

CHAPTER 10: BASKETBALL ARBITRAL TRIBUNAL (BAT)

GENERAL PRINCIPLES

333. FIBA established an independent tribunal, named the Basketball Arbitral Tribunal (BAT, formerly known as FIBA Arbitral Tribunal) for the simple, quick and inexpensive resolution of disputes arising within the world of basketball in which FIBA, its Zones, or their respective divisions are not directly involved and with respect to which the parties to the dispute have agreed in writing to submit the same to the BAT.
334. BAT awards shall be final and binding upon communication to the parties.
335. The BAT is primarily designed to resolve disputes between clubs, players and agents. Upon request by a BAT arbitrator, FIBA may assist the BAT in communicating with parties.
336. It is recommended that parties wishing to refer their possible disputes to the BAT use the following arbitration clause in their contracts:

“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, irrespective of parties’ domicile. The language of the arbitration shall be English. The arbitrator shall decide the dispute *ex aequo et bono*.”

THE BAT ARBITRATION RULES

337. Arbitration proceedings before BAT will be conducted in accordance with the BAT Arbitration Rules, which shall be available on the FIBA website.
338. Any proposed changes to the BAT Arbitration Rules shall be prepared by the FIBA Legal Commission or the BAT Secretariat and shall be submitted to the BAT President for approval. The amended BAT Arbitration Rules may enter into force no earlier than their publication on the FIBA website.

SEAT OF THE BAT

339. The BAT and each arbitral proceeding before a BAT arbitrator have their seat in Geneva, Switzerland. Arbitration proceedings before the BAT are governed by Chapter 12 of the Swiss Act on Private International Law, irrespective of the parties’ domicile.

FINANCING

340. The financing of the BAT is guaranteed by FIBA, it being understood that the BAT is designed to be self-financing.

THE BAT PRESIDENT / THE BAT VICE PRESIDENT

341. The BAT President and the BAT Vice President shall be appointed by the FIBA Central Board for a renewable term of four (4) years between the ordinary sessions of the FIBA elective Congress. They shall have legal training.
342. The BAT Vice-President shall substitute for the BAT President whenever the BAT President so requests or is unable to exercise the functions assigned to him under the BAT Arbitration Rules, including instances where the BAT President is prevented from exercising his functions due to a conflict of interest.

THE DUTIES OF THE BAT PRESIDENT

343. The BAT President shall have the following duties:
 - a. To ensure the proper functioning of the BAT, inter alia, by establishing administrative guidelines for the BAT and by approving amendments to the BAT Arbitration Rules;
 - b. To establish a list of at least five (5) BAT arbitrators for a renewable term of two (2) years and to (re-)appoint BAT arbitrators or remove them from the list. The BAT arbitrators shall have legal training and experience with regard to sport;
 - c. To appoint, on a rotational basis, a BAT arbitrator to the individual arbitration proceedings before the BAT;
 - d. To establish a system of remuneration for the BAT arbitrators; and
 - e. To exercise those functions assigned to him under the BAT Arbitration Rules.

HONOURING OF BAT AWARDS

344. In the event that a National Member Federation, club, player, coach or agent participating in a BAT arbitration (the “first party”) fails to honour a final award, order or any provisional or conservatory measures (collectively, the “decision”) of BAT or CAS, the party seeking the honouring of such decision award (the “second party”) shall have the right to request that FIBA sanctions the first party.

The sanctions that FIBA may impose are the following:

- a. A monetary fine of up to CHF 150,000. This fine can be applied more than once; and/or
- b. Withdrawal of the FIBA license if the first party is a player’s agent or of the WABC membership if the first party is a coach; and/or
- c. A ban on international transfers if the first party is a player; and/or
- d. A ban on participation in international competitions with the player’s national team and/or club if the first party is a player; and/or
- e. A ban on registration of new players and/or a ban on participation in international club competitions if the first party is a club.

The above sanctions can be applied cumulatively and more than once.

The above sanctions can be extended, in FIBA's sole discretion, to natural or legal persons that are directly or indirectly linked to the first party, either from a legal or a sporting perspective. In particular, such linkage exists if the relevant natural or legal person is, or reasonably appears to be, a legal or sporting successor of the first party, which may include, without limitation, a consideration of the following: its headquarters, stadium, name, team colours, players, coaches, management, ownership, websites, social media channels, and/or public statements.

345. The second party shall send to FIBA with its request for sanctions a copy of the BAT award. The decision on the sanction is taken by the Secretary General. Before taking his decision, he shall give the first party an opportunity to state its position and to honour the BAT award. Upon request by FIBA, the National Member Federation to which the first party (or the natural or legal person linked to it, as the case may be) is affiliated shall actively and promptly take all necessary measures to ensure that the first party fully honours the BAT award within a time limit fixed by FIBA. If a National Member Federation fails to comply with the present article, FIBA may impose disciplinary sanctions on the National Member Federation in accordance with Book 1, Chapter 6.
346. The decision to sanction the first party shall be subject to appeal to the FIBA Appeals' Panel according to the FIBA Internal Regulations governing Appeals (see Book 1, Chapter 8).

Processing Fees

347. Upon receipt of a request for sanctions from the second party as defined in article 3-345, FIBA shall impose an administrative fee on the first party as defined in article 3-345 to cover the costs of FIBA's involvement in the process of honouring the BAT Award ("Processing Fee"). The Processing Fee shall vary as follows, depending on the number of cases processed by FIBA and against the same first party in any given calendar year:

1 to 3 case(s)/year	CHF 500/ case
4 to 6 cases/year	CHF 1'000/ case
7 or more cases/year	CHF 2'000/ case