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Anti-Doping Convention (T-DO)

13th meeting of the Monitoring Group
Strasbourg, 28-29 March 2001

German Auto-Evaluation Report

Ad Article 1 - Aim of the Convention:

The Federal Republic of Germany pursues the aim of the Convention vigorously. This is reflected in particular by the fact that Germany has taken part in the World Conference Against Doping in the last two years, and by its statements regarding the imposition of sanctions against the doping offences of athletes on the one hand but also regarding the punishment of trainers and other persons working in the entourage of athletes.

In addition it should be noticed that in 1998, when the 8th Amendment to the Pharmaceutical Products Act was adopted, a new § 6a was introduced, which addresses the fight against doping. Non-compliance carries a penalty in minor cases and imprisonment of up to ten years in particularly serious cases.

During the German EU Council Presidency in 1999, the Federal Republic of Germany submitted proposals in line with the Anti-Doping Convention. Furthermore it made considerable additional financial contributions towards controls and research associated with the fight against doping over the past years. Presently the Federal Republic of Germany, together with five other European countries is carrying out a survey to avoid doping in commercial fitness clubs and a survey to harmonise the know-how regarding the harmful effects and health effects of the abuse of pharmaceutical drugs for doping purposes.

Ad Article 2 - Definition and scope of the Convention:

(1) a) - no comments –

(1) b) The list of prohibited agents and methods adopted by the Council of Europe is published each year in Federal Law Gazette II, in the German language. The Pharmaceutical Products Act refers to this list. An identical list is published by the Anti-Doping Commission of the German Sports Federation (DSB) and the National Olympic Committee (NOK).

(1) c) The definition given in Article 2 does not exclude the area of body-building events; for this reason, active sport carried out in health clubs is included.

(2) - no comments –

Ad Article 3 - Domestic co-ordination:

(1) In the past few years, the Federal Ministry of the Interior, which is responsible for the promotion of top-level sports, the sports ministries of the Federal Länder, and the health ministries have co-ordinated adequate procedures. Subordinate authorities, such as the Federal Institute of Sports Science (BISP), are comprehensively involved. The sports offices implement the anti-doping policy at the local level.

(2) As regards sports organisations, DSB and NOK have set up a joint Anti-Doping Commission. This commission liaises closely with the national sports federations. The Federal Institute of Sport Science assists the Commission substantially.

The Anti-Doping Working Group of the Standing Conference of Sports Ministers of the Länder works in close contact with the national associations of fitness club owners and fitness club trainers.

Ad Article 4 - Measures to restrict the availability and use of banned doping agents and methods

(1) As mentioned above, a new § 6 a was introduced into the Pharmaceutical Products Act together with penal provisions, in a move to pursue the objectives of this article. The criminal prosecution authorities and the customs authorities have been made aware of the problems related to unlawful dealings with doping substances.

(2) Subsidies of sports federations are indirectly related to the efficient application of doping provisions. For instance, the German Sports Federation and the Federal Government, with reference to subsidies, demanded that doping provisions must be subject of the national associations' statutes and that each federation appoint an anti-doping commissioner to deal with the fight against doping in his or her federation and act as a person of contact for the Anti-Doping-Commission. The federations have met this demand on time.

(3) a) The Federal Institute of Sports Science supports the work of two IOC-accredited laboratories and co-ordinates their activities. This benefits the sports associations in that a total of almost 8,000 controls per year are carried out free of charge. Out-of competition and in-competition tests are paid by the federations themselves.

(3) b) Individual athletes are generally not given any public subsidies. Furthermore the associations have laid down in their statutes and guidelines that sportsmen and women who have been convicted of a doping offence cannot receive any assistance. Also, Deutsche Sporthilfe (German Sport Aid Foundation) does not subsidise athletes with a doping record or immediately ceases to support athletes convicted of a doping offence.

(3) c) The analysis of out-of competition samples as well as that of in-competition samples is free of charge for the German Olympic and non-Olympic federations. This also includes international competitions carried out on German soil, in an attempt to treat German and international athletes equally in competition. Doping controllers of international associations can perform their tasks unrestrictedly. Therefore, facilitation measures are not necessary.

(3) d) The joint DSB-NOK Anti-Doping Commission has made an agreement with the Australian Sports Drug Agency, ASDA. There are close contacts with the sports federations of the Member States of the Nordic Anti-Doping Convention, as with the neighbouring states Austria and Switzerland. Such agreements are flanked by bilateral government measures.

(4) In Germany, sports clubs and their umbrella federations are independent. Their previous requests for further assistance, e. g. to finance out-of competition controls among young and upcoming athletes have been met. Research initiatives of the Anti-Doping Commission receive financial support from the BISP.

Ad Article 5 – Laboratories

(1) a) In Germany, there are two IOC-accredited laboratories: the Bio-Chemistry Institute of the German Sports College in Cologne, and the Institute for Dope Testing and Sports Bio-Chemistry in Kreischa near Dresden. Through a measure taken last year, they have not only been re-accredited in line with the IOC standards, but have also been enabled to fulfil the accreditation requirements under ISO/IEC 17025, DIN/EN/ISO 0992 on time. This means that these two laboratories also meet the criteria adopted under Article 11 (1b). Furthermore, the Federal Republic of Germany encourage the IOC-accredited laboratories in their efforts to liaise with other IOC-accredited laboratories and to help other states who do not yet have an IOC-accredited laboratory in the establishment of such laboratories.

Foreign sports organisations can have their samples analysed any time at cost price.

(2) a) As a rule, the staff of the IOC-accredited laboratories have long-term working contracts and are trained as analysts. Newly-recruited staff are highly qualified. Further training is organised by the laboratories themselves.

(2) b) Both IOC-accredited laboratories test not only in line with the given instructions, but also inquire in suspected cases with all testing means available to them. The laboratories had a major share in detecting new substances such as bromantan and carphedon.

Furthermore, a survey into detecting doping agents in blood samples receives financial backing from the BISP, in co-operation with the DSB/NOK Anti-Doping Commission. Thus, the laboratories contribute to know-how in the field of urine sample and blood sample testing.

In this context, close contacts are held with relevant university institutes.

Together with the International Society of Hair Testing, the detection of doping agents in hair samples is carried out intensively and receives financial backing. A procedure to detect clenbuterol has already been worked out.

Over a period of two years, the testing for and identification of growth hormones has received financial backing from the Endocrinologic Working Group of Munich University, Inner City Hospital. Co-operation with the laboratory in Kreischa in this new area is in the pipeline, after researchers developed a detection procedure.

In response to the “Krabbe” doping case, where there were identical urine samples for different sportswomen, a procedure has been developed to allow the unequivocal matching of urine samples on the basis of genetic fingerprinting.

Further research is carried out to look into the healthy effects of doping substances. The focus is on anabolic substances and their effects on the cardio-vascular system.

Sociological research also receives support.

This includes research into why athletes take doping substances or use doping methods. Thus, the basis was created for the identification of training target groups and for the definition of educational approaches.

In 1994 and 1997, young people were surveyed as to their attitude towards doping. In 1998, a geographically limited survey of persons attending fitness clubs was carried out regarding the abuse of pharmaceutical products; this survey was extended to various regions in Germany with the help of public funds.

(2) c) Usually, the results of research carried out by the Federation as part of doping control are published in the relevant renowned magazines, or have been published as scientific articles in books.

Research results of particularly great potential, such as add-ons to the list of prohibited agents or hormone detection measures, have been circulated in all relevant bodies.

Ad Article 6 – Education:

(1) In 1994, the Land Ministers responsible for Sports set up an Anti-Doping Working Group, which addresses matters dealing with education and information against doping in sports. It liaises closely with its Swiss and Austrian counter-parts and has adopted the Clean Sports Guide as the basis for its own programmes.

Campaigns such as “Enabling Children” (“Kinder stark machen”) and “Ban Drugs” (“Keine Macht den Drogen”) also deal with doping problems, if marginally. The health authorities, among others the Federal Centre for Health Education, initiated further steps in an expert meeting held in December 2000 in order to adequately address doping problems in their education campaigns.

The Trainers’ Academy in Cologne and some schools have been supplied with the Swiss-made “Doping Info” material to test it as teaching material. Teachers wishing to conduct project weeks on doping or to address this topic in their chemistry or sports lessons can obtain didactical support from the BISP and the Anti-Doping-Commission.

An Anti-Doping Working Group has been set up at the initiative of the Presidents of the French and German Sports Federations. As a first result, a summer camp under the motto “anti-doping” took place in Vittel, France, in the summer of last year, which was attended by German and French youngsters. Another summer camp is scheduled for the summer of this year, and will take place in Inzell.

(2) By the same token, education and information programmes are available in sports clubs, which may then elaborate information brochures and other measures directed at young and adult athletes on this basis. They can obtain assistance from the Anti-Doping Commission, which represents public and sports bodies.

The Federal Republic of Germany is actively involved in EU education and information projects and in the development of physiologic and psychological programmes. The leading public bodies in this respect are the Federal Ministry of Land Lower Saxony and the German Sports College in Cologne.

In October 2000, the Federal Institute of Sports Science, the German Sports College in Cologne, and the German Olympic Society conducted a symposium under the motto “Sports Scientists Against Doping”. The results are reflected in the “Cologne Declaration”.

Ad Article 7 – Co-operation with sports organisations on measures to be taken by them:

(1) All national federations have included anti-doping regulations in their statutes and have appointed anti-doping commissioners.

(2) a) In Germany, sports clubs are generally independent. To the extent that the international regulations so allow as part of harmonisation, national federations have dovetailed their national doping provisions. This is not least thanks to the DSB/NOK Anti-Doping Commission.

(2) b) The list of prohibited agents and methods, which forms the legal basis, is published annually in the Federal Law Gazette. The list is published in German by the Anti-Doping Commission, too.

(2) c) The federations have voluntarily transferred their programme of unannounced out-of-competition controls of top-level athletes to the Anti-Doping Commission. In-competition testing is still carried out by the federations on their own responsibility. A reporting system has been established for in-competition testing, so that the Anti-Doping Commission is enabled to intervene if and when there are too few in-competition controls. All these measures are durably supported and encouraged by the administration.

All samples are forwarded to the IOC-accredited laboratories in an anonymous fashion; afterwards they are analysed there and the result is forwarded to the person in charge. Where an athlete tested positive in an in-competition control, the DSB/NOK Anti-Doping Commission also receives a copy of the report.

(2) d) Positive samples are decoded by the person in charge and the athlete concerned is informed of the positive result by the federation. Afterwards, he or she is heard. Most federation statutes provide that where a positive A-sample has been returned and a doping offence has allegedly been established, the athlete in question is banned from further competitions. The athlete may demand that, within an adequate period of time, the B-sample is analysed while he or a person enjoying his confidence is present. If the B-sample confirms the result of the A-sample, the athlete concerned is charged with unlawful conduct, and is banned or punished if the doping offence is confirmed.

As a rule, the athlete can lodge an appeal against this ban with a sports court within his federation, which will then review the punishment or ban under factual and legal aspects. He may also have recourse to public courts to appeal against the decision of the federation's sports court. Athletes and federations may preclude recourse to public courts through an arbitration agreement.

(2) e) Generally, the group of persons primarily affected by the jurisdiction of sports courts are the athletes. The employment contracts of coaches or trainers with the federations stipulate that they may be dismissed without notice if they are involved in a doping offence. Furthermore, the penal provisions of the Pharmaceutical Products Act allow persons associated with doping offenders to be punished effectively.

(2) f) If the ban imposed by the federation is not suspended either by the federation's sports court nor by a public court or an arbitration court, the ban applies in the remit of the federation. The statutes of international federations largely provide that, in case of a national federation, the national ban is implemented and recognised internationally, meaning that the athlete in question is banned world-wide. As for the rest, the Federal Republic of Germany durably supports efforts to harmonise sanctions internationally.

(3) a) Obviously, German athletes are controlled without advance warning in line with uniform procedural rules, which are equally binding for all athletes. In total, the Anti-Doping Commission initiates more than 4,000 controls per year. Athletes are generally selected and controlled on

random basis. Selective controls (singling out e. g. individual athletes or athletes in a training camp) can be and have been conducted.

(3) b) The joint DSB/NOK Anti-Doping Commission has negotiated agreements with sports organisations of the Member States of the Nordic Anti-Doping Convention and with the Australian Sports Drug Agency. These agreements are flanked by bilateral government measures.

(3) c) As part of agreements adopted by the International Sports Federations, Germany is subject to competition rules if and when sports events take place on German soil. Eligibility to take part in sports events is a matter governed by the independent sports federations; this is a procedure accepted by public bodies.

(3) d) Public bodies encourage sportsmen and women to take part in the anti-doping work of which they are informed. As regards the involvement of active sportsmen and women, however, a portion of risk remains, because doping cases during athletes' active lives cannot fully be ruled out. When their active sports life is over, athletes use their image to support anti-doping work and receive pecuniary and non-pecuniary assistance from public bodies.

(3) e) Laboratories are used fully and efficiently, in line with the call for the economic and expedient use of budget funds. As German laboratories are supported across the board, some material and human resources are made available for other tasks.

(3) f) The Federal Institute of Sports Science has a training science research field which carries out and promotes scientific studies, the results of which are used to protect athletes of all ages against excess or harmful training. For instance, assistance has been given towards a research project looking into women's gymnastics and has drawn practical conclusions.

Ad Article 8 – International co-operation:

(1) Germany co-operates closely on all levels with the international bodies concerned in order to pursue the objectives of the Convention. The Federal Government Dope Testing Commissioner, the President of the Anti-Doping Commission, and high-level officials participate in various bodies, with the sending nation bearing the costs involved. This also applies to domestic co-operation. Liaison staff from science, sports organisations and the administration sit on all committees dealing with the fight against doping.

(2) a) The Federal Government encourages the DSB/NOK Anti-Doping Commission to co-operate with other bodies and to involve national federations. The sports regulations provide that world records will not be recognised in the absence of a negative doping test supplied by an IOC-accredited laboratory.

(2) b) The Federal Government supports co-operation with the two IOC-accredited laboratories; a doping press conference is conducted every year, at which the heads of the two laboratories, together with the President of the Anti-Doping Commission and the Director of the Federal Institute of Sports Science, present the anti-doping records to the public and deliver an activity report.

(2) c) Various Contracting Parties have adopted anti-doping laws, while other states have introduced anti-doping provisions in their legal regulations. As part of the German EU Council Presidency, during which time the World Conference Against Doping was held, the Federal Government adopted measures to bring about international harmonisation and new legal provisions (Paderborn Resolutions).

(3) The IOC-accredited laboratories share their knowledge and experience with other Contracting Parties, thus helping them to set up their own IOC-accredited laboratories, a move which is encouraged by the administration as the cost-bearer. It needs to be pointed out, however, that, in the final analysis, the laboratories will no longer be able to work economically if every contracting state has its own IOC-accredited laboratory. It would seem recommendable that the establishment of new laboratories be related to the overall number of doping controls carried out by the signatory states. Currently, 100,000 doping tests are carried out world-wide, as held in IOC statistics; this means that a total of 25 IOC-accredited laboratories could work at break-even point. This means that in- and out-of competition testing needs to be increased world-wide for additional IOC-accredited laboratories to make sense. This task, however, can only be taken over by WADA.

Ad Article 9 – Provision of information:

All relevant information is provided by the Federal Government, in co-operation with the Anti-Doping Commission, as replies to the Monitoring Group's questionnaire regarding the Database on Anti-Doping Initiatives of the Monitoring Group are supplied annually. We wish to point out at this juncture, however, that questions are sometimes unclear, blurring the overall analysis, and that the analysis as such has noticeable deficiencies.

Ad Article 10 – Monitoring Group:

(1) The Federal Government is represented on the Monitoring Group.

(2) Germany takes part in the sessions of the Monitoring Group, by sending delegates bearing their own costs.

(3) - no comments –

(4) – (8) The provisions governing the Monitoring Group have Germany's backing. Its decisions and findings are immediately communicated to the bodies in charge of anti-doping work; this means that they can initiate measures to act on such decisions and findings.

Ad Article 11:

(1) a) By supplying this report, among other facts, the Federal Government documents that it considers it necessary for the Monitoring Group to be enabled to review the provisions of the Convention.

(1) b) Following the adoption by the Council of Europe, the Federal Government publishes a list of banned agents and methods in the Federal Law Gazette, by which move the list is made legally binding.

(1) c) – (1) g) The Federal Government accepts proposals and measures, unless they violate legal provisions. The latter includes in particular control activities beyond what is provided for in the regulations, especially where they would be conducted without the Contracting Parties' consent.

Ad Article 12 and 13:

- no comments –

Ad Article 14 – Final clauses:

The Federal Republic of Germany has signed the Anti-Doping Convention subject to ratification. In June 1994, the treaty was ratified by law.

Ad Article 15 – 19:

- no comments –

To sum up:

- Since the entry into force of the Anti-Doping Convention, an Anti-Doping Working Group of the Land Ministers Responsible for Sports has been set up in Germany,
- both IOC-accredited laboratories are funded by the Federal Government,
- a body of scientists has been set up to assess dope testing research,
- co-operation with the health authorities has successfully been launched,
- a anti-doping paragraph has been introduced into the Pharmaceutical Products Act; it refers to the list of banned agents and methods, which is annually adopted as Annex 1 to the Council of Europe Convention.