


FIBA

We Are Basketball

PLAYER AGENTS IN FIBA STRUCTURE

INTERVIEW WITH FIBA SECRETARY GENERAL PATRICK BAUMANN

Please provide us with some background information on the FIBA Licensed Players' Agents program, which is supervised by FIBA's Development Director Zoran Radovic and Legal Advisor Dr. Dirk-Reiner Martens. I believe that the idea came up in 2003 and the overall concept has actually taken shape in 2007. What have been the steps that FIBA has taken during these four years to put the project in place?

Actually, FIBA's idea to bring the agents into the institutional basketball family started in 1996-1997. At that time, several proposals came up, but none of these ideas eventually took shape and passed... Most probably the project was too ambitious. There were also too many doubts, too many unanswered questions, and we were perhaps not ready to take such a step at that point and time...

In 2003, FIBA again reviewed this whole concept and over the course of almost two years we undertook research around the world to get a precise and overall idea of the whole situation: what was going on in this specific area, what were the most important problems and issues, etc. In March 2003, we organized an informal meeting in our offices, in Geneva, where we invited 12 agents, mainly from Europe. We listened to their opinions and concerns and shared with them all the possible options that could be envisioned. During that informal meeting, the agents themselves started to ask us, FIBA, to do something directly to regulate all issues relating to their work. They directly asked us to take a leading role in this whole project, since they considered FIBA an entity that they could partner with and trust...

We decided to accept that challenge and started to closely follow all the developments in basketball, and in other sports. We also paid attention to some legal areas and some experiences of other commercial entities. In 2005, we had another informal meeting with the

same representation of agents and had a very positive outcome, coming up with some draft regulations... This draft was first approved by the FIBA Central Board and then the 2006 FIBA World Congress, which met in Japan, rubber-stamped the whole regulation governing the players' agents. The first test for agents took place in March 2007.

All sports agents dealing on the international basketball scene are supposed to become FIBA certified agents. What are the main benefits they receive?

The main reason behind having only certified agents as professionals operating in the basketball world is simple: to regulate the whole market. Relations between agents, players, coaches, clubs and national federations, all transfers-everyone and everything benefits from such a step! Things become easier, smoother, done in a more professional way and, last but not least, more transparent.

There are plenty of indications that prove that, in the world of sports, and basketball in particular, certain aspects have not been regulated the way they should have. In some cases, there are players who are changing their agents all the time when and how they want, without respecting any contracts. There are also many cases where it is not clear at all who is the legitimate person entitled to represent a particular player. In addition, certain clubs do not fulfill their obligations towards their players and coaches and/or towards their agents. In some other cases, certain transfers are questioned. When all of the above is taken into consideration and the market is regulated in the correct way, the new scenario logically benefits everyone involved-agents included, of course.

By having certified agents, the whole business is much more transparent: their complete details, including their CVs/biographical sketches, as well as the list of

all the players and coaches that they represent will be easily accessible, since it will be all displayed on www.fiba.com.

FIBA-certified agents will be the only ones allowed to make business for international transfers of players. In addition, certified agents are entitled to use the FIBA Arbitral Tribunal (FAT), which is a new and completely independent body that can be used for the resolution of conflicts. Therefore, from now on, it will be much easier for players, coaches, and clubs to resolve any disputes.

What are the main benefits that players/coaches and clubs currently get from dealing with FIBA-certified agents, as opposed to the past when they had to deal with every type of representative?

Dealing with FIBA-certified agents will bring them more guarantees, more security. They will now be handling business relationships with people, who have the knowledge, who are well-prepared, who are professionals, who have a relationship with FIBA, and who operate on an international level.

What are the necessary requirements to take the FIBA-certified agent test?

We ask the applicants to provide us with a certificate of non-conviction that has been issued not more than six months before. In addition, all applicants must be at least 18 years of age.

Applicants have to be knowledgeable of all agents' regulations and must become familiar with the age limit regulations stated in FIBA's Internal Regulations.

The day of the test, we divide applicants into different small groups. For each of these groups the procedure is the same: first, we do a presentation on the FIBA Arbitral Tribunal and then we have a question-answer session. Every applicant is welcome to raise as many questions as he or she wants because we truly believe that it is crucial that all their



doubts, even the smallest ones, are thoroughly clarified by our experts. This process usually takes about 90 minutes and we then proceed with the test itself, which consists of 25 questions with multiple-choice answers. Applicants need to have 18 correct answers in order to pass the test. We have an average of 21-22 correct answers, with only a few applicants getting all answers correct.

Since some national federations already have their own agent programs in place, how did the national federations welcome the FIBA program?

The French Basketball Federation has governmental regulations for agents. In Italy, there are two associations of agents in place: one is controlled by the Italian Basketball Federation itself and the other by a syndicate of agents. In both cases, there are certain require-

ments and regulations in place and we are currently in the process of trying to establish a common way for those two countries to work with us.

Israel has also recently set up some regulations governing players' agents. In the United States, there is also a legal requirement for agents in about 35 states. They have the National Basketball Players Association (NBPA), which has been taking care of agent issues in a serious way for about 19 years. Needless to say, we have links with those organizations; they are part of our strategic plan. As a matter of fact, we did a presentation before the NBPA and they eventually endorsed our whole project and distributed all of our materials as part as their annual assembly's working papers. Increasingly, more American agents are obtaining a FIBA license as well.

I believe that we are going in the right

direction because we have followed a thorough process that has focused on getting acquainted with all the already-existing models, systems, and regulations. Some countries are currently trying to establish their own national certified agents programs and we are helping them to do so. A good example is Russia.

What are the advantages of getting an FIBA-certified agent license rather than one issued by a national federation?

The answer is simple: if you want to deal with international transfers, you need to become a FIBA-certified agent. On the contrary, if you operate on a national scale and only deal with local players and coaches from the country in which you are based, then you don't need to get an FIBA license.

What is the position of the ULEB/Eu-

roleague with regards to the FIBA Licensed Players' Agents program?

It was already absolutely clear for us that we would need to bring everyone, all parties and organizations, on board. There is no question for us: we are all basketball, each and every one of us.

We have had very successful meetings with the ULEB and the Euroleague and have built a good and solid cooperation. In April 2007, on the occasion of their General Assembly, both of these organizations completely endorsed the FIBA Players' Agents Regulations and agreed to the concept of the FIBA Arbitral Tribunal. In addition, we have also had meetings with the European Basketball Players Union and they also applauded the whole program.

I would summarize the situation as follows: we believe that we are going in the right direction since all basketball entities throughout the world are on the same page with regards to our program. From the outset, we have received full support from all organizations.

How and when will the requirement be enforced that only FIBA licensed agents be authorized to operate in the international basketball scene? FIBA certified agent licenses have only been available since March 2007, so how much time has an agent in order to get his FIBA license?

It was simply not feasible for us, from all standpoints, logistically, time-wise, from an operational point of view, to implement and enforce everything starting from day one. It was simply impossible.

In 2008 we are planning to conduct tests in the Americas, Oceania, and Europe, continuing to license agents, and explaining the program throughout the world. This is a process that obviously requires some time. After that, sometime around late 2008 and in the beginning of 2009, we will be in a position to be much stricter and will really make sure that all rules are enforced. In about three years we will not have a single person operating on the international scale and dealing with international transfers who is not a FIBA licensed agent. This is one of the reasons why I would strongly encourage all agents to go through this process as soon as possible.

How many agents have already passed the test? What are FIBA's expectations or goals with regards to the number of officially licensed agents in the future?



So far, we have had 130 people who passed the test and received their license. We really do not have a precise idea of the amount of people that are interested in becoming a FIBA licensed agent. Our initial guess was that around 200 people would eventually become FIBA-certified agents, but this number might end up being a too small an estimate. For us, this is simply not about numbers.

This is about reaching a certain quality, a certain level of performance, and getting to really understand the problems and views of all parties involved. It is very important that only FIBA-certified agents are the ones who do the business in basketball.

Let's say that a representation company has 30 agents working for it. Do all of



these agents need to get a FIBA license or only the one(s) signing the contracts?

We are being very practical here by only requiring that the person, or persons, signing the contracts get their FIBA license(s).

For us this is not about creating a money-making machine. We are investing in people, in time, in IT systems, and in many other operational aspects to provide the best possible service.

How often do tests take place? And where will the next ones be held?

In 2007 we already held two tests in Europe and one in Oceania. This year, we will organize two tests in Europe and one in Oceania, plus we will stage one or two in the Americas. The dates are yet to be confirmed, but we will most likely stage one in the Americas, Europe, and Oceania in March, and one in

Americas and Europe in October. If there is a need, we might eventually organize another test in the Americas in 2009. Due to the limited number of agents in Africa and Asia, all African and Asian applicants are required to come to Europe to take the test.

What types of financial requirements are needed to opt for a FIBA Players' Agents license?

We created this program with the sole objective to service the agents, and create better conditions for everyone involved in basketball. FIBA is investing its money and funding everything in order to provide a service with very limited costs for the agents.

The fee required for an applicant to take the test is 250 Swiss francs, which is around 150 euros. Afterwards, once one has passed the test and has obtained his or her license, there is an annual fee of 1,000 Swiss francs, which is a bit over 600 euros a year. Needless to say, these fees are relatively modest.

The monies collected in fees is re-invested immediately into the service. We have a person dealing directly with all agent-related issues. We are also slowly starting to link our letters of clearance and transfers to the players' agents; there is an agent section on our website. We are also considering creating a letter of clearance in electronic format. We will continue to make investments in a strategic field such as this one.

Is the license the only requirement or are there any refresher courses that FIBA certified agents will be requested to undergo on a periodical basis?

In the future, we will be organizing refresher seminars and will be updating agents on the new developments. In addition, our goal is to be completely transparent. This is why all the information can be easily found on www.fiba.com. All awards and decisions, the complete FAT requirements, and the list of the players and their representatives will be displayed on our website.

We strongly believe that our website constitutes the best possible reference tool for our certified agents. We don't want agents to have to cope with unnecessary expenses, especially taking into consideration that this program also entails a time-consuming workload for them.

Letters of clearance will include all players' agents' details. What is the reasoning behind that?



Nowadays it is extremely rare for a player not to have an agent. In order to simplify and speed up the whole process, we have to start by knowing who are the people involved in a transfer. Therefore, we must have all players' transfers linked to the name of an agent. For instance, we have recently begun to request that the copies of all the transfers between national federations be delivered to FIBA.

Please describe how the FIBA Arbitral Tribunal (FAT) will work.

FAT is a completely independent tribunal created to resolve disputes between clubs, players, and agents. The tribunal will review cases of club versus player, player versus agent, or agent versus club. FAT, which represents a true revolution in the world of sports, will hopefully be a simple, quick, and inexpensive way for resolving the disputes that may arise between the various parties.

FAT is seated in Geneva, but is not an integral part of FIBA. It is rather a completely independent tribunal presided over by Ms. Gabrielle Kaufmann-Kohler of Switzerland, one of the most prominent and prestigious arbitrators in the world. FAT arbitrators render a decision within six weeks from the end of the proceedings on an ex-aequo et bono basis. Decisions are based

on general considerations of justice and fairness, without reference to any particular national or international law.

Is FAT a supra-national tribunal? What kind of legal and enforcement powers does it have when it relates to specific countries and/or jurisdictions?

According to the New York Convention, ratified by about 170 countries, arbitrations such as FAT's are recognized and enforced.

However, we do recognize that in a number of countries, labor disputes, which can be disputes between a player and a club, cannot be settled by means of arbitration. In those cases where a FAT award or decision cannot be enforced in a specific country, FIBA, while it has no power to enforce FAT awards, does have a provision that states that this International Basketball Federation can sanction parties who fail to honor FAT awards. Those sanctions range from financial penalties, to bans on international transfers in the case of players or clubs, to withdrawal of agent licenses. Moreover, we are studying the possibility of banning the participation of teams in international competitions.

What are the main points of difference between the FAT and the Court of Arbitration

for Sport?

Procedures in front of FAT are much quicker and less expensive. In addition, its decisions and awards are taken by a single arbitrator on an ex-aequo et bono basis, based on justice and equity. The Court of Arbitration for Sport, which features three arbitrators, is the last instance to go in the case of an appeal. Its process takes considerably longer and is more expensive than FAT's.

The first FAT case was recently decided, which involved a dispute between the player, Djuro Ostojic, and the PAOK Thessaloniki basketball club in Greece. What was the outcome?

This was a relatively easy case because PAOK decided not to participate in the proceedings. This award, like all future cases, was made public and can be found on our website. Djuro Ostojic recently asked FIBA to sanction PAOK because PAOK refused to honor the FAT's award.

We really want to be as transparent and clear as possible because we believe that there is no reason to hide anything. In many sports, people are proud to make public earnings, salaries, taxes' figures, everything. We strongly believe that the fact of being transparent will help basketball to grow even more.