

Tottenham FC

Open letter

Re. (1) Medical discrimination against non-vaccinated applicants
(2) Violation of the European Convention on Human Rights ("ECHR") of the European Council.

Gentlemen,

It has been brought to our attention that your club will exclusively consider applicant players that are COVID-19 vaccinated.

Considering the wider impact of such discriminatory steps in other countries and walks of life, our association, Aktive Borgere, hereby wish to bring to your attention the captioned matter in regard to illegal discrimination.

Under the ECHR, which ranks above the national law of participating member states, rights granted under the Convention may not be set aside, the general clause being Article 14 of the Convention, which reads:

ARTICLE 14

Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Rights protected by the Convention include freedom of thought, conscience and religion, cf. Article 9. As such, discrimination against any of these rights is illegal unless a matter of last resort for society in general.

Specifically, Article 1 of Protocol No. 12 reads:

ARTICLE 1

General prohibition of discrimination

1. *The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*
2. *No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.*

Now, the open question is rather simple, namely whether or not your decision not to employ non-vaccinated players is in violation of the individual's freedom of thought in regard to the specific medical treatment in question: Covid-19 vaccination.

Others have already considered the matter, notably the European Council, under which organisation the ECHR is adopted, in Resolution 2361 of January 27, 2021, which reads:

7.3.2. ensure that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated;

By now, health authorities have acknowledged that Covid-19 vaccination does not protect against infection nor transmission, most notably the CDC of the US have recently issued new guidelines calling for equal treatment irrespectively of vaccination status:

New COVID-19 guidance from CDC focuses on individual decisions

- Those exposed to the virus are no longer required to quarantine.
- Unvaccinated people now have the same guidance as vaccinated people.
- Students can stay in class after being exposed to the virus.
- It's no longer recommended to screen those without symptoms.

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Thus, at the most, Covid-19 vaccination results in milder symptoms, which is not a reasonable concern of an employer as a precautionary issue permitting discrimination under the ECHR.

Put differently, your decision to employ only Covid-19 vaccinated players is on par with decisions only to employ players of a certain sexual orientation, race, hair colour etc.

Consequently, Aktive Borgere is of the opinion that your policy constitutes illegal discrimination.

We would appreciate your thoughts and comments on this matter and trust you will immediately cease any medical discrimination.