



THE MINOR ATHLETE EMPLOYMENT CONTRACT

EL CONTRATO DE EMPLEO DE ATLETA MENOR

O CONTRATO DE TRABALHO DO ATLETA MENOR

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Abstract: This research aims to analyze the contract of the athlete in training from fourteen years of age to twenty years old of age, pointing out the gaps in the law when it comes to the proper definition and provision of this type of contract differentiating it from other contracts provided for by the CLT or special laws when it comes to the minor, such as the internship and apprenticeship contract. In addition, questioning the evidently limited treatment of the law considering the absolute incapacity of the athlete in training, as well as his adequate to be specified within this contractual type, his lack of attention when considering him a human being in training as well as a professional, having in view of all the specifics of their activity. Analyzing in the form of the hypothetical-deductive approach and seeking results through qualitative analysis through interviews, questionnaires, surveys and documents, the objective is to conclude the best contractual form for the athlete in sports training, with adequate attention to their needs as an athlete and as a minor.

Keywords: Sports Work Law; Minor's Work; Athlete in training; Sports Training; Vulnerability of the minor athlete.

Resumem: Esta investigación tiene como objetivo analizar el contrato del deportista en entrenamiento desde los catorce años hasta los veinte años, señalando los vacíos en la ley a la hora de la adecuada definición y prestación de este tipo de contrato, diferenciándolo de otros contratos previstos por la CLT o leyes especiales en lo que respecta al menor, como el contrato de prácticas y aprendizaje. Además, cuestionando el tratamiento evidentemente limitado de la ley considerando la absoluta incapacidad del deportista en entrenamiento, así como su adecuada formación para concretarse dentro de este tipo contractual, su falta de atención para considerarlo un ser humano en entrenamiento así como un profesional, teniendo en cuenta todas las particularidades de su actividad. Analizando en forma de enfoque hipotético-deductivo y buscando resultados a través del análisis cualitativo a través de entrevistas, cuestionarios, encuestas y documentos, el objetivo es concluir la mejor forma contractual para el deportista en el entrenamiento deportivo, con adecuada atención a sus necesidades como deportista. y como menor.

Palabras clave: Derecho Laboral Deportivo; Trabajo de Menores; Atleta en formación; Entrenamiento

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desportivo; Menor vulnerabilidad del deportista.

Resumo: A presente pesquisa tem por objetivo analisar o contrato do atleta em formação a partir dos quatorze anos de idade até os vinte anos, apontando as lacunas da lei quando se trata da definição e previsão adequada desse tipo contratual, diferenciando-o dos demais contratos previstos pela CLT ou leis especiais quando se trata do menor, como o contrato de estágio e de aprendizagem. Além disso, questionar o tratamento evidentemente limitado da lei considerando a absoluta incapacidade do atleta em formação, bem como sua adequada formação a ser especificada dentro desse tipo contratual sua falta de atenção ao considerá-lo um ser humano em formação além de um profissional, tendo em vista todas as especificidades de sua atividade desempenhada. Analisando na forma da abordagem hipotético-dedutiva e buscando resultados através da análise qualitativa por entrevistas, questionários, pesquisa de opiniões e documentos, tem-se o objetivo de concluir a melhor forma contratual para o atleta em formação desportiva, com atenção adequada às suas necessidades como atleta e como menor.

Palavras-chave: Direito do Trabalho Desportivo; Trabalho do menor; Atleta em formação; Formação Desportiva; Vulnerabilidade do atleta menor.

1 Introduction

The Consolidation of Labor Laws defines an employment contract as “tacit or express agreement corresponding to the employment relationship” (CLT art. 442). As a rule, the employment contract has always been applicable to persons of legal age who sign a commitment to engage in paid activity with an employer. However, in recent years it has become possible for minors to enter the act of providing paid activity to an employer, without, however, properly characterizing an employment relationship.

Thus, special contracts were created for apprentices, interns and athletes in training, whose purpose is to pay, sometimes called a scholarship, for the exercise of activities linked to learning a profession or another area of knowledge.

In the case of minors introduced to the sport for the purpose of professional learning, a subject that will be emphasized below, in Brazil it began to occur in the 60s, more specifically in 1966, when the first basic categories for training professional soccer athletes appeared. This beginning occurred at the time due to the crisis in Brazilian sports that took place in the 1966 World Cup, thus giving rise to the need to not only hire, but train athletes for the sports sector. Until today, football, followed by judo, is the sport that trains young athletes in Brazil the most, starting their training at the age of fourteen.

With this early entry into their future job market, the minor athlete, who is in a different position from other apprentices in other professions, needs special legal support, due to the evident particularities of their exercise, as they are subject to issues that differentiate them, being, therefore, necessary a contractual type adequate to the activities that it carries out and the

consequences that it is subject to when placing itself in sports training. This training, which requires more discipline, physical effort, subjection to family distance and risk of not reaching the desired goal, which is the special sports work contract, becoming, in fact, a professional athlete.

Thus, it is important to analyze the special sports work contract in general so that the creation of a special type of work that is adequate to the needs of the athlete in training can be suggested, as well as seeing this as something necessary, since In the 1960s, years have passed, but there has been no such progress, and still, understanding that the absence of specific legal protection linked to the teenager's stage of adolescence generates consequences that cannot be ignored.

Given this situation of vulnerability in which the minor athlete finds himself, involving the complexity of his needs, as well as the absence of an adequate training contract, which regulates and protects him, we can, in this context, analyze this work proposal that aims to demonstrate the need to pay attention to this gap in the law regarding the contract of the underage athlete, presenting concepts, definitions and data collection with practical information on the subject, based on arguments of scholars and especially professionals in the field of sports, both in the Sports Law and in the exercise of sport.

For the development of this work, bibliographical and field research were used, in addition to a case study. The bibliographical research was based mostly on articles and books addressing the particularities of the employment contract, and analyzes of related areas, such as psychology and sociology of sport. The case study was developed in its entirety through field research, involving reports from practicing sports professionals on the changes that have taken place legally, regarding the position of the minor athlete and consequences on the subject.

2 The Special Contract of Sports Employment and the bond of the athlete in training

According to the Consolidation of Labor Laws, the employment contract corresponds to a tacit or express agreement corresponding to an employment relationship, which may be applicable to persons of legal age who sign a commitment to engage in paid activity with an employer. In other words, to sign an employment contract, as a rule, the employee must be of legal age. However, as an exception, the Federal Constitution and the Child and Adolescent Statute provide for exceptions, stating that “any work is prohibited for children under fourteen years of age, except as an apprentice” (ECA, art. 60). Therefore, it is possible for the minor to exercise work, provided that under specific circumstances and with a specific purpose.

Thus, special contracts for apprentices emerged, which do not necessarily fit athletes in training, whose purpose is the activity linked to the learning of some profession or other area of knowledge, in order to train a professional who is learning a profession.

In the case of minors introduced in sport for the purpose of sports training, envisioning

professional learning, it began in Brazil in 1966, when the first basic categories for training professional football athletes emerged. This beginning occurred at the time due to the crisis in Brazilian sports installed in the World Cup of the same year, thus giving rise to the need to not only hire, but train athletes for the sports sector. Until today, football, followed by judo, is the sport that trains young athletes in Brazil the most, starting their training at the age of fourteen. Although the youth categories started in 1966, as mentioned above, the first Brazilian law to mention the athlete in training was precisely the Pelé Law, only in 1998.

Due to the existence of this gap in the law, Resolution n. I of October 17, 1996, edited by INDESP, regulated the work of the minor athlete.

Art. 1º - The football athlete, over the age of sixteen, will be considered professional, when his activity is characterized by subordination and remuneration agreed in his own employment contract, with an employer, a legal entity governed by private law, and duly registered with the administration entity of sport.

1º The soccer player over sixteen years old and under twenty years old will be considered semi-professional whenever his activity is characterized by subordination and specific contract of physical conditioning and technical and athletic training, with material incentives, signed with a sports practice entity, legal entity governed by private law, and duly registered with the federal sports administration entity.

2º The soccer player, under the age of sixteen, is an amateur under the terms of the sole paragraph, II, b of art. 3 of Law 8.672/93, being free to transfer to another sports entity of the same genre, subject to the expiration of the validity of your registration in the last tournament or championship.

3º A soccer player over the age of sixteen, who does not maintain a contractual relationship as a semi-professional or professional, is free to transfer to another sports entity of the same gender, observing the expiration of the validity of his/her registration in the last tournament or championship.

In the words of Luis Guilherme Kreneck Zainaghi, “the original wording brought by Law 9.615/98 characterized the “minor” athlete as being semi-professional, determining the signing of a “Sports Internship Agreement”, which should follow the “standard” model of the Agreement Sports Work Special” (ZAINAGHI, 2021, p. 66).

However, the current Law 11.788/2008 provides for a stage such as:

Supervised educational act, developed in the work environment, which aims to prepare students who are attending regular education in institutions of higher education, professional education, secondary education, special education, and the final years of education for productive work fundamental, in the professional modality of young people and adults.

In this sense, an athlete in training does not fit into the intern category, which has a special law that defines it, in addition, the formalization of the internship must take place by entering into a commitment between the educational institution and the internship assigning parties in any event. And they can use the services of public and private integration agents, which will help in the internship improvement process. Therefore, the internship is linked to a learning resource, being considered the practical form of the theory that the apprentice has studied.

Thus, despite the similarities, the athlete in training would not fit this profile, since despite being part of a club where he learns a sport in his practice, he does not have as a prerequisite enrollment in an institution linked to the sport. , which would provide a theoretical basis for this. Likewise, it does not fit into the learning contract, since, as provided for in article 428 of the CLT, it is defined as follows:

Apprenticeship contract is a special employment contract, adjusted in writing and for a fixed period, in which the employer undertakes to ensure to those over 14 (fourteen) and under 24 (twenty-four) years enrolled in a technical training apprenticeship program -methodical professional, compatible with their physical, moral and psychological development, and the apprentice, to perform with zeal and diligence the tasks necessary for this training.

Therefore, the apprentice is based on the minimum wage, and is obligatorily remunerated in proportion to the hours worked, must be registered in the apprentice's Work and Social Security Card, in addition to generating employment. Furthermore, he/she must be enrolled in courses of the National Learning Services or Technical Schools of Education. Differentiating it immediately from the athlete in training, who does not have an employment relationship, and the trainer is not required to pay a salary, being optional the payment of a grant, as provided for in article 29, paragraph 4° of Law 9.615/98:

The non-professional athlete in training, over fourteen and under twenty years of age, may receive financial assistance from the training sports entity, in the form of a learning grant freely agreed upon by a formal contract, without an employment relationship being created between the parts.

In addition, the Ministry of Labor and Employment, through §2° of article 1 of Normative Instruction 26, provides that "the contract shall expressly indicate the course, learning objective, weekly working hours, monthly remuneration, initial and final term of the contract.

And the CLT provides that non-compliance with such legal and regulatory provisions will result in the nullity of the learning contract, establishing an employment relationship directly with the employer responsible for complying with the apprenticeship quota (CLT, art. 433).

At sixteen, despite the restrictions caused by being under age, the athlete has the right to sign his first professional contract with the same sports entity where he is in sports learning, however, this first contract cannot last longer than five years old. In the case of renewal of this contract, this sports entity has the preference of hiring, being able to extend the contract for a period not exceeding two years, being, therefore, a contract for a fixed period, as provided for in article 29 of Law 9.615/98.

The objective of the legislator in this case was to ensure the complete training of the athlete and also to prevent entities from losing their athletes after years of investment in the youth categories, just at the time when this young athlete could be used in professional competitions. However, if the athlete turns sixteen and still remains an athlete in training, without a professional contract formed with the club, he cannot be selected for professional competitions, since the

participation of a non-professionalized athlete over twenty years of age is prohibited in a competition. For this participation to be possible, it must be properly professionalized, pursuant to article 43 of Law 9.615/98, which provides that "the participation in professional sports competitions of non-professional athletes over the age of twenty is prohibited".

An exception to this is the sixteen-year-old autonomous athlete, that is, one who does not have a contractual relationship with any sporting entity and produces income on their own, temporarily and autonomously competes with a kind of "loan".

This athlete does not have an employment relationship generated at the time he is registered in a competition. However, it is noteworthy that this exception applies only to athletes who do not practice sports with a collective character, only for individual exercise activities, such as gymnastics and swimming, for example.

This type of training contract is, therefore, a first step towards entering a future professional career, and although the training still exists, they already participate in competitions, such as in football, for example.

Athletes in training have their activity provided for by Law 9.615/98, the "Pelé Law", also called the General Sports Law, which since 1998 has had numerous articles repealed and deals with minors in a succinct and superficial way, basically through the article 29 since 2011, focusing on the benefits of the sports practice entity that trained the minor over its trained athlete, therefore, a legal provision is necessary for the activities performed and the consequences that are subject to placing themselves in sports training. This training, which requires the most accentuated discipline, physical effort, subjection to family distance and risk of not reaching the desired goal, which is the Special Contract of Sports Work, becoming, in fact, a professional athlete.

Considering that the sports training contract does not fall under the Apprenticeship Contract or internship modality, the need for its own legislation to more fully provide for the training contract is evident, with the objective of meeting its needs, as well as protecting it, in view of the absolute incapacity at the beginning of training, unlike apprentices in other professions.

2.3 Practical irregularities

Although the contract of these underage athletes has similarities for having as a principle of learning, regulated by article 428 of the CLT and by Law 10,097/00, it is a special contract, without an employment relationship, but which generates relevant responsibilities for the employer, who undertakes to ensure that athlete in technical and professional training methodical adequate for their physical, moral and psychological development, in addition to the obligations to form the material working conditions necessary and appropriate.

Between the needs of the underage athlete, their reality and the fulfillment of the employer's obligations, there is a wide range of information to be analyzed, supervised and criticized,

seeking, despite the absence of a direct employment relationship, the best for this “indirect worker”.

In relation to this "gap" in the definition of the athlete's contract, we have as an example, article 45 of Law 9.615/98, which states that:

Art. 45. Sports practice entities are obliged to contract life and personal accident insurance, linked to sports activity, for professional athletes, with the objective of covering the risks to which they are subject.

In other words, this guarantee only affects those who are professionals, not anyone who is an athlete in training, and normally this reservation is duly expressed in a clause in the apprenticeship contract.

As we can see, there is a lack of protection. Although the minor has guaranteed guarantees, in this situation we can see that he is exposed to natural risks of sports practice, high performance exercise, perhaps even more than an older athlete, due to his young age and because he is still physically in training, in the However, it has no guaranteed guarantee in this regard.

The Child and Adolescent Statute is in full agreement regarding the possibility of exercising work in the position of apprentice of the minor athlete (as provided for in art. 60), even safeguarding the athlete's rights, and mentions, therefore, in your article 65:

“Adolescent apprentices, aged over fourteen, are guaranteed labor and social security rights”.

However, in the case of the minor athlete, the rights are far from being equated, with protection coming basically from the ECA.

In this case, it would be important to have some type of safety for the apprentice athlete, since the time spent training in sports can somehow compromise their physical health, as they are constantly exposed to the risk of injuries.

And going beyond that, in the case of athletes in training who are in a different place from their origin, there are still the risks of the absence of direct contact and family care, with this minor being under the responsibility of third parties, which can lead to other types of problems to this minor, who will again be without any legal security safeguarded.

We can see that legal support for minors is essential, after all, they are subject to risks like any other person, and even more so because of their young age and the particularities, which are many, of their training.

Another example was what happened on June 22, 2016, when a fourteen-year-old athlete in training died after being sick during a football training session at the club where he was learning for four months in the city of Londrina, Paraná.

And yet, the case that was commented on the world over, from the Vulture's Nest, in Rio de Janeiro, where ten teenagers died on February 8, 2019, which set off the alarm regarding the non-existent requirements regarding the accommodation where the athletes live in training, as most of them reside in the training club's accommodation.

Article 29 of Law 9.615/98 superficially establishes in §2º, item II, indent “d” that the training sports entity must “maintain adequate accommodation and sports facilities, especially with regard to food, hygiene, safety and health”, without, however, being more detailed about the safety requirements, leaving a gap about what is necessarily adequate and to what extent this care must exist, with a very superficial requirement, in addition to the lack of specification regarding safety in working conditions.

The law is silent in many respects, making those who are already legally incapable even more vulnerable.

3 The formation of the citizen athlete in view of their professional expectation

As discussed above, the absence of a specific contract and legal provision for the type of contract relating to the exercise of sport by the underage athlete is already a big problem, and as consequences arising from the absence of legal assistance as a basis, issues that are harmful to the young athlete arise, in the short and long term.

During this period as an athlete in training, in practice we can clearly see the differences in the exercise of the minor in sport and the absolute need for legal support, as there are many particularities in the exercise of the activity and in a matter of their growth as a person, after all, it deals with from a minor in his early teens entering the sport, sometimes assuming a position and responsibility that require a maturity far beyond what he would naturally have at such a young age.

In many areas of professional entry, the future of the profession can start with early learning, but when it comes to entering sport, the particularities are exceptional, mainly marked by the fact that most of the time this beginning athlete leaves the family environment, the family home to be permanently at the club, in addition to more complex cases, but no less common, they are moved to other places to continue the exercise of learning.

According to the teachings of Juan Mosquera and Claus Stobans about adolescence, which they call “first age”, they say that:

In the psychological area, the structuring of the personality takes place. They are the foundations of what the person will be able to represent in the future, especially in adult life. Personality structuring takes place in the first years of life and, although this is not considered fatal, it is a strong conditioning for other ages and behaviors. Much of who we are is in the past, although this is not necessarily a present.

In the social area, it seems that the human subject is in a state of waiting and preparation. Wait to join adult society. The adults themselves foresee that the entrance should be carried out based on a preparation that justifies the wait (MOQUERA and STOBANS, 1984, p. 99).

Regarding the development of the athlete's personality in adolescence, the period when the young person enters the sport, Juan Mosquera and Claus Stobans say that the evolutionary tasks

are configured as follows:

- accept physical changes;
- achieve a stable social character to relate to both sexes;
- become emotionally and economically independent;
- prepare for marriage or coexistence;
- getting started in civic and social responsibilities;
- establish an identity as the basis of a philosophy of life (MOSQUERA and STOBANS, 1984, p. 112).

That would be the kind of normal development when talking about a teenager with a “normal life”. When it comes to the teenager who enters the sport at the age of fourteen, the course of this development is automatically changed, in most cases accelerated and skipping steps.

As for achieving a stable social character to relate to both sexes, despite being something common among teenagers, to arise at this stage, for the athlete in training, this need is accompanied by the issue of wanting to present results so that they can progress professionally.

Regarding the acceptance of physical changes, upon entering the sport, adolescents already undergo, in some cases, maturation assessment, an exam performed to “predict” their size, physical proportions, skeletal functions and development, necessary requirements for their professional “investment”. Thus, we can see that adolescents naturally need to deal with major physical changes, they need their bodies to develop favorably for their future professional plans (KUNRATH, GONÇALVES and TEOLDO, 2014, p. 187-191).

In cases of teenagers who train to achieve the goalkeeping role, for example, in an interview with a professional goalkeeper, he highlighted the concern he had as a teenager to grow up enough and achieve adequate physical height for the role he wanted, and said to be an almost unanimous concern among teenagers who want this role, since its growth, which is yet to happen, may generate some surprise.

As for being emotionally and financially independent, this requirement is common, especially in Brazil, where young people, especially from the lower classes, start working early, usually taking turns between study and work. As for younger athletes, in some sports, such as soccer, for example, most teenagers who join the sport come from lower social classes, therefore, they start to live in the accommodation of the club where they are in training. Interestingly, many of these teenagers, when leaving their family home, leave with the responsibility (given by their parents) to achieve a promising career to achieve financial stability and provide improvements for the family that supported them until then. In addition to seeing himself almost unable to return home, because when he left with this dream, he saw the need to return just to present the results (as expected by the family, of course).

The point is that, often, this teenager would be better off at home, in better conditions of care.

For this research, interviews were carried out with twelve professional soccer athletes, with questions being asked about their sporting background. Nine of them lived in club accommodation, and when asked about the treatment of underage athletes in general and in

different regions of Brazil, four mentioned a lack of basic survival conditions for the teenager, including lack of food, and cited northern regions, Northeast and Southeast of Brazil as the most precarious in this regard.

Thus, even under precarious circumstances, many teenagers remain because they promised their families responsibility for a better future. Of course, the vast majority cannot go home every day because they are too far from their home, and there are very few cases in which the family is willing to move and settle in the city where the youngest child is in training. . Of those twelve, only one had this privilege.

Regarding the idea of preparing for marriage or living together, this preparation usually takes place during adolescence, but when it comes to a teenager who enters the sport at the age of fourteen, this is an evidently precocious trend.

As the adolescent, as mentioned above, leaves the family very early, needing to live an independence 'before his time', at some point this family environment is missed, thus, the adolescent who goes through this situation has a very tendency to greater to want to build a family early, in the need to make up for this lack of always having a family around.

Among the twelve interviewees, ten formed a family at an early age (aged between 18 and 21), and said they always had this desire, some under the argument that they would like to build a family that would accompany them even with constant changes of place.

Therefore, they aspire to marriage or coexistence in an early way compared to young people who are not in the situation of athletes in training, due to this particularity of lack of daily family life.

Regarding starting civic and social responsibilities, once again adolescents undergoing sports training are exceptions, as they necessarily learn to take on responsibilities early in many aspects, such as meeting schedules, high-performance exercise, personal discipline in the activities with the group (in the case of team sports), etc.

These twelve athletes were asked about the emotional consequences of joining the sport so early, and the responses were almost unanimous, all mentioning early maturation and learning to take responsibility early. In addition, they mentioned their professional experience since they were young, the development and growth of a personal character, the maturity to deal with demands. They said they learned early on to be disciplined and respect different points of view. However, they also mentioned the lack of family basis as a negative point.

Most of them believe that this entry into the sport in early adolescence was very positive, the minority believes that the negative points have a greater weight.

As for establishing an activity as a base, this is usually a difficulty for most adolescents, who seek references from numerous places, but the natural thing is that, although unconsciously, the tendency is for the main reference for personality formation to be the parents themselves. or persons responsible for the adolescent's education. And once again, the teenage athlete in training

does not fully meet this requirement, as he does not live as directly with his family as other teenagers, so the association as a reference cannot be so direct.

The authors also add that:

The security needs are basically important. Especially at the beginning of life, when the young child has an urgent need to be cared for by adults, to the point that, without this protection, he or she may die. The need for security turns into feelings of security in adults and this presupposes trust, continuity and support. Much of psychological illness stems from a sense of security and inadequacy. In this sense, it is important, in the sports field, to draw attention to this need, which is often overlooked because of excessive competition. The feeling of security is basic and plays a predominant role in the affirmation of adults in their culture, and, at the same time, leads to better health and performance (MOSQUERA and STOBANS, 1984, p. 119).

The Child and Adolescent Statute is in full agreement with regard to the possibility of working as an apprentice, but it does not say anything about the athlete in training, creating yet another situation in which the minor athlete is vulnerable due to the issue of lack of legislation to defend and protect it.

As this is a gap in the law, the Introductory Law to the Civil Code “resolve” the problem of gaps in its Article 4º, defining and providing as “Silence of the law with regard to a given case; it is customary to appeal, if necessary, to customs, the general principles of law, analogy and equity”.

4.1 In addition to lack of labor protection

In this case, the legal provision of the ECA would enter into theory, which provides in article 60 on the minor apprentice, a contract that, although roughly comparable to the training contract, is not the same thing, and because of the lack of legal provision for this second type, this article 60, which provides “Adolescent apprentices over the age of fourteen, are guaranteed labor and social security rights” would be similarly applicable.

In this way, we could see (in more detail above) that this neglect, lack of predictability and security and the need for equivalence when dealing with this teenager’s professional future still remains, there are still problems that arise from this.

In addition to the exercise of the work itself, this issue involves the adequate development of the adolescent athlete, who sometimes finds himself far from his family due to joining the sport, since the minor athlete is subject to training in a distant sporting base. of his family, as it is necessary for him to find a place that provides this type of preparation, and in most cases there is no close supervision of his parents or legal guardians, therefore, this responsibility is transferred to the club in question.

Faced with this transfer of responsibility, the minor cannot lose proper education. Moral and social support, having the necessary elements of care for their formation as a citizen, which in a

way exposes themselves to a certain risk due to the fact that this minor, still a teenager, as if he were paying the price of a dream, exposes himself to a premature independence in addition to early maturity.

When these young people leave the care of the family power, they start being responsible for the clubs that hire them, in addition to the businessmen, who, in theory, take care of their athletes, guiding them and supervising their needs. At that time, they live in “republics” or lodgings, where they start to move with other teenagers in the same age group.

These accommodations must be properly regularized in accordance with articles 90, 91 and 92 of Law 8069/90, as, in practice, they are real shelter entities that, as such, need to be legally built (even if linked to a club football, judo or other sport), prepare and execute a service program and submit to registration with the Municipal Council for the Rights of Children and Adolescents, being subject to inspection by the Guardianship Council, the Public Ministry and the Judiciary (pursuant to article 95 of Law 8069/90).

Article 91 of Law 8069/90 provides that:

Art. 91. Non-governmental entities may only function after registration with the Municipal Council for the Rights of Children and Adolescents, which will communicate the registration to the Guardianship Council and to the judicial authority of the respective location.

§ 1º Registration will be denied to the entity that

- a) does not offer physical facilities in adequate conditions of habitability, hygiene, health and safety;
- b) does not present a work plan compatible with the principles of this Law;
- c) is irregularly constituted;
- d) have unsuspecting people in their ranks.
- e) not adapting to or failing to comply with the resolutions and resolutions relating to the type of service provided issued by the Councils for the Rights of Children and Adolescents, at all levels

§ 2º The registration will be valid for a maximum of 4 (four) years, and the Municipal Council for the Rights of Children and Adolescents will periodically reassess the appropriateness of its renewal, in compliance with the provisions of § 1 of this article.

And article 92, in continuity, provides for the essential principles to be followed by the site:

Art. 92. Entities that develop family or institutional care programs must adopt the following principles:

- I - preservation of family ties and promotion of family reintegration
- II - integration into a substitute family, when the maintenance resources in the natural or extended family are exhausted
- III - personalized service and in small groups;
- IV - development of activities under a co-education regime;
- V - non-dismemberment of sibling groups;
- VI - avoid, whenever possible, the transfer of sheltered children and adolescents to other entities;
- VII - participation in the life of the local community;
- VIII - gradual preparation for dismissal;
- IX - participation of people from the community in the educational process.

In addition to its demonstrated responsibility for complying with due care for the minor:

§ 1º The director of an entity that develops an institutional care program is equivalent to the guardian, for all legal purposes.

§ 2º The directors of entities that develop family or institutional care programs shall submit to the judicial authority, at most every 6 (six) months, a detailed report on the situation of each child or adolescent received and their family, for the purposes of the reassessment provided for in the § 1 of art. 19 of this Law.

§ 3º The federated entities, through the Executive and Judiciary Powers, will jointly promote the permanent qualification of professionals who work directly or indirectly in institutional care programs and aimed at the family placement of children and adolescents, including members of the Judiciary, Public Ministry and Guardianship Council.

§ 4º Unless otherwise determined by the competent judicial authority, entities that develop family or institutional foster care programs, if necessary with the help of the Guardianship Council and social assistance agencies, will encourage the contact of the child or adolescent with their parents and relatives, in compliance with the provisions of items I and VIII of the main section of this article.

§ 5º Entities that develop family or institutional shelter programs may only receive public funds if they are proven to comply with the principles, requirements and purposes of this Law.

§ 6º The non-compliance with the provisions of this Law by the director of an entity that develops family or institutional care programs is the cause of their dismissal, without prejudice to the determination of their administrative, civil and criminal responsibility.

Indent “a” of §1º of article 91 of Law 8060/90 says that the registration will be denied to an entity that does not offer physical facilities in adequate conditions. However, the law does not define what is adequate, making it a vague, unspecified requirement, a subjective concept. In the case of accommodation, minors leave their family life to obtain a sports training without even having a definition of what is a suitable environment for their living, without an absolute guarantee that they will be safe and that they will have their well-being.

Law 9.615/98 and no sports legislation specify or require reports for accommodation in the base categories, whether by Fire Department, Public Prosecutor's Office, etc. Article 29 (§2º item II, ‘a’’) of the Pelé Law says that it is the obligation of the sports entity to “maintain adequate accommodation and sports facilities, especially in terms of food, hygiene, safety and health”. Again being silent, not defining what is adequate, without making demands. In addition, it requires contracting insurance for personal accidents, but specifically deals with safety in working conditions. There is not even a specification on who is competent to carry out such requirements, who is responsible for stipulating requirements, which would be from the CBF, the Public Ministry, the Fire Department, but there is no requirement at the federal level that determines this.

The clubs are not under rules in this sense, so it is not possible to say whether the way they house teenagers is adequate or not, as there is no concept of adequate. There are no minimum requirements that clubs must meet.

Once again, the example of the fire in the Nest of the Vultures in Rio de Janeiro in February 2019 appears, causing the death of 10 athletes, all minors and undergoing sports training. It is

evident that mistakes prevented these minors from surviving the fire, however, there are no parameters for inspecting the facilities in the accommodation. There is nothing at the federal level in this regard. Once again the minor athlete is unprotected.

On the idea of a minor moving away from family life, being collectively under the responsibility of a club, it can sometimes have negative consequences, since it is a housing or several accommodations housing several minor athletes being cared for by people that they have no affective bonds or, at times, affinity. It is practically impossible for each of them to be able to receive due attention for their development as a citizen.

At the same time that this early independence generates early maturity and responsibility, this positive effect does not reach all of them, because it can compromise the formation of that future, caused by the absence of due care and family absence.

Furthermore, there is also the problem of adequate educational supervision. Certainly not all clubs with youth categories closely monitor the education of their guardians, making sure that it takes place.

The positive points mentioned here reach most athletes already in adulthood, but it cannot be said that these numbers are a totality, because even in the media we can see socially and morally inappropriate behaviors and attitudes coming from athletes, and in light of this analysis, and considering that everyone goes through this training period, we can see that this behavior is a consequence of those who were not positively reached by this very atypical training.

4.2 Expectation about the professional contract

When teenagers start to practice the sport, training with the possibility of becoming a professional from the age of fourteen, their greatest expectation is focused on achieving this goal, on actually reaching a professional contract in the future, thus having a professional career signed. However, from fourteen to twenty-one years of age, many things can happen, they are years of investment of time, dedication and renunciations, which do not always lead to the achievement of the long-awaited goal. It is natural that your expectations turn to this dream, as well as the effort to make it happen.

For the vast majority, the intense expectation makes them not even think that they will not reach this goal in the future, for others, the insecurity is so great that they end up abandoning this dream without even coming close to achieving it.

In the interview with the twelve professional athletes in exercise, when asked if when they were minors they ever thought that they would not be able to reach the so dreamed professional contract, half of them said yes, and the other half said they didn't even think about it because it was already on its way. of your goal.

In addition, those who answered that they never thought they would not make it said that they

heard words of encouragement and encouragement to train and prepare themselves all the time, as they “were good” and “they had talent”. What is striking about this is that everyone heard these words of encouragement and they affected the security self-esteem of half of these young people, however, of all those who were in training, training and nurturing the dream of a professional contract, not even half of them in fact, which generated a probable frustration, as many of these young people were sure that they would get a professional contract and in the end, they did not reach that dream so desired.

It is evident that coaches and clubs are aware that the percentage of athletes in training who actually become a professional is low. And also, that teenagers, who are so intense and fickle, need encouragement, encouragement and support to show income in the sport they are training in, however, with such a high percentage of dazzled teenagers and certain that they will reach such an uncertain contract, it would be important to have this awareness that despite the training and dedication, all of them will go through a selective job market until reaching the professional contract, and that they will actually face this possibility of not achieving what they aspire to.

It is not about demotivation, but about understanding reality and building mature thinking, without the risk of forming dazzled young adults, applying this idea even to those who will actually reach their professional goal.

In addition to the issue of going through the competitive job market, the athlete, in any area of activity, runs the risk of injury, and this can happen at any age, but since it occurs when the athlete is underage and the injury is irrecoverable, the professional dream ends there.

It is also noteworthy that the adolescent is a person in formation, in development, therefore, more fragile in some aspects. Adolescence is a fundamental period for the acquisition of bone mass, and the encouragement of these constant and repeated physical activities brings more positive points to sports such as running and jumping, not favoring, on the other hand, those who practice sports such as swimming, as they do not need of the weight support.

According to Dr. Moisés Cohen, orthopedist and traumatologist:

During puberty, intense physical exercise is not always beneficial for adolescents, particularly with regard to skeletal growth. Some authors show that intense strength training in adolescents seems to cause a decrease in the levels of growth factors, which may compromise final height. Furthermore, excessive physical activity is also related to stress fractures generated by repeated overloads (COHEN, 2010).

About young athletes who start in the sport, although the rule is that the training contract starts at the age of fourteen, according to art. 29 of Law 9.615/98, gymnastics works as an exception, since despite the fact that the training contract occurs at fourteen years of age, it is necessary for the athlete in training much earlier to have the expectation of becoming a professional athlete. Female athletes must enter gymnastics between the ages of five and seven, and must practice developmental activities between the ages of six and seven. And male athletes, between five and

seven years old to start training and at seven years old the start for development activities.

In other words, the physical exposure to risks is even greater, and the expectation, at times pressured, of the possibility of reaching championships is even greater and earlier.

4.3 The absence of stimulation beyond sport and its consequences

As mentioned before, this beginning of the athlete is a kind of "tightrope", since most teenagers who enter the sport are unable to reach the definitive profession of professional athlete, and therefore, if they have not studied previously, they become if frustrated adults, with no expectations and starting adulthood without any preparation to put into practice a "plan B" of life.

The Child and Adolescent Statute (Article 63 and subsections) and the Pelé Law (Article 29) provide for the guarantee of the adolescent to study, as well as their obligation to maintain adequate development. Example set out in article 63 of the ECA:

Art. 63. A formação técnico-profissional obedecerá aos seguintes princípios:
I - garantia de acesso e frequência obrigatória ao ensino regular;
II - atividade compatível com o desenvolvimento do adolescente;
III - horário especial para o exercício das atividades.

However, this requirement is not a reality in practice, making evident the lack of proper inspection in the various regions of Brazil and the necessary incentive, since a club offers sports instruction to a teenager and feeds him the expectation of reaching the professional career, however, this is a small possibility given the great demand of athletes in competition for this reach, in addition to the physical risks that appear during this journey of years until reaching the age of twenty, when an athlete leaves the youth categories, finally becoming a professional.

There are many practical cases of soccer athletes, for example, who reached the under-20 category without even reaching high school, and faced with this "tightrope", if they do not reach a professional contract, they find themselves in the need to exercise another activity, but he did not study enough, severely limiting his professional possibilities.

It is necessary that there is adequate regularization about this, being punished, if possible, the clubs that allow that the athlete in training simply does not produce satisfactory school income, or that, in more serious cases, drop out of school, as he cannot guarantee a professional future for this teenager and have the obligation to take care of him as he is under his care as an apprentice, sometimes living in the club itself.

According to the results of the interview conducted with twelve professional athletes in exercise, when asked if they had a career "plan B" if the results in the sport were not achieved, of the twelve, nine replied that no, they never had other plans, the other three who answered yes, made it clear that there was another option as required by the family, which they imposed as a condition for them to support them in the decision to pursue a sports career.

These athletes achieved their professional goal, but many others, with the same mindset, did not.

The southern region of Brazil, especially Rio Grande do Sul, was mentioned by the athletes as being more adequately supervised regarding the issue of education of the minor, although not absolutely perfect, but with demands on the teenager to attend classes and present satisfactory results.

However, this is not a reality across the country, as in other states and regions this charge is non-existent.

However, it is not in all cases that the minor athlete lives in the accommodation of his/her trainer club, some live in republics, or with relatives, friends, or in some cases the family already resides in the city where the athlete's trainer club is located. . In this case, the athlete does not undergo inspection, since the collection of results comes from those who are supervised by the club, which guarantees the care of the minor. Those who do not reside there, in practice, do not suffer this charge.

The charge for school results should be applied to everyone who is in training there. This would reduce this risk of adolescents without resources in the possibility of not reaching a professional career. As much as studying is also a matter of the minor's responsibility and interest, immaturity, lack of guidance and family demands must be taken into account, thus thinking about the adolescent's well-being and, in a way, protecting their future.

In agreement on this matter, Juan Mosquera and Claus Stobaus say that:

The same can be said about emotional or spiritual development. Probably these last two are, unfortunately, left aside in the preparation of professional athletes and sportsmen. It is relevant, in a general sense of behavior, to analyze that sport, as well as other forms of physical manifestation, should have total personality development programs in mind, or at least, that educationally take into account the physical support content, to better understand the developmental characteristics of each age group (MOSQUERA and STOBANS, 1984, p. 119).

The natural thing is that support programs arise through legal bases, because, when mandatory, practice arises, but in this case, there is already a gap, as we discussed in previous chapters, and this lack of support encourages people to think "beyond of career", in having how to evolve if nothing turns out as expected, and especially, this lack of mandatory study and education are direct consequences of this gap in the law.

It would be essential to encourage and make it mandatory to obtain satisfactory income in all cases, whether under the supervision of the club or not, and beyond the limit of sixteen years.

Alexandre Sfalcin, Fernando Jaime González and Robson Machado Gomes conducted a research and turned it into an article in which they spoke about young athletes who practiced the sport in the state of Rio Grande do Sul, going through the training phase, without, however, reaching the contract professional. This is because they abandoned their careers before that for a

number of reasons, such as financial instability to remain in sports training, lack of family life, constant delays in payments and salaries, inadequate fulfillment of contracts and early family formation.

The authors mention in the article that:

Abandoning the profession has an impact on the subjects' social and personal organization. In the case of ex-athletes interviewed in the research, it was possible to observe that leaving sporting life required fairness in different dimensions of their lives, one being more subjective and the other more objective. The subjective dimension combines a certain feeling of failure due to the unfulfilled dream and a feeling of abandoning a prominent socio-professional condition. The objective dimension constitutes the concrete difficulty of entering the universe of extra football work.

As for the consequences related to the adolescent's withdrawal from the sport, in addition to mentioning the feeling of failure he has to deal with, as he has not been able to achieve a dream, the authors also conclude that:

The research also allowed us to verify the subjective and objective consequences of abandoning a sports career. We understand that two stand out among the different problems: a) the need to rebuild a new identity, that of a non-athlete. Because, for the football player, it is not easy to leave the dream for which he lived during an important period of his existence, having the relationship with the fan, the media, in short, the recognition and the "fantasy" that are dispensed to him for no longer being part of football, becoming a "simple mortal"; b) the fact that most athletes are not prepared to insert themselves in other work spaces, basically because they believed (too much) in the possibility of achieving success in football, leaving aside personal/professional preparation for the moment when could no longer play (SFALCIN, GONZÁLEZ and BORGES, 2015).

The American psychologist Abraham Maslow, referring to the athlete, pointed out self-actualization as a great characteristic and need, which in some cases is also called self-actualization or individualization. It is for this author the most important of the needs (MASLOW, 2008).

This tendency, according to Maslow is universal, is probably what makes someone a true champion. The champion is the one who is in continuous struggle with his own person in order to improve and know himself.

This type of thinking, primarily accompanied by complete and adequate legal support, needs to be encouraged, the underage athlete needs to be supervised, whether or not he is supervised by the training club. And if he's protected, he needs adequate security.

Negative consequences and a demand for unemployment in the country by young people can be avoided as long as the problems are addressed, so that the consequences may not even exist.

5 Conclusion

After analyzing concepts and particularities of types of employment contracts that reach

minors, and also a specific model for professional athletes, we can observe the absence of a type that can adequately cover the working situation of the athlete in training in a broad way.

The current General Sports Law, Law 9,615/98 is silent on the contractual form of the athlete in training between fourteen and sixteen years old, and in addition, it does not mention all minors with regard to their working conditions, housing, sports training, not specifying what is appropriate, what is necessary and what rules sporting entities must follow regarding the protection and care of minors and training where their work environment and permanence is considered.

Taking a brief look at the Pelé Law, it is easy to see that it is a law with many articles revoked, a 1995 law, and it is worth remembering that in recent decades many athletes underwent training and this silence persists for generations. It is necessary that there is a specific law, at the federal level, that addresses the minor's needs regarding their hiring, protection, that removes them from the situation of legal vulnerability they currently live, and also that addresses their protection in the work environment and coexistence, after all, a high number of athletes reside in their training club.

In addition to the need to fill this gap in the law, we also verified the problems arising from the absence of a special sports work contract, after all, many minors start sports training, but the minority of them actually reach a professional contract, and in that sense, it would be important the creation of programs aimed at these minors for qualification beyond sport, preventing consequences in the sense that they will have the means to follow if sport is not in fact their future professional career. In addition to inspecting the school attendance of minors.

As we saw in the results of the field research, if the careers of most professional athletes did not work out, they had not reached a professional contract as it happened, there would be no plans beyond the possible career and there was no encouragement for this thought, reinforcing the idea of need for encouragement in these cases, after all, the minority will manage to be a professional and they will reach this conclusion at the age of twenty.

Considering that the law is a rule made obligatory by the coercive force of a competent authority, and, as something becomes obligatory, its compliance, as a rule, is enforced, as there is no law that provides for a certain matter, naturally there is no compliance. Therefore, given the absence of a law to ensure the rights and protect the athlete in training, there is no compliance with these requirements, in view of the absence of mandatory obligation. Even though there are laws that were mentioned, such as Law 9,615/98, the Statute of Children and Adolescents that somehow aim to protect minors with regard to work, in the case of minor athletes, evidence of insufficiency remains.

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Field research

The field research was carried out in 2016 in Rio Grande do Sul through interviews with twelve practicing Brazilian professional football athletes, born in different states of Brazil, three of them currently being coaches aged between 20 and 46 years. They received the following questions and the following results were obtained:

I- What is your opinion about the withdrawal of the pass and the beginning of representation through intermediary?

Although not all of them actually lived their professional careers at the time of the Institute of the Pass, all demonstrated knowledge about the subject, thus, 10 consider the representation through intermediary something positive. 2 are indifferent to change, arguing that the entrepreneur would be a “necessary evil” and that the ideal would be for the athlete to represent himself.

II- For the underage athlete, would it be better to live with the reality of the pass or the intermediary representation?

In relation to the minor athlete, 8 of them believe that the representation through intermediary is better for the minor due to the fact that there are those who “defend” him, considering his vulnerability due to his young age. 1 of them said they were indifferent to the change and the other 3 were unable to answer the question.

III- When you were not a professional athlete, did you have a “plan B” career?

In this question, 10 answered no and 2 answered yes.

IV- What emotional consequences do you think you suffered for joining the sport so early?

Unanimously, they responded early maturity, responsibility, personal growth, maturity to deal with demands, discipline, independence and character and personal development. In addition to early family formation. All considered these positive points, and mentioned the lack of family basis as a negative point.

V- What differences do you see comparing the treatment to younger athletes in relation to regions in Brazil?

As for these differences, 9 answered that the larger clubs have better housing conditions for the smaller ones; 3 mentioned the absence of basic survival conditions such as food, adequate hygiene and psychological support, especially in the Southeast, Northeast and Midwest regions (considering athletes who completed youth categories in more than one club); 6 mentioned greater inspection in housing in Rio Grande do Sul, as well as better conditions and care for minors.

Article received in: 10/20/2021

Article accepted for publication in: 12/16/2021