

**Recommendation CM/Rec(2012)10
of the Committee of Ministers to member States
on the protection of child and young athletes from dangers associated with migration**

*(Adopted by the Committee of Ministers on 19 September 2012
at the 1151st meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Bearing in mind that more and more athletes migrate from southern countries to Europe or within Europe in pursuit of a career in sport;

Having taken note of the fact that, while migration is most common in football, transfers do take place in other sports;

Aware of the fact that, although some athletes are offered acceptable arrangements by the club that recruits them, a large majority of those hoping to pursue a career abroad never acquire professional status, while some are forced into situations that are detrimental to their personal development and welfare;

Concerned about the fact that transfers to and within Europe give rise to illegal immigration;

Very concerned about the fact that, in some extreme cases, the conditions under which athletes migrate amount to human trafficking;

Alarmed by the fact that most of those affected by these abuses are children and young people, whose physical and mental immaturity warrants special safeguards and care;

Aware of the fact that young people's passion for sport and their poverty and ignorance can be exploited by unscrupulous intermediaries;

Agreeing that in most cases, the development of young athletes and the health of the sporting community as a whole are improved by a stable training and education period during which young people are not encouraged to move abroad;

Emphasising that the practice of sport should not violate human rights as enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950) and the protocols thereto, or in any other international legal instruments on human rights;

Considering that trafficking in human beings, as defined in the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;

Emphasising that although no international treaty explicitly defines trafficking in the context of sport, existing definitions nevertheless apply directly to these types of crime;

Taking into account the United Nations Convention against Transnational Organized Crime and its Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, with a view to improving the protection these people are afforded and promoting the standards established by these instruments;

Bearing in mind that the special protection granted to children against these types of crime, as stated in Article 35 of the United Nations Convention on the Rights of the Child; Article 2(a) of the Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and Article 3(a) of International Labour Organisation Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

Wishing to see sport develop in line with the spirit of Recommendation on the Revised European Sports Charter (Recommendation Rec(92)13 rev), of the Recommendation on the Revised Code of Sports Ethics (CM/Rec(2010)9) and of the Recommendation on the principles of good governance in sport (Recommendation Rec(2005)8), and by means of intercultural co-operation and dialogue;

Taking note of Resolution No. 1 on Ethics in Sport, adopted at the 11th Council of Europe Conference of Ministers Responsible for Sport in Athens, Greece, in 2008;

Taking note of the Bamako Declaration issued on 22 December 2000 at the Conference of Youth and Sport Ministers of French-speaking countries;

Taking note of the "Study on sports agents in the European Union" (2009);

Taking note of the activities launched by several international sports organisations, particularly the governing bodies of football;

Considering that a number of other specific measures are needed to tackle problems linked to migration in sport;

Noting that, as sport is organised at pan-European level, there is a particular interest to address this issue within the framework of the Council of Europe;

Aware of the fact that the considerable economic interests tied to professional sport could prompt civil servants or members of sports movements, intermediaries or even families to adopt negligent or fraudulent practices,

1. Recommends that the governments of the member States:
 - a. ensure the implementation of the applicable legal provisions in the field of sport, notably those mentioned in the present recommendation;
 - b. take measures in keeping with the guidelines appended hereto inasmuch as they apply to governments to combat the negligent and abusive practices observed in connection with the migration of athletes, particularly where young people's fundamental rights and welfare are threatened;
 - c. invite all sports organisations to help them to achieve these goals using all the means at their disposal;
2. Calls upon the Secretary General of the Council of Europe to forward this recommendation to the European Commission and the international sports organisations concerned;
3. Invites the Enlarged Partial Agreement on Sport (EPAS) of the Council of Europe to monitor the implementation of this recommendation in the EPAS member States.

Appendix to Recommendation CM/Rec(2012)10

Guidelines on the protection of child and young athletes from dangers associated with migration

A. Scope and definitions

1. The migration of top-level athletes is a feature of modern sport, especially in Europe, and this is considered to be a positive phenomenon.
2. Migration in sport may also be the result of the contrast between poverty in some countries and the opulence of professional sports in Europe; it should also be considered to be part of a much broader question of development and migration.

3. In this document, the term “athletes” should be understood as sportsmen and sportswomen participating in organised sports activities.
4. In this document, the terms “young athletes” and “young people” should be understood as persons between the ages of 15 and 24.
5. In this document, the term “children” should be understood as people under the age of 18 unless, under the law applicable to the child, majority is attained earlier.
6. The expression “dangers associated with migration” refers to a whole range of separate potential problems including the following:
 - a. the management of aborted transfers;
 - b. the massive drain of talent from southern countries;
 - c. problems of integration because of cultural changes or discrimination;
 - d. the removal of young people from schools;
 - e. illegal immigration;
 - f. the exploitation of the vulnerability or ignorance of young athletes by agents, clubs, intermediaries or even families; and
 - g. in extreme cases, human trafficking.
7. Migration in sport, which should benefit the athletes concerned and the development of sport in general, involves risks of infringements of fundamental rights and therefore presents a challenge to ethics in sport.

In this light, the governments of the member States should consider the following measures and invite the competent international organisations and the sports organisations concerned to do the same.

B. North-South co-operation in sport

Government agencies should encourage and invite specialised NGOs and/or international sports organisations which are involved in North-South co-operation to encourage young athletes to develop their potential in their home country, and notably to:

1. facilitate and support the establishment of facilities and opportunities for young athletes to do sport in southern countries, particularly by encouraging the development of professional competition;
2. facilitate and support the development of quality sports training for children under the age of 18 in southern countries;
3. work in co-operation with the relevant sports authorities to encourage partnerships and twinning between southern and northern clubs, for example by:
 - a. encouraging the investment that clubs providing training make by preventing other clubs from recruiting athletes who have benefited from their schemes or by properly compensating clubs that have provided training;
 - b. considering fleshing out the rules on home-grown players so that local training in southern partner clubs is also recognised;
4. inform young athletes and their families – through local awareness-raising campaigns and activities – about the illusions which exist and the risks involved when moving to Europe;
5. work with sports authorities in the countries of origin to ensure that athletes are better informed about their rights, responsibilities and the role of agents before signing contracts;
6. work with the authorities in the countries of origin to better prepare athletes going abroad.

C. Migration policies

Governments should frame their migration policies in light of the following principles:

1. national migration authorities should be made aware of the problems linked with migration in sport so that they can take more informed decisions on whether to grant visas;
2. consideration should be given to the introduction of a visa reflecting the specific nature of sport activities and making it possible to monitor the migration of athletes;
3. identity document fraud in sport should be combated and offences against migration laws prosecuted.

D. Sports policies

Governments should raise awareness of the sports movement on these problems associated with migration and, in particular:

1. encourage sports organisations to draw up and apply all appropriate measures within their power to prevent abuses in connection with the migration of young athletes, in particular children, and to adopt rules on agents' activities, including clear ethical instructions concerning their tasks and responsibilities;
2. to this end, encourage the sports organisations concerned to clarify their respective rights, obligations and duties, particularly with regard to athletes recruited for trials, discussing the precautions to be taken, such as:
 - a. finding out about young people's past in general and sporting past in particular, taking account of any experience they have had abroad;
 - b. making sure that sports agents and accompanying persons are reliable and have good intentions;
 - c. ensuring that written parental consent has been obtained;
 - d. requesting and checking photocopies of passports and visas;
 - e. taking out insurance for any incident that might occur during the trial period;
 - f. arranging a medical check-up to prevent any problems that might arise during the trial;
 - g. covering accommodation and subsistence expenses during the athletes' stay with the club;
 - h. ensuring that natural or legal persons negotiating contracts for trials take responsibility for organising and paying for athletes' return journeys where this is necessary, and helping them to reintegrate into their country of origin;
3. encourage the implementation of rules laid down by the sports movement for the protection of youth in accordance with the relevant legal provisions, particularly, where appropriate:
 - a. the ban on commercial transfer of athletes under the age of 18 and the ban on the payment of intermediaries for the transfer of athletes under the age of 18;
 - b. the ban on third-party private ownership of all or part of the transfer rights of the athletes;
 - c. the licensing of agents by international federations as a way to harmonise quality and integrity standards, especially in sports where the role of agents is sometimes controversial;
4. support the establishment and co-ordination by sports organisations of systems to monitor international transfers and clearing house mechanisms;
5. encourage sports organisations to establish a system of mutual recognition of sanctions against persons who contravene the regulations and to report legal offenses to the authorities.

Governments should seek dialogue with the national sports federations and collaborate on the following issues:

6. arrangements should be discussed for the reception of young athletes, which might include a duty for clubs hiring minors to:

- a. facilitate their integration;
- b. provide dual education (sports training and school or vocational education);
- c. channel unsuccessful athletes into other activities;
- d. provide appropriate housing for young athletes;
- e. help them to find another job when their career or contract ends;

7. education campaigns should be set up and activities designed to inform clubs about their legal responsibilities and their obligations towards young athletes when testing them or hiring them from abroad;

8. encouraging young athletes to get into debt should be prevented, as this may make them dependent and subject to control by others who may derive benefits from the athletes' career and mobility. To this end, preventive measures should be taken (information, education, support) and rigorous implementation ensured regarding applicable legal provisions for the protection of youth and of consumers getting into excessive debt;

9. the manners in which rules and regulations are circumvented for profit-making or speculative purposes should be examined. Sports organisations should punish infringements of this type and States should complement their work to ensure that fundamental rights are respected and criminal penalties are imposed for public order offences.

Finally, governments should facilitate co-ordination between the European institutions:

10. the European Union should be invited to take account of these guidelines in any future co-ordination or promotion work and to highlight any matters requiring clarification so as to ensure that European Union activities and pan-European recommendations complement one another.