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Anti-Doping Convention (T-DO)

Compliance with commitments project

Report of the Consultative visit to Ireland on anti-doping policy

Dublin, 11-12 June 2001

1. Introduction

This consultative visit was organised at the request of the Irish authorities, particularly the Irish Sports Council-Anti-Doping Unit (ISC-ADU). The visit focused on assessing the Irish anti-doping policy and programme: the legal framework, national anti-doping structure, doping control system and procedures.

The programme of the visit appears in the Appendix.

The team of the consultative visit was composed of Ms Pirjo KROUVILA (Executive Director of the Finish Anti-Doping Committee and Vice-Chairman of the Monitoring Group) and Mr Mesut ÖZYAVUZ (Council of Europe, Secretary of the Monitoring Group).

The consultative visit was well organised, efficiently managed, and had clear objectives. The visiting team thank the Irish authorities for their warm hospitality. This report addresses thematically the different issues approached during the visit and makes reference to the particular meetings and visits included in the programme.

2. Description of the situation

The Irish Sport Anti-Doping Programme was launched in November 1999. The legal basis for the programme is found in the Irish Sports Council Act 1999. Section 6 of the Act defines the functions of the Irish Sports Council that has the task of promoting and developing both competitive and recreational sport. The Council's task with regard to anti-doping is specified

in Article 6(1) d: “*to take such action as it considers appropriate, including testing, to combat doping in sport*”.

The same Act also constituted the legal basis for setting up the Irish Anti-Doping Committee (IADC). Section 18(1)(a) of the Act authorises the Council to “*establish committees to assist and advise it in relation to performance of its functions*”. The Council is also empowered to nominate the Chair and members of the IADC. Section 18(3), specifies that the Council “*...shall establish a committee, to be known as the Anti-Doping Committee of the Irish Sports Council to (a) assist and advise the Council in relation to the performance of its function under section 6(1)(d), and (b) exercise such powers and carry out such duties relating to that function as the Council may from time to time delegate to the Committee*”.

The advisory functions of the IADC are subject to the general superintendence and control of the ISC. The Minister appoints the Chairperson of the Committee, who must be a medical practitioner. The Committee has ten members in all and is advised by five other experts.

The Irish doping control system is based on a contractual relationship between the ISC–ADU and the national sport organisations. ADU has elaborated a Model Doping Control Policy for National Governing Bodies (NGB). The ISC ask all the NGBs to sign a letter of authorisation and warranty in order to allow testing within the sport concerned. The letter allows the Council to carry out doping controls according to their rules and regulations, on behalf of the NGB. The list of banned and prohibited substances and methods is laid down in the appendix to the letter.

In practice, the ISC does not itself carry out the controls. The sample collection process has been outsourced to the Swedish private company IDTM (International Drug and Testing Management).

3. Ratification process of the Anti-Doping Convention

Ireland signed the Anti-Doping Convention on 25 June 1992, but has not yet ratified it. Only two of the 15 EU countries (the other is Belgium) have not yet ratified the Convention. The team was told that the Government has waited until appropriate legislation had been put in place and the national anti-doping programme launched. The signature of the Anti-Doping Agreement by all National Governing Bodies of Sport in Ireland (including indigenous sports) is considered by the Government as an important step towards realising an effective tangible anti-doping programme. The Government authorities consider this as essential before undertaking the ratification of the Convention.

The Consultative Team explained the advantages of and procedures for ratification of the Convention. This process is not dependent on relations between the ISC and the NGBs. It is rather the case that, as Ireland has already signed the Convention, ratification is a national constitutional process through the Irish Parliament.

The Consultative Team was very encouraged by the political willingness and commitment to combat doping shown by Dr James McDauid TD, the Minister for Tourism, Sport and Recreation.

The Irish Government has supported the development of the ISC Anti-Doping Unit, both financially and politically. The Minister has made this issue one of his priorities and gives it

his full support. He has also promised to take immediate action towards ratifying the Convention.

The Consultative Team is convinced that the ratification process should begin in the near future and recommends that it be completed as soon as possible.

4. National Anti-Doping programme and structure

The Irish Sport Anti-Doping Programme put in place by the ISC–ADU already contains the main principles of the Convention. Very serious efforts have been made under the initiative of the ISC and independent sports organisations have been involved in the anti-doping work.

However, the process to get all sports organisations involved in the programme has not yet been completed, although there do not seem to be any significant obstacles to prevent this happening. The ISC has the power to withhold grants from those national NGBs which do not accept and effectively apply the anti-doping rules and regulations.

The Irish Anti-Doping Committee is an advisory body under the supervision of the ISC. The Anti-Doping Unit is an integral part of the Irish Sport Council, which is also in charge of the general sports policy, including the promotion and development of high-level sport. Clarity and consistency are very important for the success of anti-doping policies. Moreover the fight against doping has become politically more and more important because the discovery of any positive results arouses national emotions and affects national pride. This in turn leads to political pressure on those national bodies responsible for combating doping. This reasoning is, of course, valid for every country not just for Ireland.

The Consultative Team recommends that the Irish authorities should consider the possibility in the future of setting up an independent anti-doping body, preferably co-managed by all interested parties (composed in equal numbers of governmental and sport organisation representatives, including athletes). The independent national anti-doping body should have full authority and responsibility for planning, co-ordinating and monitoring the doping control process (eg. adoption of a list of substances, the power to intervene when sport organisations are not consistently and efficiently applying and respecting the anti-doping rules or sanctions).

5. Legislation

Irish legislation, concerning restrictions on the availability, as well as the use, of banned doping agents, is based on Irish Misuse of Drugs Acts (dated 1977 and 1984). In July 2000 the Irish Government approved a Declaration Order, thereby ensuring a greater level of control over the possession of doping substances in sport. A new bill, which also includes the list of controlled substances, is awaiting consideration by the Irish Parliament.

There is no criminal law affecting the athlete's entourage. As for the protection of minors, special regulations are included in the draft Misuse of Drugs Act.

The Consultative Team think that a comprehensive legislative reform should be adopted as soon as possible concerning:

- *the combating of the traffic in doping agents and labelling of food supplements (on the basis of Rec(2000)16 of the Committee of Ministers of the Council of Europe);*

- *sanctions to be applied to the members of the athlete's entourage and the protection of minors (in the light of the Recommendation No. 1/97 of the Monitoring Group).*

6. Doping control system and procedures

Most of the NGBs, (possibly two thirds of them) have signed the agreement with the ISC-ADU (letter of authorisation and warranty).

Under the current testing program of the ISC-ADU, 46% of controls take place out-of-competition. This proportion certainly needs to be increased.

Information is collected from the sport federations on the whereabouts of athletes. The test distribution plan was scientifically based and very deeply analysed, sport-by-sport. Indeed the test distribution plan is of very high quality.

The quality of the Irish anti-doping controls system will be improved in the near future because Ireland is a candidate for participating in the third International Project Team (IPT III).

The collection of samples has been outsourced to the Swedish private company IDTM, who work on behalf of the ISC-ADU. No serious difficulties have been noticed. However the monitoring of the Doping Control Officers (DCOs) is more difficult, because the DCOs come from a private company. It has, therefore, been suggested that the ISC-ADU should organise its own DCO training sessions, or participate in those training sessions organised by IDTM.

With regard to sanctions, the NGBs obey the rules of the international federations (IFs). The sanctions in doping cases are decided by the disciplinary panel of each NGB. The Appeals Panel is also organised within the NGBs.

At the meeting with the representatives of four NGBs (Athletics Association of Ireland, Irish Rugby Football Union, Irish Cycling Federation and Irish Wheelchair Association) the difficulty of separating out the functions of prosecution and the disciplinary panel functions within the NGBs was mentioned. There was also some confusion between the disciplinary and appeal panels. However the NGBs are divided on the creation of an independent tribunal for disciplinary phases (for both first and appeal instances). This problem was addressed in the ISC Handbook for Anti-Doping Officers dated June 2001 and distributed at the seminar organised during the visit of the Consultative Team, (which was attended by about 45 people). The above-mentioned handbook is a very comprehensive and useful document on doping procedures in particular on the subsequent phases of doping cases.

The disciplinary procedures and compositions of different bodies need to be clarified in the light of the Article 7.2.d of the Convention and the Recommendation No. 2/98 of the Monitoring Group. It certainly needs a clear separation between the reporting, disciplinary and appeal bodies.

At our meeting with the legal adviser to the ISC-ADU, the team was informed that a bill is in progress to introduce the European Convention for the Protection of Human Rights and Fundamental Freedoms into Irish legislation. There could be a legal challenge under Article 6 of the Convention (fair hearing). The review of doping controls rules and regulations for individual sports are foreseen.

The ISC-ADU monitor the NGBs administratively, checking that they comply with the rules and regulations of the international federations and the principles outlined in the letter of authorisation and warranty. Non-compliance may lead to the ISC withdrawing funding from the NGB.

The ISC-ADU (or an independent national anti-doping body) should have a stronger legal basis for its actions. The team was happy to notice that the Irish authorities share their concern for NGBs to move towards a more binding system. This means a more vital involvement by the government in the fight against doping.

The Consultative Team recommends that:

- *the number of out-of-competition tests be increased to 70% of the testing programme within 3 years and more controls be performed in amateur sport;*
- *the ISC-ADU ensure more consistent processing of test results and recruit and train its own DCOs, for a better mastery of the doping control process and quality;*
- *the disciplinary procedures, including doping controls rules and regulations for individual sports, be reviewed in the light of the Article 7.2.d of the Convention and the Recommendation No. 2/98 of the Monitoring Group. A clear separation should be made between the reporting, disciplinary and appeal bodies;*
- *the legal basis for the action of the national anti-doping body be reinforced (cf. Recommendation under point 4).*

7. Laboratory

Ireland does not have a doping control laboratory. During discussion, the Consultative Team suggested that, taking into account the costs of setting up and running of a laboratory and the number of existing laboratories in Europe, it is not essential to set up a laboratory in Ireland.

Access to accredited laboratories in other countries would be more appropriate, as is the practice at present.

8. Education and information

In educational matters a lot of attention is given to the sports organisations, which is very valuable at this phase of development where the NGBs commitment for anti-doping activities is highly necessary. The main target groups for education have been elite athletes, the administration of the NGBs, coaches and also doctors and pharmacists. A list of banned substances is published every year and conferences are organised, especially for athletes and officials from the NGBs.

Education and information programmes and campaigns should include a greater focus on recreational sport, targeting young people in particular.

With regard to research the resources available would be most profitably directed towards the behavioural, social aspects, and health consequences of doping.

9. International cooperation

The ISC has given significant help to anti-doping experts to enable them to participate in important international meetings. Nevertheless ratification of the Convention would give

Ireland more influence internationally, especially with regard to the World Anti-Doping Agency (WADA) activities. Bilateral co-operation with the UK Sports Council and the Australian Sports Drugs Agency (ASDA) has been a force in the building up of the anti-doping system in Ireland, in addition to much general advice and assistance from many other Council of Europe representatives from a wide range of countries. Ireland played an active role in the “Harmonisation and Education Project on Anti-Doping for the Baltic countries and six former-USRR countries”.

Appendix

Programme of the Consultative Visit

Monday 11 June 2001

- Welcome and introductions
- Meeting with ISC-ADU
- Meeting with National Governing Bodies of Sport
 - Athletics Association of Ireland
 - Irish Rugby Football Union
 - Irish Cycling Federation
 - Irish Wheelchair Association
- Discipline and Appeal Panel Seminar

Tuesday 12 June 2001

- Opening meeting with ADU Staff
- Meeting with Dr Conor O'Brien (Anti-Doping Committee Chairman)
- Meeting with Gary Rice, Beauchamps Solicitors (legal advisor to the Irish Sport Council)
- Feedback to ADU
- Meeting with Minister of Tourism, Sport and Recreation Dr James McDaid