



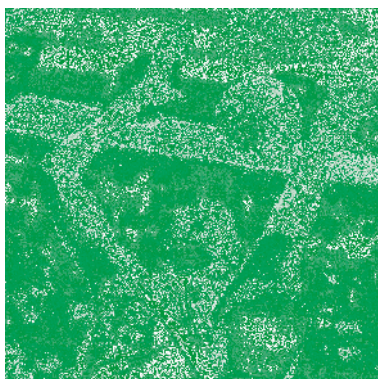
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1.6 ELIGIBILITY AND TRANSFER OF PLAYERS



WHY YOU SHOULD READ THIS CHAPTER?

Managing Our Most Important Asset the Right Way

A basketball player is the most important asset a team can have. Without the athlete, there is no sport. This is why the management of an athlete's life within the organization is crucial. But even more crucial is the regulation of the movement of the players from one club to the other, from one league to another.

There are approximately as many different national laws as there are different countries who are members of FIBA.

This chapter will try to advise you in this area of activity. It is meant to give you a broad overview of what other countries do, within the framework of FIBA's Regulations. We hope this information will help you successfully manage this aspect of the sport.

These guidelines are designed in your interest, in the interest of the player, and in the interest of basketball.



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1. Introduction

Every player's career starts by joining a team/club. Joining a team for the first time can happen at any age of (six, eight, fourteen, or older). The player is free to choose for which team or club they will play. Once registration is complete and the proper forms have been signed, the player becomes an official member of that team or club. As a member, the player is then eligible to participate in national competitions. The player needs to follow eligibility and transfer regulations set by the National Federation. Since players are seen as assets for the club or team for which they play, (a financial, economic, marketing and image asset) the registration and transfer of players is one of the most sensitive issues within basketball.

In many countries the players are free to transfer between one club and another until they are 18 years old. This free transfer of players, however, is not allowed in all countries. Sometimes players under the age of 18 are not allowed to change clubs unless a compensation fee is paid to their former club. In some federations a predetermined compensation scale for transfers exists.

As soon as players reach 18 (players are of legal age and they have the right to make decisions about their future), players have various options. Different countries will have different regulations for the transfer of players.

In some countries:

- Players are free to choose the club for which they play.
- Players can be obliged to sign a contract with their club of origin.
- Players can continue to be a member of the club where they played because of their National Federation's regulations, while some regulations allow the clubs to hold players as long as they wish.
- There is no contract between the player and a team/club but teams/clubs own players until they release them.
- Players must wait one to three years if they want to change their team/club without a release. In some places they can not change teams/clubs at all if his team/club does not release them.
- Clubs are allowed to control its players until they are 20 or 22 years old.
- If a player wants to sign a contract with a new team, he has to compensate his previous team according to a predetermined scale, or according to the request of his club of origin. In cases of dispute the National Federations usually decides.

Usually there are certain periods during the year when players can change teams/clubs (after the season, before the next season and in the middle of the season, or in some cases at any time). Players have to follow these regulations.

Again different National Federations will have different regulations regarding their players.

In some countries:

- There is a limit for the number of the players in the youth categories and in some there is a limit for the number of players in the senior category.
- A player can be a member of one team/club but can be loaned to another team/club for a certain period of time.



- There is no team/club structure (there is a school structure) and when players finish school, they are free to play for any club.
- Players are forced to join the teams/clubs which chose them in a draft.
- Foreign players participate in the league and regulations for those players are different to those for domestic players. There are sometimes regulations controlling the departure of players to academic institutions (ie NCAA) and the return of these players to their domestic clubs.
- There are regulations which regulate return of domestic players from abroad.
- Some countries regulate the participation of players in team/club competitions on the basis of their participation with the National Team.

Some countries link player agents with the eligibility and transfer of players and regulate the activities of player agents.

If players want to transfer from one country to another there are FIBA regulations to which we will refer later.

In connection with the eligibility and transfer of players there are potentially many conflicts of interest. Players, player agents, teams/clubs and the National Federation often adopt completely different and sometimes conflicting positions. We should try to find the best possible solution which will be satisfactory to all parties.

2. Registration and Licences

Registration to become a member of a club must be completed before the player can obtain a player's licence. This licence allows the player to play for the club in competitions. The National Federation should have a standard registration form for all players and a centralized database of all registered players. In order to register, the player must submit an original of his birth certificate, his passport photo taken in the last six months, a medical check (three months old) and a completed registration form.

At their first registration, each player should be given a personal "basketball" number and this number should follow the player (and be on the player's license) throughout the player's career in that country. A Player licence should contain the player's identity number, club code, region/state code (if necessary), date or year of registration, date of birth of player and an additional number which is part of an internal system of the National Federation. With each

The National Federation should have a standard registration form for all players and a centralized database of all registered players.

player having his own licence number the National Federation is able to trace the players, have a transparent and clear licencing system, establish a fair compensation system and an simple transfer system between teams/clubs.

3. National Transfer of Players under 18 Years Old

The National Federation should establish a reasonable compensation fee if players are moving from one team to another before they are 18 years old. The best solution is to establish a certain scale that can



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be implemented in the domestic transfer regulations. The Purpose of this fee is to compensate the club of origin for its efforts in developing the talent of the player.

One of the issues which has to be solved before creating the compensation scale is what age is taken as a starting point for calculating the compensation fee. Do we want players who start playing mini basketball at age 6 or 8 to be the subject of transfer regulations? Should a team/club pay a compensation fee when players of this age transfer, or should there be an alternative system to regulate this?

Countries that have strong youth development programs might consider having a compensation fee that starts with the registration of the player, however, the best option for other countries might be to start the compensation scale from when the player turns 14 years old. Before that age, transfer and movement of players from one team to another should be free of charge and players would be able to change teams each year if they want (within an allowed transfer period) without paying any compensation fee to their previous teams. From age 14 to 18, player transfers should be subject to a compensation scale which is established by the National Federation.



When drafting the compensation scale the National federation should consider the following points; the level of competition of the club from which the player is coming; level of competition of the club to whom the player is transferring; number of years spent in the club of origin (counting from the player's 14th birthday); number of official games (at FIBA competitions) played for national U-16, U-18, and senior team; number of official games played for his previous team; number of titles won with his previous team; practice facilities of the club of origin and destination club; level of education and qualifications of coaches who worked with the player; money paid to the player; etc. When creating the formula (not necessarily taking in consideration all points above, or adding some additional criteria) the outcome needs to be multiplied by a certain number of points which results in a financial value. The compensation formula and the fee have to be analyzed each year in order to stay current and fair.

Teams should not be allowed to register / license more than 16 players in youth categories.

Teams should not be allowed to register more than 16 players in youth categories (14 to 18 years old players). This measure will spread the quality players and will not allow rich teams to sign and control all the best young players in a country. This will also allow coaches to have enough players for practice and organize each practice in the best possible manner.

Another option is to allow transfer of players from one team to another during transfer periods until the player is 18 years old and not charge any compensation fee. Still the limit of 16 licenced players should exist and teams should not be allowed to register more than 16 players in one competition category. For



example if there are U-19, U-17 and U-15 competitions categories, teams which compete in all three levels could not have more than 48 players (16 players per category). If a player is not in the 16 licenced players for the next season he would be free to go to another team without paying any compensation fee.

4. International Transfer of Players under 18 Years Old

International transfers are not permitted before a player's 18th birthday except in special cases as decided by the Secretary General of FIBA. He will examine the matter with the National Federations and if necessary, with the clubs and player concerned.

5. Contracts

When a player is 18 years old, he must regulate his relationship with the team and should sign a contract with the club for which he plays. The rights and obligations of the player and the team should be defined by the contract signed by the player and the authorized club representative. Even countries which do not have "professionalism" in the strict sense, should introduce player contracts. Contracts should be one of the conditions for participation in the competitions if the players are older than 18 years. By signing contract players should be entitled to receive a license. Only players holding a valid license should be entitled to play senior competitions. The licence should be issued and certified every season. In order to have the right to play, each player must have a signed contract and provide a signed medical certificate which is no older than 30 days.

The National Federation could decide which level of competitions requires player contracts.

In some countries the legal age is different (sometimes 20 or 21 years old), but all countries should abide by the 18 year old cut-off because in the majority of countries worldwide this is the age when persons begin to have legal rights. The FIBA reg-

ulations foresee age 18 as a turning point for players to sign their first "professional" contract. In order to unify the worldwide procedure and have consistent regulations, 18 years is the best possible option.

The National Federation could decide which level of competition requires player contracts. It is possible that the National Federations divides the levels of competitions and teams into "professional" and "amateur" and introduces different regulations for different levels. In both cases players should have contracts. In "professional" teams or competitions, there should be one type of contract, and in "amateur" teams or competitions there should be a different type of contract.

The best solution for the National Federation is the use of a standard player contract. All players who participate have to sign such a document. All contracts should be deposited in the National Federation headquarters (or league office headquarters if it exists). All contracts fees in should be subject to tax regulations and illegal payments should not be suggested or encouraged. Teams or persons who participate in such actions should be heavily punished.

6. National Regulations When Players are 18 Years Old

At or after the player's 18th birthday the club of origin, that is, the club for which the player is licensed at his 18th birthday, should have the right to sign the first contract with the player. This



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contract should be in written form and should respect the National Federation regulations and the law of the country. The duration of the contract should be a minimum of one year and a maximum of four years. If the team does not want to sign a contract with a player, he should be free to go without paying any compensation fee.

When a player refuse to sign an offered contract, the team should file the offered contract with the National Federation (or league) office with the request to fix a compensation if that player wants to change teams. The National Federation (or league) should set a minimum yearly salary for players. When the contract fee offered by the club is too low or not realistic, the national federation should enforce the minimum salary. If the team offers the player less than that amount the player should be automatically free to change teams.

When the offer from one team is better than the offer from another team, the team which offered the higher amount has the right to sign the player. A league salary cap (limit on how much each club can spend on player salaries) helps to keep all clubs on an even footing, in gaining access to the best players and sharing available talent around. If implemented, the salary cap has to be carefully monitored and enforced in order to benefit all teams.

When a player or club fails to fulfill his contractual obligations the player or their club may request the termination of the contract. Whoever initiates the termination, each party should have the right to be paid, all payments according to the contract. The National Federation must have regulations which solve such a dispute. The National Federation should force both parties to fulfill their obligations. If they do not, they should be subject to sanctions. At this level, for competitions in one country, FIBA is not involved in these disputes.

If a player refuses to sign a contract with the club of origin and wishes to transfer to another club in another country, the club of origin is entitled to some compensation. The compensation should be based primarily on the investment made by the club of origin, based on the principles outlined in item 3 above. The compensation sum should be realistic and in accordance with the economic situation of the country. If the clubs cannot agree on the compensation then FIBA will decide.

6.1 Transfer Periods

The National Federation should establish a transfer period during which players may change clubs. The transfer period should be in line (if possible) with that of international club competitions. If not, then the transfer period should not be immediately before, or during the play-offs. There is a need to set a time limit on when a club can sign or change players in order to have regular competitions and to bring order and credibility to the competitions.

6.2 Transfer Regulations

The right to be transferred from one club to another shall be granted to the player who; does not hold a valid contract with a club; for whom the specified compensation is settled; who terminated the contract with the previous club by mutual consent; whose contract with the previous club was terminated by the controlling authority; whose contract with the club has expired; or for whom the club did not renewed the licence for the next season.



6.3 Double Registration

In some cases, clubs sign prospective players who are not yet ready to play in the highest level of competitions and those players do not get enough playing time. To prevent a system where players are practicing but never getting a chance to play, the National Federation should introduce a double registration system. This would give an opportunity for players to improve their playing ability and mature

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earlier. A player may exercise his right to play in a club of a lower level competition with double registration (licence) until (and including) the year of his 20th birthday if the club of main registration consents. The club in the lower division should not have the right to register more than two players with double registration. A player with a double registration

could play for his main registration club in the senior league, the cup competition and the young category competition (under 19 category, for example), while for the lower division club he may play only in the senior competition. The double registration should be only valid until the end of a particular competition. The double registration of players may only be performed during a transfer period.

6.4 Number of Licensed Senior Players

Each team should have the right to sign only 12 players that are older than 18 years. This is to ensure that teams include the best junior players in their senior practices while giving adequate care to junior development programs. Another reason is that coaches are not using more than 10 players on average, for real playing time, per game. This would allow teams with smaller budgets to create a good team if they work well and scout players in the right way.

This also allows players to change teams if they do not have the opportunity to be one of the 12 signed players. Hopefully this will create more teams with equal competitive opportunities. This move will also educate team leaders, managers and coaches and push them in a more professional direction and force them to think carefully about the future of each player.

6.5 Foreign Players

Each country can have foreign players (players who do not have the legal nationality of the National Federation by which he is licensed) in their competitions. Usually top level competitions in the countries allow foreign players. In some cases the second level of competition also allow foreign players. Each country allows a certain number of foreign players in their competitions and each country has the right to establish its own regulations regarding the number of foreign players per club. Each country should study carefully its own situation, the quality of its basketball, the economic situation of the teams, the future of basketball, the development of its young players, etc. and according to all circumstances, decide on the appropriate regulation.

For international FIBA club competitions, the composition of the teams is not subject to any limitation concerning the legal nationality of the players. This means that each team might be composed of ten foreign players if allowed by the regulations of the competition. (There are international legal reasons for this regulation). As mentioned each National Federation and FIBA Zone may establish more restrictive regulations.



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7. Transfer of Players to Academic Institutions and Vice Versa

If a player, after having played for a club affiliated to a FIBA member (FIBA club) plays for an academic institution (NCAA) which does not recognize the FIBA Regulations governing the International Transfer of Players, and subsequently returns to a FIBA club, they are considered as having transferred from a non FIBA club to a FIBA club. In other words, their playing activities during their stay at the academic institution will be disregarded.

This is a very sensitive issue, but we are of the opinion that for many countries and players, it is beneficial to play in the NCAA. Unfortunately, the NCAA imposed extremely unfair and prohibitive regulations, in particular for basketball, and it is very difficult for players to study and play at the same time, and to be part of the best sport-academic structure.

The National Federation should regulate the departure of its players to academic institutions (e.g. NCAA). Players returning from their studies abroad and having spent up to one year studying, shall remain members of the club with which they were last licenced, with all rights and obligations arising therefrom. Players returning from abroad having spent more than one year studying, shall have the status of a free player upon their return.

A player who has not played for a FIBA club before playing for an academic institution and who wants to play for a FIBA club for the first time does not need a letter of clearance. He is eligible to play as soon as he has presented a written declaration to the National Federation, stating that he has never played for a FIBA club.

8. Letter of Clearance

For player transfers from one country to another, before he can be licenced by another National Federation, a letter of clearance must be obtained from the National Federation where they were last licensed before he can be licensed by another National Federation. This document certifies that the player concerned is free to be licensed by another National Federation. The new National Federation may not grant the licence until it has obtained the letter of clearance from the National Federation of the country where the player was previously licensed.

A letter of clearance may not be issued to more than one National Federation at any time. FIBA may impose sanctions on a National Federation in the event of a misleading procedure. The letter of clearance may not be limiting or conditional. If applicable it should mention any sanctions that may be in force against the player.

A National Federation receiving a request for a letter of clearance, must reply within seven days after receipt of the request. The reply can either grant or refuse the clearance and must indicate whether the player in question was in fact licensed in the National Federation. If the request for the letter of clearance is denied by a National Federation, it shall immediately notify the party requesting clearance and the FIBA Secretariat, giving the reason for the refusal. The only reason for which a National Federation may refuse to grant the request for a letter of clearance is if the player is under contract to play for his club beyond the scheduled transfer date. Any refusal shall be accompanied by a copy of a valid contract duly dated and signed by the parties involved.



If there is no response within seven days, the requesting National Federation shall immediately notify the FIBA Secretariat. This communication must be accompanied by a copy of the first letter to the National Federation requesting clearance and a copy of the passport of the player in question. The FIBA Secretariat will not authorize the granting of the license without the letter of clearance unless there are exceptional circumstances (player is under 18 years old).

Any international transfers taking place without a letter of clearance are invalid. The National Federation issuing the license will be liable to a fine in accordance with FIBA regulations.

9. International Regulations When Players are 18 Years Old

If a player refuses to sign his first professional contract with his club of origin, and moves to a new club in another country the two teams should agree on a compensation sum to be paid to the club of origin. They should inform their respective National Federations and FIBA. If the clubs are unable to agree on the compensation, within eight weeks of the date on which a letter of clearance for the player in question was first requested, either club has the right to request that the compensation be determined by FIBA.

10. Disputes and Appeals

For international transfers between two FIBA Zones any dispute arising from a refusal to issue a letter of clearance shall be decided by the Secretary General of FIBA or his representative with the possibility of appeal. When the transfer proposed is within a FIBA Zone such disputes shall be decided by the Secretary General of the respective FIBA Zone or his representative, also with the possibility of appeal. Any appeal against decisions relating to disputes, no matter whether these decisions have been made by FIBA or a FIBA Zone shall be submitted to the World Appeals Commissions, in the manner prescribed in the FIBA regulations.

11. FIBA and the NBA/WNBA

As more and more players are going to the NBA/WNBA it is important to know that FIBA has signed an agreement with NBA/WNBA which regulates the transfer of players from FIBA teams to the NBA/WNBA and vice versa. All disputes which may arise will be resolved finally and conclusively by an International Arbitrator selected jointly by the parties. Hearings before the International Arbitrator are held in London, England.

We would strongly recommend that any dispute be resolved in advance and with mutual cooperation between FIBA club and the NBA/WNBA club. The only reason for a refusal of a transfer of a player to the NBA/WNBA is an existing and validly binding contract with a FIBA club. The contract has to be clear





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and the FIBA club must be sure that all its obligations towards the player have been fulfilled in total. If contract obligations have not been met by the FIBA club, and if agreement is not reached with the NBA club, the International Arbitration will most likely decide in favor of the NBA/WNBA club.

The FIBA/NBA/WNBA agreement also regulates the participation of national teams players in the official FIBA competitions (Continental and World Championships, Olympic Games and any competition in which the national team is required to participate in order to qualify for the above mentioned competitions). The National Federations are obliged to pay reasonable and adequate insurance coverage requested by the NBA/WNBA teams according to the agreement.

12. Insurance Coverage for Players' Participation in National Team Competitions

FIBA Internal Regulations foresee that the club with which the player is under contract is responsible for covering the player's insurance costs in the case of injury or illness whilst on release from the club for playing for a national team. Recently, under the agreement signed between FIBA Europe and ULEB (Union of European Leagues), FIBA Europe undertook the responsibility of ensuring that all involved National Federations will use the insurance coverage for national team players who participate in the competitions organized by FIBA Europe. Our strong recommendation is that each National Federation has insurance coverage for players who participate for national teams.

13. Player Agents

An agent is the representative of an individual. Nowadays the increasing professionalism of sports means that players are certain to have an agent helping with contracts or other issues related to his professional duty. As soon as players start becoming successful sponsorship appearances, media relationships, training,

competition and the travel that goes along with it, means that the player does not have a lot of time left and his sporting performance may suffer.

An agent in basketball needs to be able to find employment for average players and not just for top players.

An agent can shoulder a lot of this administrative burden. At the beginning of their careers, players need agents even more

than at the end of their career. The agent's extensive network of contacts and connections with teams in many countries are also essential for players, as they do not necessarily understand the market or know where the best opportunities are. An agent very often plays the valuable role of friend or even counselor in helping the player to solve personal and professional problems and give psychological support.

The main tasks of an agent working with basketball players are to represent the players, speak in their name and make the clubs aware of them, then find them a place at a club. Here it will not necessarily be the club paying the most money that is chosen, as other issues could be even more relevant; such issues could be a good environment, the need to play regularly, a reserve position for an older player, a young player needing to work with a good coach and so on. An agent in basketball needs to be able to find employment for average players and not just for top players, as the wrong club could end the career of a player. Other important tasks are to negotiate the contract, protect the player's salary, help him settle in a new environment and make sure the contract is made in accordance with the law of the country. There are definitely more advantages than disadvantages to having an agent in basketball.



Whether through regulations or guidance, the National Federation should put in place some form of mechanism which allows for the maintenance of an up-to-date list of certified agents who athletes can consult – the internet could be used for this purpose. The regulations or guidance should also include a standard contract or, at least, a minimum set of points which should be included in a contract between an athlete and an agent. The contract should be in writing, in a language understandable to both parties; it should state the duration (ideally short) and how it may be terminated; the contract should make clear how any disputes will be resolved and how, and by whom, the agent will be remunerated.

The majority of players regard their agent as one vital component in their overall bid to become the best in the world. If the players are to truly focus on being the best in the world through maximising their training and preparation, there is a need for agents to be part of the basketball family and to be recognized as serious partners in the basketball environment. The agent provides the athlete with the time, space and security to maximise his preparations and plan for the future. The National Federation must share this understanding and play its part. The National Federation must get back in touch with the players. They are the ones who make our sport what it is, and bring back the audiences year after year.

14. Code of Ethics for Player Agents

It is recommended that the National Federation should have a Code of Ethics for the player agents. Here is an example of a Code of Ethics for Player Agents.

Agents have an obligation to be familiar with this Ethics Code (or as it may be amended from time to time), other applicable ethics codes, and their application to the agent's work. Lack of awareness, or misunderstanding of an ethical standard, is not in itself a defense to a charge of unethical conduct.

An agent should, in personal and public life, strive to enhance the status of the profession and promote its qualifications to truthfully serve his/her client applying all reasonable efforts to assist the client in procuring employment.

Agents shall not engage, directly or through second/third parties, in uninvited in-person solicitation (of any sort) of business or services from minors (youth and young players below the age of eighteen – 18) right before and during Youth Championships.

An agent will represent their client in good faith and should demonstrate integrity and objectiveness.

An agent will maintain an office, records and such materials normally deemed necessary to conduct business as an agent.

An agent will maintain confidentiality in all dealings on behalf of the client both during representation and after the representation has terminated.

An agent will maintain an accessible office and telephone number during all reasonable business hours and will be, available at all reasonable hours, for consultation with the client.

An agent will inform the client, upon request, of any all activities undertaken on the client's behalf.

An agent will pay each client their share of all monies received on behalf of the client in a timely manner. All monies belonging to the client received by the agent, shall be faithfully accounted for by the agent and promptly paid over to the client.



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An agent will inform a new client of the commission and fees due to them for their services.

An agent will negotiate terms and conditions of any employment opportunities offered in consultation with the client and will accept employment on the client's behalf only after informing the client of his or her obligations, such as details of fees, performance credit (bonuses, fines, all specific terms), working conditions and so on.

An agent will recognize and uphold the client's prerogative to refuse any and all employment opportunities offered.

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