimburses needs to know the exact amount that has to be paid. Thus, documentary evidence is required.

51. Further, the word "connected", contained in Article 9.5 of the Agreement, also means that the expenses must be calculated in the context of the move to Nizhniy Novgorod, so the only way to prove such connection to the move is through the documents that prove he had incurred such costs. If the Player had spent the full amount as provided in the Agreement and been able to justify it, then the Club would be bound to reimburse in full. However, if the Player had spent nothing, it is absurd to think that the Club would have the obligation to pay 4,500,000 Roubles. The DRC Decision clearly provided that:

"Thus we should agree with the presentation of the case by the Club to the extent that justifies the rejection to continue making payments as per clause 9.5 of the employment contract by the Club in favor of employees without relevant documents provided to support actual transportation expenses connected to transfer to Nizhniy Novgorod incurred by the employees".

It was also confirmed by a letter of advice of the Supreme Arbitration Court President of the Russian Federation dated 14 March 2006. Further, the Appealed Decision provided that in relation to the transfer expenses, these require proof that they have actually been incurred.

52. In relation to the other players referred to, they entered into termination agreements and therefore as the Club and the players agreed the termination of their professional relationship they had the *"freedom of their private sphere"* to agree whatever they considered necessary. In effect, the termination agreements provided a new agreement that replaced the contracts of employment and the parties thereto had agreed what balance was to be paid. In the Player's case, there was no new agreement that replaced his contract of employment.

53. The Club's request to be provided with documentary evidence of the expenses was entirely reasonable and as no evidence has been provided it may be considered that these are "fake" expenses claims.

54. In its second submissions, the Club stated that the amounts paid to the Player actually totalled 5,000,000 Roubles. On 20 January 2010, the Agreement was amended to increase the maximum amount to be reimbursed from 4,500,000 to 6,000,000 Roubles. The Club confirmed that following the increase, the following payments were made:

23.03.2010 - 3,000,000 Roubles;

28.07.2010 - 1,500,000 Roubles; and

05.07.2011 - 500,000 Roubles.

The payments were recognised by the Player as he claimed that in accordance with the Agreement he was owed a balance of 1,000,000 Roubles. The Club did not agree and argued that the Player cannot try to transform the obligation to reimburse expenses previously paid by the Player, assumed by the Club to help him move, into an obligation for the Club to pay the full fixed amount regardless of the transfer expenses borne by the Player.

55. Further, the Club confirmed that the amount of 4,500,000 Roubles was only increased to 6,000,000 Roubles 20 days after the conclusion of the Agreement as the parties considered that the initial amount might be insufficient to cover the actual expenses. The Club confirmed that there is no written evidence to justify the amount fixed. The Club had used its "experience" and considered the distance the Player would travel to relocate, the Player's prestige and family size as main factors to fix the maximum amount to be reimbursed. The Club explained that the amount is always fixed with a margin of error to avoid unpleasant surprises and was agreed with a Player and his representative before any agreement was concluded.

56. The Club acknowledged the existence of the Guarantee Letter, however argued that it merely stated how much was left for the Player to claim against at that date and that it did not override the obligations in the Agreement for the Player to provide receipts and documentary evidence if he wanted "reimbursement". Further, the letter was no longer in force by the date the Player first brought his claim to the DRC.

57. As regards to the witness evidence of Mr Goykhman, the Club acknowledged that he had negotiated and prepared the Agreement for the Club, however as he had referred to "reimbursement" in the Agreement, it was clear he intended the Player to produce receipts to demonstrate the amount the Club needed to reimburse. Further, the Club acknowledged that it was responsible for any Tax corresponding to the salaries of the Player, but this does not mean there is no relationship between the Player and the Tax authorities. The Tax authorities had already confirmed that they required receipts according to the Tax Regulations and, as such, the Club was justified in asking the Player for these. If Mr Goykhman had decided to

pay some players their expenses without the necessary documents, then he would be breaking the law and the Club could not be "bound" by his behaviour.

V. ADMISSIBILITY

58. The appeal was filed within the deadline of 21 days set by Article 53 paragraph 2 of the RFU Disciplinary Regulations (hereinafter: the "Regulations") The appeal complied with all other requirements of article R48 of the CAS Code, including the payment of the CAS Court Office fee.

59. It follows that the appeal is admissible.

VI. JURISDICTION

60. The jurisdiction of CAS, which is not disputed, derives from Article 53 paragraph 2 of the Regulations, as it determines that:

"Ruling of the Committee can be appealed against only in the Court of Arbitration for Sport (Tribunal Arbitral du Sport) at Lausanne, Switzerland within 21 calendar days from the moment of receiving the ruling".

61. In addition, Article 47 of the Charters of the All-Russia public organization "Football Union of Russia" establishes an appeal to the CAS from decisions of the PSC. The jurisdiction of CAS was further confirmed by the Order of Procedure duly signed by the parties.

62. It follows that CAS has jurisdiction to decide the present dispute.

VII. APPLICABLE LAW

63. Article R58 of the CAS Code provides the following:

"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

64. The Sole Arbitrator notes that Article 10 of the Agreement provides that:

"10.1.Parties liability is set by relevant Russian legislation as well as by the norms of FIFA, UEFA, FUR and RFPL.

10.2. Special aspects of governing Player's labour activity as set by labour legislation and other legal acts containing labour legal norms, collective agreements, local acts and by present Agreement.

10.3. In case a dispute arises between the parties, it should be settled first by considering at the Club. Should it be unsettled, it is subject to consideration on the regulations of FIFA, UEFA, RUF and RFPL. If the dispute is not considered in accordance with the regulations above, or the Player disagrees with its ruling, he has the right to appeal to the court…

10.6. With regards to what is not provided in the Agreement, the parties should follow the current legislation of Russian, documents of Club, FIFA, UEFA, RUF and RFPL".

65. In light of the fact that both parties to the Agreement have their registered offices and had their residence, respectively, in Russia and according to basic principles of private international law, it must be assumed that the Agreement is subject to the laws of Russia. Further, the "federation" in the sense of Article R58 of the CAS Code is domiciled in Russia, a fact that also requires that Russian law be applicable.

66. The Sole Arbitrator noted that the Appellant did not explicitly submit the application of any law but referred throughout his submissions to the Labour Code. The Respondent stated that the applicable law was the Labour Code and Russian tax legislation. As the parties agreed to the application of the Labour Code and in light of the Agreement, the Sole Arbitrator decided that Russian Law shall apply to the merits of the case.

VIII. MERITS

A. The Main Issues

a) What is the general legal position regarding relocation expenses in Russia?

b) Did the Player have to provide documentary evidence in accordance with Article 9.5 of the Agreement?

c) What was the effect of the Guarantee Letter?

d) If any sums are due to the Player, is interest due as well?

a) Relocation Expenses in Russia

67. The Sole Arbitrator noted that both parties referred to Article 169 of the Labour Code, which states as follows (as translated by the Appellant):

"Article 169. Compensation of expenses when transiting to work in another region.

When the employee, by the preliminary agreement with the employer, moves to another region, the employer should reimburse to the employee:

- expenses on the transition of the employees, his family and his luggage/belongings (except cases when the employer provides with necessary transportation means);

- expenses for settlement of the new place of living.

Exact amount of compensation of expenses are defined by the agreement of the parties of the labour agreement".

68. There is no dispute between the parties that the Player did indeed relocate from Makhachkala to Nizhniy Novgorod, a move of over 2,000 km. There also appears to be no dispute that the Club paid the Player, by way of 3 separate instalments, the sum of 5,000,000 Roubles as compensation for the expenses the Player (along with any family members) incurred with such a move.

69. Whilst the Sole Arbitrator notes that there is no reference within the Labour Code itself to a pre-condition for receipts or other documentary evidence being provided in advance of a payment of expenses, the position of the Russian Federal Tax Service was confirmed in their letter to the Club dated 6 October 2011.

70. The Sole Arbitrator notes that it is common in sport in many countries that any expenses incurred by a sports person in relocating from one place of employment to another, are, within certain statutory and time limits, allowable against Tax. In Russia, from the Russian Federal Tax Services letter, this seems to be the case as well. For the Tax authorities to confirm that an employer can pay its employee for the relocation expenses incurred free of Tax, the Tax authority would expect to see documentary evidence. In the Sole Arbitrator's opinion, the requirement for receipts is a condition precedent for the allowance of Tax relief, not necessarily for payment of expenses per se.

b) Contractual Position

71. The Sole Arbitrator notes the dispute between the parties regarding the translation into English of Article 9.5 of the Agreement. On the one hand, the Club refers to the Club's obligation to "reimburse" the Player for his relocation expenses; on the other hand, the Player refers to the Club's obligation to "compensate" him for relocation.

72. To support his position, the Player stated that this was one of the reasons he signed with the Club i.e. that he knew he was to receive this "fixed" amount. Further, he produced a witness statement from the former Vice President of the Club, who stated that he, on behalf of the Club, intended to pay the fixed amount and never requested or required any receipts and that he had paid other players in a similar way.

73. The Club, stated that to pay a fixed amount would breach the Labour Code, and as such the former Vice President was acting illegally and the Club could not be bound by his behaviour. Further, the other players were paid fixed agreed sums pursuant to settlement agreements, as they all left during their contractual terms, not after their contracts had expired.

74. The Sole Arbitrator notes that whilst it may have been the intention of the author of the Russian Labour Code and of the Russian Federal Tax Service that receipts are collated and support any claim for Tax relief against any relocation expenses, if this is not done, then it would be for the Russia Federal Tax Service to disallow the Tax relief on such payments. The Club had not produced any evidence or referred to any part of the Labour Code that would convince the Sole Arbitrator that such payments would themselves be void.

75. Indeed, the Sole Arbitrator expressly asked the Respondent to produce copies of the receipts it should have collected in before making the undisputed payments totalling 5,000,000 Roubles to the Player. None were submitted. It appears to the Sole Arbitrator that even if the Agreement did refer to "reimbursement" (which issue the Sole Arbitrator can leave open), the Club were prepared to pay out 5,000,000 Roubles of the 6,000,000 million Roubles referred to in the Agreement (as amended 20 days after signing) with no receipts whatsoever.

76. The Club states that these payments, or some of them, were made by Mr Gokyhman illegally. Even if that was the case, the Sole Arbitrator cannot accept the Club's submissions that it cannot be held liable for the behaviour of Mr Gokyhman. It is clear to the Sole Arbitrator that he was an officer of the Club at the appropriate time and able to bind it by his actions vis-à-vis third parties, such as the Player.

c) Guarantee Letter

77. It is clear to the Sole Arbitrator that the Agreement was allowed to expire on 31 December 2010. It is undisputed that as of 1 January 2011, the Club owed the Player 641,916.16 Roubles in unpaid salaries and had at that stage paid 4,500,000 million Roubles to the Player for relocation expenses. This letter states the Club *"hereby guarantees to you the payment of our indebtedness…"*. In the opinion of the Sole Arbitrator the Player is provided with an unequivocal guarantee to pay certain sums. The Sole Arbitrator further notes that the Appellant amended his original prayers for relief before the CAS, contained in his Statement of Appeal when he submitted his Appeal Brief so such prayers were no longer limited his claim to be solely under the Agreement. As such, the Player's claim includes a claim for sums due under the Guarantee Letter.

78. The Club executed the Guarantee Letter on 1 January 2011 and effectively informed the Player they need more time to pay. The Guarantee Letter refers to paying the salary arrears (which the Club did) and the *"compensation payments amount to 1,500,000… Roubles"* by 31 March 2011 (of which the Club later paid 500,000 Roubles).

79. The Sole Arbitrator notes the Guarantee Letter refers to "compensation" not "reimbursement", whilst the Club state the letter does not override the Agreement, which refers to "reimbursement", on its translation. Further, the Sole Arbitrator notes the arguments of the Club that the letter had somehow expired prior to the Player making his claim to the DRC. The Agreement had expired on 31 December 2010, yet certain obligations remained.

The Sole Arbitrator views the Guarantee Letter as the Club's confirmation of these outstanding obligations and the Club binds itself to pay these stated sums to the Player under the Guarantee Letter, in which it seeks extra time to make such payments. The Guarantee Letter does not expire on some date (presumably the Club thinks on 31 March 2011, as that is the only date referred to in the Guarantee Letter), rather it would expire when its terms have been fully satisfied.

80. Whether the Player should have provided receipts to receive the final 1,000,000 Roubles is cured by the Guarantee Letter, as there is no reference to "reimbursement" in that at all – it is a simple obligation upon the Club to pay those sums to the Player. As between the parties the Guarantee Letter demonstrates to the Sole Arbitrator the Club's clear intention to pay the balance of 1,000,000 Roubles to the Player, with no strings attached, other than a slight extension until 31 Mach 2011. Whether that is in accordance with Tax Legislation is a different point and one the Sole Arbitrator does not have to deal with – the Russian Federal Tax Service may well disallow any Tax relief on all or part of a fixed sum payable for relocation and treat it as a payment of income or salary. However, the Sole Arbitrator also notes that the responsibility for the Player's Tax rests with the Club under the Agreement.

81. The Sole Arbitrator therefore determines the Club should comply with the Guarantee Letter and pay the outstanding sum of 1,000,000 Roubles to the Player.

d) Interest

82. The Sole Arbitrator notes that neither the Agreement nor the Guarantee Letter refer to interest due on late payments thereunder. The Player has argued that refinancing rate of the central Bank of the Russian Federation quotes an interest rate of 8.25% and that Article 362 of the Labour Code applies this rate to overdue sums from an employer to an employee for each day between the due date and the actual date of payment divided by a divisor of 300. The Sole Arbitrator notes that the Club made no submissions on this point and, as such, awards interest at that rate from 1 April 2011, being the date by which all sums should have been paid according to the Guarantee Letter.

B. Conclusion

83. Based on the foregoing, and after taking into due consideration all the evidence produced and all the arguments made, the Sole Arbitrator finds that the Respondent shall pay the sum of 1,000,000 Roubles to the Appellant together with interest at the rate of 8.25% on such sum multiplied by the number of days elapsed from 1 April 2011 to the date of actual payment and divided by a divisor of 300.

84. Any further claims or requests for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Edik Sadzhaya on 26 July 2013 against the Decision issued on 4 June 2013 by the Players Status Committee of the Russian Football Union is upheld.

2. The Decision issued on 4 June 2013 by the Dispute Resolution Chamber of the Russian Football Union is set aside.

3. Volga Nizhniy Novgorod is ordered to pay to Edik Sadzhaya an amount of one million (1,000,000) Roubles as compensation for the expenses, with interest at the rate of 8.25% on such sum multiplied by the number of days accruing as of 1 April 2011 until the date of actual payment and divided by a divisor of 300.

4. (…).

5. (…).

6. All other motions or prayers for relief are dismissed.