



FIBA'S ASSISTANCE IN SECURING THE HONOURING OF BAT AWARDS

4 November 2022

TABLE

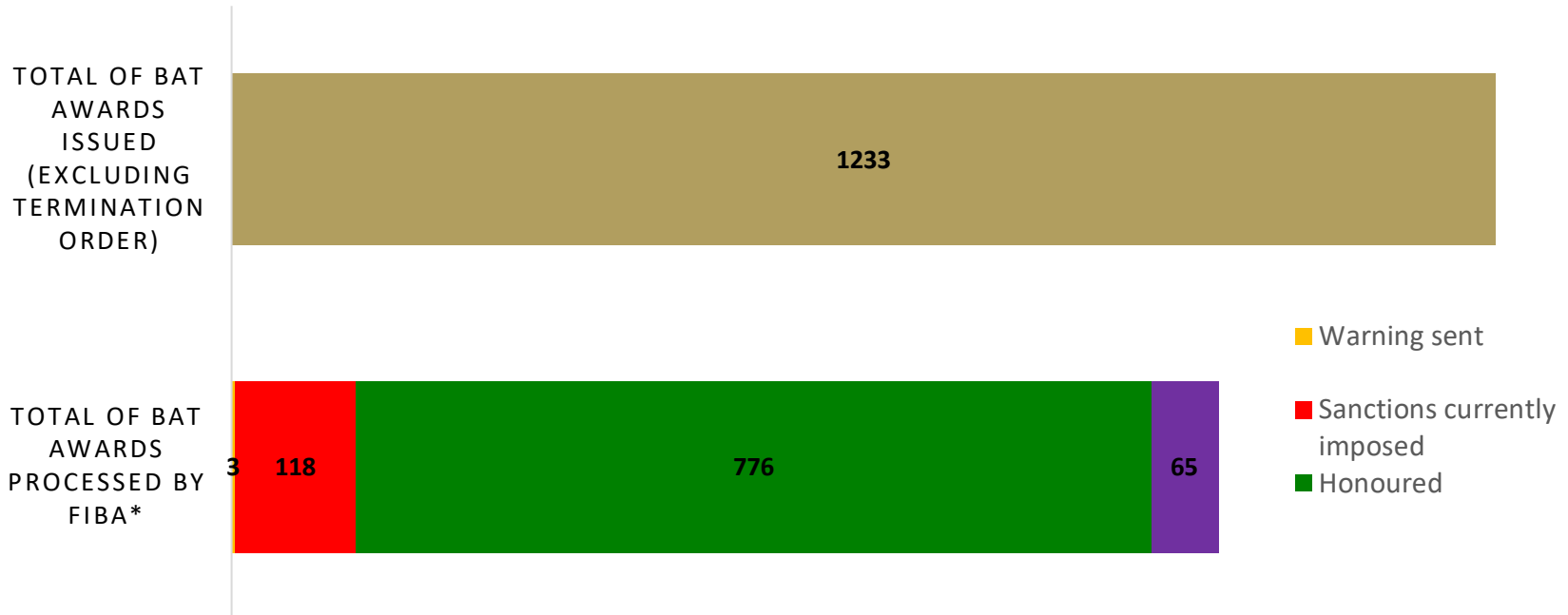
- ▶ FIBA'S ROLE IN SECURING THE HONOURING OF BAT AWARDS
- ▶ IMPROVEMENT OF COERCIVE MEASURES ?
- ▶ UPCOMING AMENDMENTS OF THE FIBA IR
- ▶ USUAL QUESTIONS/CRITICISM
 - ▶ Enforcement against an individual VS. club
 - ▶ Deadlines and timelines
 - ▶ Enforcement at National Level and in outside organisations



FIBA'S ROLE IN SECURING THE HONOURING OF BAT AWARDS

FIBA'S ROLE IN THE HONOURING OF BAT AWARDS

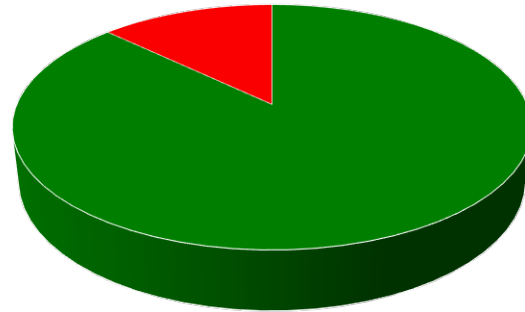
78% OF THE AWARDS (EXCLUDING TERMINATION ORDER) ISSUED BY BAT UNTIL END OF 2020 HAVE BEEN PROCESSED BY FIBA



BAT EFFICIENCY



85.15% OF ALL THE BAT AWARDS LED TO A RESOLUTION OF THE MATTER



■ solved (and presumed solved) ■ not solved

FIBA'S ROLE IN SECURING THE HONOURING OF BAT AWARDS

1

Award issued
by BAT

2

Request of
Enforcement
sent to FIBA

3

Warning

4

Sanctions



Sanctions available depending on the losing party



Coach or

monetary fine of up to
CHF 150,000 (can be
applied more than once)

Withdrawal of FIBA
license



Club

monetary fine of up to
CHF 150,000 (can be
applied more than once)

A ban on registration of new
players

a ban on participation in
international club
competitions



Player

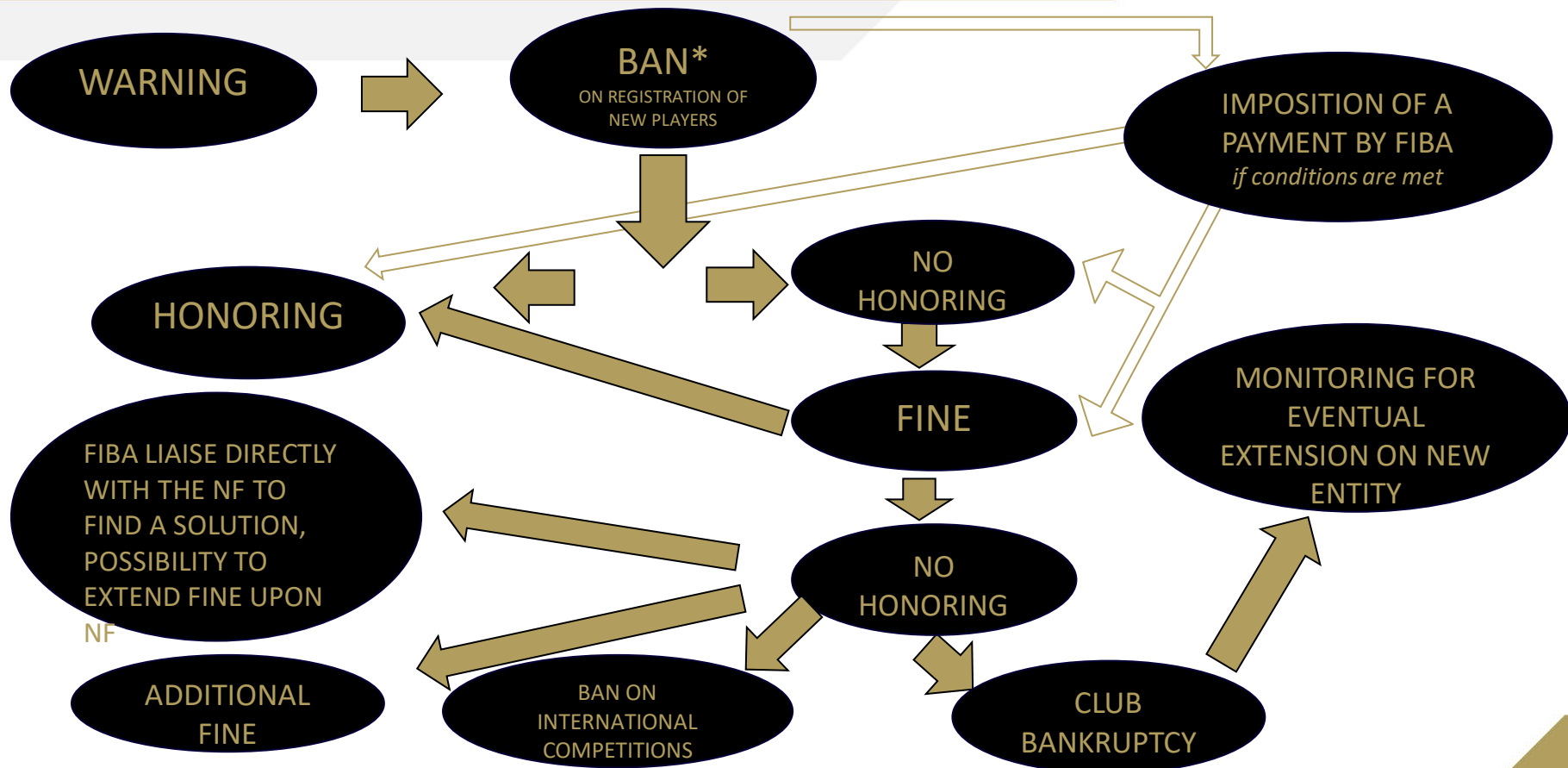
monetary fine of up to
CHF 150,000 (can be
applied more than once)

A ban on international
transfers

A ban on participation in
international competitions
with his national team and/or
club

FIBA STANDARD PROCESS FOR SECURING THE HONOURING OF BAT AWARDS IN WHICH THE LOSING PARTY IS A CLUB:

* Processing fees



VICIOUS CIRCLE




PAYMENT PLANS IMPOSED BY FIBA

FIBA'S DISCRETION




*THERE IS NO
"RIGHT" TO OBTAIN
A PAYMENT PLAN*

*first instalment constitutes a
minimum of 30% of the total
amount due*



*Following the payment
of the first instalment the
club benefits from a
provisional lift of the ban
on registration of new
players*



*IF breach of the payment plan,
ban immediately reinstated and
automatic fine imposed by FIBA
(amount fixed in advance)*

BENEFITS FROM PAYMENT PLANS IMPOSITION BY FIBA

losing party willing to pay in a few instalments but winning party would rather see losing party filing for bankruptcy

ALLOWS A SWIFT PARTIAL PAYMENT

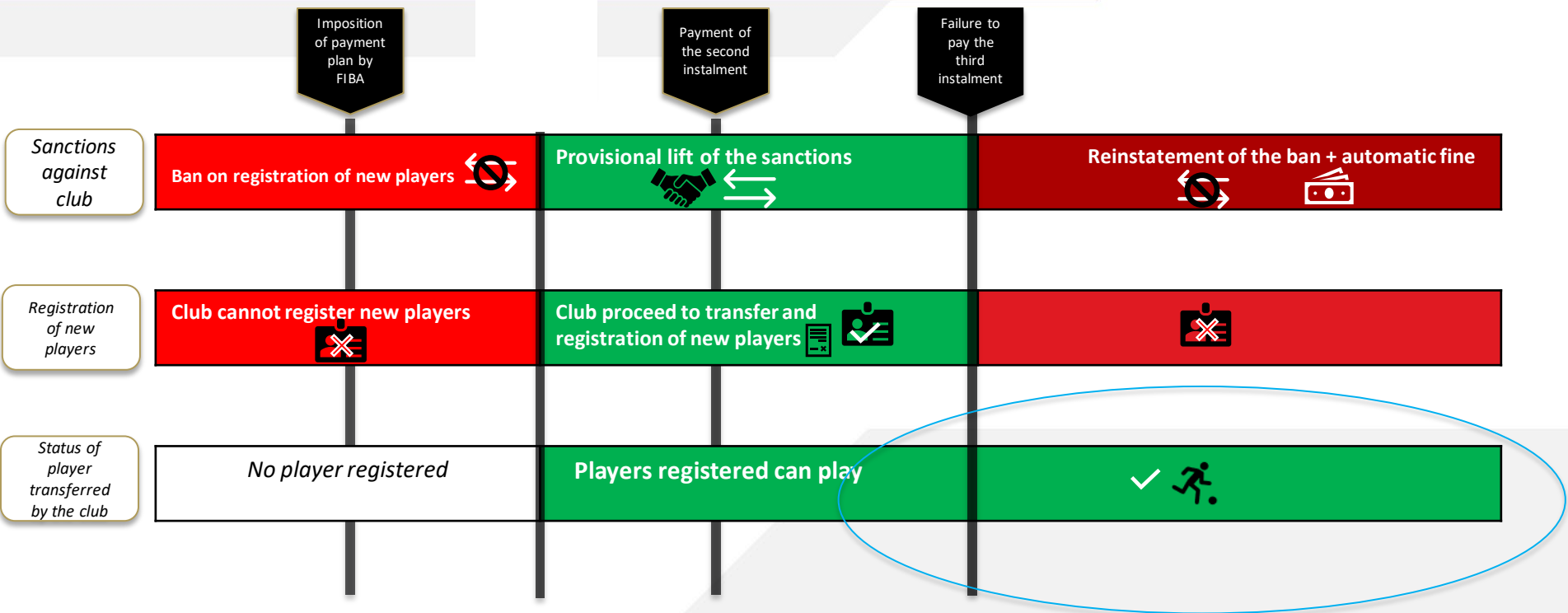
CAN SOLVE UNREASONABLE CONFLICT

CLUBS CAN MAINTAIN ITS SPORTIVE ATTRACTIVENESS

FINANCIAL COERCIVE MEASURES USUALLY SUFFICIENT

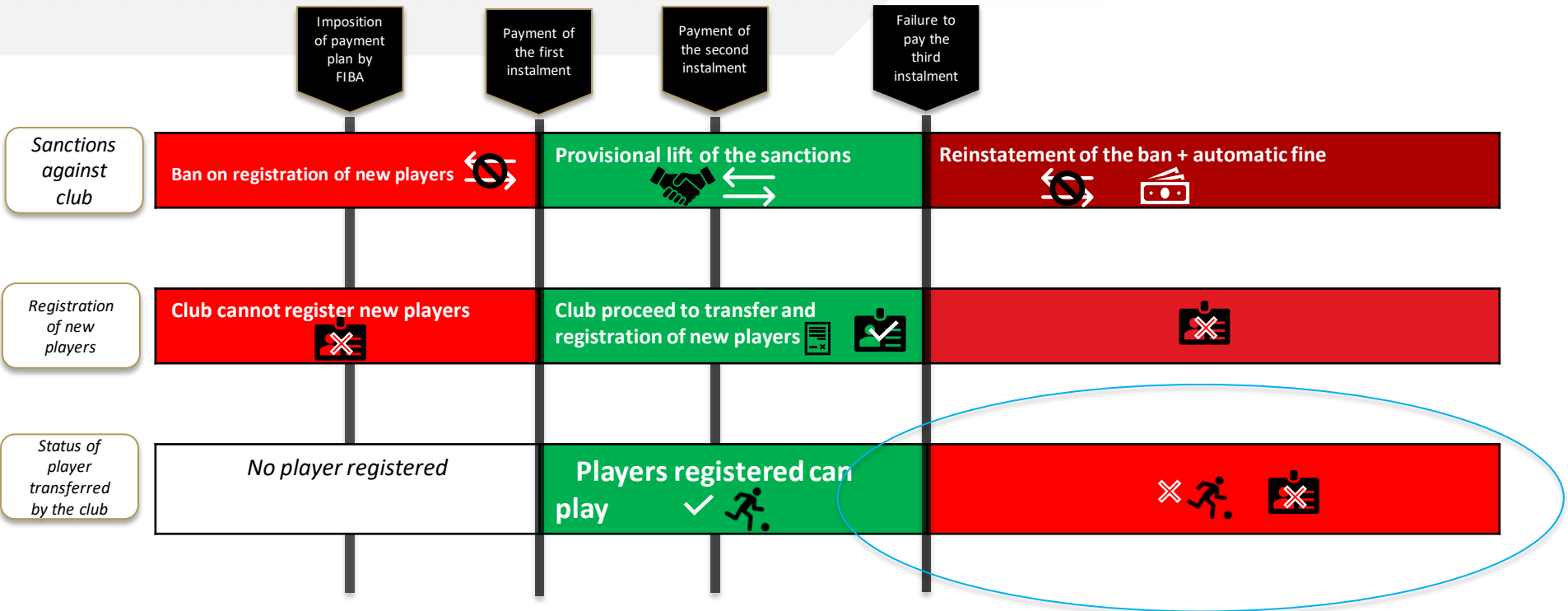
Reduce the risk of a claimant losing money for going to BAT

MAIN FLAW OF THE PAYMENT PLAN SYSTEM



IMPROVEMENT OF COERCIVE MEASURES ?

THE POTENTIAL SOLUTION? IMPROVE COERCIVE MEASURES



TESTING PHASE ONGOING BUT VARIOUS CHALLENGES

ADVANTAGES OF SUCH PROPOSED ENFORCEMENT TOOL	CHALLENGES
<ul style="list-style-type: none">- Players protection reinforced<ul style="list-style-type: none"><input type="checkbox"/> <i>Players will be aware that they are signing in a club that has financial debts. Which might discourage them</i>	<ul style="list-style-type: none">- Players personally affected (suspended) despite not being at fault<ul style="list-style-type: none"><input type="checkbox"/> <i>Players to be informed upon signature</i>
<ul style="list-style-type: none">- Club incentive to pay the BAT Awards<ul style="list-style-type: none"><input type="checkbox"/> <i>Clubs will have to ensure that payment of BAT Awards are prioritize to avoid losing attractivity towards players that will not take the risk to have their license suspended.</i>	<ul style="list-style-type: none">- Licenses handled internally by National Federations<ul style="list-style-type: none"><input type="checkbox"/> <i>Need for an active cooperation from National Federations</i><input type="checkbox"/> <i>Need for an adapted regulatory framework</i>
<ul style="list-style-type: none">- Fairness of the system<ul style="list-style-type: none"><input type="checkbox"/> <i>No more cheating possible , club pays: it can play with new players; club cannot pay anymore: it cannot play with such players. Winning parties will feel that it is a fair deal</i>	

TESTING PHASE ONGOING BUT VARIOUS CHALLENGES

- ❖ Such measures currently being tested
- ❖ Not possible to request such measures at this stage
- ❖ Initial results satisfying



UPCOMING AMENDMENTS OF THE FIBA IR

REGULATIONS TO BE AMENDED

CURRENT PROVISION

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, subject to article 3-315.e.

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.

FUTURE ADDITION

if approved by the FIBA Central Board

FIBA may at its discretion

- (i) *provisionally lift a ban, or*
- (ii) *refrain from imposing a ban, in each case subject to the first party's compliance with **conditions** that may be imposed by FIBA, including without limitation, respecting a **payment plan** for the first party's financial liability arising from a BAT or CAS award. FIBA may impose additional consequences in case of non-compliance with such conditions, including without limitation **additional sanctions** or **national-level sanctions** (in collaboration with the relevant National Member Federation).*

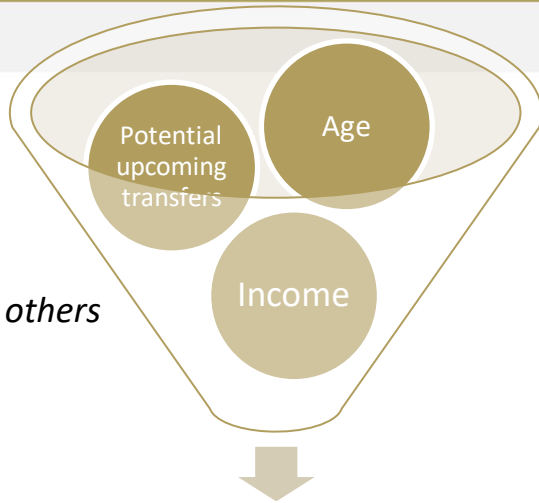
USUAL QUESTIONS/CRITICISM



ENFORCEMENT

CLUB VS PLAYER

ENFORCEMENT AGAINST A PLAYER



Amongst others

INFLUENCE:

- ❖ THE DECISION ON IMPOSING A PAYMENT PLAN
- ❖ THE AMOUNT OF THE DOWN PAYMENT
- ❖ THE CONDITIONS OF THE PAYMENT PLAN

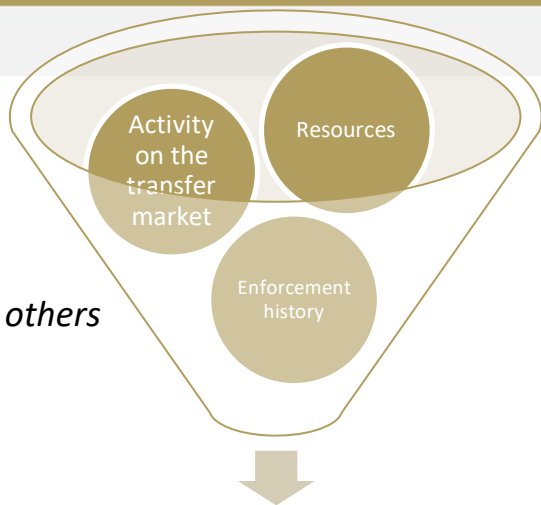
- US Player
- Playing in Europe for more than 10 years
- 37 years old
- Playing in a top championship

- US Player
- Transferred 7 times the past 7 years
- 27 years old
- Playing in Switzerland

ENFORCEMENT AGAINST A CLUB



Amongst others



INFLUENCE:

- ❖ THE DECISION ON IMPOSING A PAYMENT PLAN
- ❖ THE AMOUNT OF THE DOWN PAYMENT
- ❖ THE CONDITIONS OF THE PAYMENT PLAN

- Top level club
- Many players signed before requesting a lift
- Various payment plan breached in the past

- Mid-level club
- Never had a BAT Award in the past
- Proactively contacts FIBA to address the bans prior to signing any players

NO POSSIBLE COMPARISON



- ❖ Risk of a player failing to honour a BAT Award is higher
- ❖ Clubs need to register new players at some point
- ❖ Clubs can no longer circumvent a ban by creating a new entity
- ❖ NF can assist FIBA with additional sanctions against clubs

- 
- Transfer outside FIBA jurisdiction
 - Player Retires
 - Finish his career without transferring

DEADLINES AND TIMELINES

explanation

DEADLINES AND TIMELINES



Request for enforcement	Deadline in warning letters	Sanction following an elapsed warning deadline	Additional sanctions
up to 6 weeks*	1 week*	Usually within 24 h*	Case by case basis

- ❖ FIBA tries to keep a consistent approach but remains substantially influenced by the workload (e.g. eligibility, transfer season etc.)
 - *Admin support should help in the future*
- ❖ Realistically not possible to establish clear deadlines
 - *FIBA would not be able to abide by strict deadlines at this time*
 - *Need for discretion depending on the cases*

ENFORCEMENT

Enforcement at National Level and in outside organisations

❖ NO DIRECT JURISDICTION OVER NATIONAL TRANSFERS

↳ Opens the door to circumvention of sanctions (*ban on registration of new players*) but FIBA reduces such possibility by:

- Preventing internal transfer if players was not licensed without interruption with the same NF since the date of the ban.
- Requesting the NF to take sufficient measures to ensure the honouring of the ban (+ threat of disciplinary sanctions against NF).

ENFORCEMENT IN OUTSIDE ORGANISATIONS



❖ EUROLEAGUE



Question remains open

❖ NBA, NBAGL, WNBA, ETC.



- No agreement but it does not mean that the LOC process is fully ignored



Recent case of a LOC being refused because of a banned player

Difficult situation if sanctions imposed when player already playing in such outside organisation



FIBA

We Are Basketball