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T-DO (2002) 16

Anti-Doping Convention (T-DO)

Opinion of the Monitoring Group on the German Auto-Evaluation Report *adopted at its 16th meeting on 14-15 November 2002*

The Anti-Doping Convention of the Council of Europe entered into force in 1990. In 1998 the Monitoring Group of the Convention decided to establish the Compliance with Commitment project to follow up different countries' development according to the articles of the Convention. For different countries there is a possibility for full evaluation, consultative visits and an auto-evaluation.

The Federal Republic of Germany ratified the Convention by law in 1994. In 2001 the Federal Republic of Germany decided to go through an auto-evaluation process. The purpose of auto-evaluation is to give detailed information to the Monitoring Group on anti-doping activities of the target country and during the process of going through their own system the target countries receive information on the functioning and possibilities of developing their anti-doping activities.

This opinion is only based on the report submitted by the German delegation to the T-DO (which appears in the document T-DO (2001) Inf 10).

Comments on this opinion from the German authorities are included at the appendix.

Article 1 Aim of the Convention

The Federal Republic of Germany has carried out the aim of the Convention by taking an active part in the international discussions and by strengthening the German legislation considering doping in sport. The financial contributions to doping controls and research associated to doping have been increased considerably.

An active international engagement has also been carried out to inform on harmful effects of doping, especially in fitness clubs.

Article 2 Definition and Scope of the Convention

A list of prohibited agents is published every year. Sport in fitness clubs is included in the German anti-doping programme. Considering this matter, it would be helpful to know how the anti-doping work between top sports in Germany and in fitness clubs is divided. Who is responsible for the anti-doping work in top sports and how much financial support is given to it and is it there the same responsibility and financial support in anti-doping work for fitness centres?

Article 3 Domestic co-ordination

At governmental level the anti-doping policy and activities seem well co-ordinated, as they are at local level.

The German Anti-Doping Commission has been set up by the sport federations. According to the ISO/PAS 18873, anti-doping organizations should be independent of the sport federations. This is a difficult requirement considering that on the commission experts of both sports and anti-doping should be included. However, the German Anti-Doping Commission's independence does not arise clearly from the report. It would be important to have more clarification on this issue.

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

A new paragraph on the Pharmaceutical Products Act, together with penal provisions, was given in Germany to make the criminal prosecution authorities and the customs authorities aware and more active in anti-doping work. This supports strongly the legal harmonization in anti-doping within the framework of the Convention.

Sport Federations have a clear responsibility to organize anti-doping work within their framework. The two IOC accredited laboratories are financed by the German Government. Some 8000 in-competition and out-of competition tests of German Olympic and non-Olympic federations are free of charge. Some assistance is also given to finance out-of-competition doping control for the young and upcoming athletes. Also, research initiatives have been supported financially. This is a very substantial support to anti-doping work.

Athletes are not financed by the Government but in any case assistance by the sports federations is denied in cases of doping infractions. This supports directly international anti-doping policy in general.

Bilateral agreements are established for facilitating testing activities with other countries.

Article 5 Laboratories

The situation of the laboratories is at a very high level in Germany. There are, as mentioned, two accredited doping laboratories in the country. They both meet a very high level of

laboratory standardisation. The staff of the laboratory is well qualified and they are well taken care of, with a continuous training programme.

Research projects on detection of doping agents, blood doping and growth hormones have been completed. Additionally, research on effects of doping substances on health and sociological research projects are supported. Results are published in highly regarded magazines.

Article 6 Education

Education campaigns are completed for trainers, in schools, in summer camps and sports clubs. Co-operation with Swiss and Austrian counterparts in adopting the Clean Sports Guide has been established. Sports scientists have also been active in anti-doping education. To further develop the German anti-doping education programme it would be recommended to have a more systematic approach, like analysing the most important target groups, and by means of education create a programme based on the valuable research completed in the country.

Article 7 Co-operation with sports organizations on measures to be taken by them

Anti-doping regulations are well adopted by all sports federations. The list of banned substances is published yearly in the Federal Law Gazette and also in German by the Anti-Doping Commission.

Out-of-competition testing is delegated to the Anti-Doping Commission but in-competition testing is still a responsibility of the sport federations. According to the ISO/PAS 18873, the doping controls should be the responsibility of the anti-doping organization of the country and separate from the organization responsible for imposing sanctions.

In results management, when examining the positive samples, it is recommended to have a separate "medical commission" to decide whether or not the case is one of doping. After that, the case could be forwarded to the federation. The appeal body should also be separate from the federations working as the national arbitration court for sports. Otherwise, sanctions and rules are applied according to international recommendations.

Athletes are encouraged to positively enhance anti-doping work and research is funded to support athlete's healthy training habits.

Article 8 International co-operation

German experts are actively co-operating and taking part in all international work in the fight against doping. At national level, experts of science, sports federations and administration are taking part in the fight against doping. Co-operation with the two German laboratories is supported. The German Anti-Doping Commission aims at transparency by publishing yearly the doping records. The Federal Republic of Germany has been especially active in adopting and enhancing nationally and internationally doping legislation.

As the laboratory work is a very strong point in German anti-doping policy it is recommended in the report that more accredited laboratories should be established in the world and Germany could assist in the establishing process. However, as most of the accredited doping

laboratories are situated in Europe it should be additionally mentioned that new doping laboratories are needed in the parts of the world where so far they do not exist.

Article 9 Provision of information

Germany provides information on its anti-doping activities by replying to the questionnaire of the Database.

Articles 10-15

The work of the Monitoring Group is strongly supported by the way in which the German Government and the German Anti-Doping Commission are fulfilling the requirements of the Anti-Doping Convention.

Summary and conclusions

As the anti-doping policy of the Federal Republic of Germany is already highly developed, it is recommended that they draft a more complete report on all aspects of anti-doping activities in the country and apply for an evaluation visit by the Council of Europe Anti-Doping Convention Monitoring Group. It is also recommended that Germany join the IPT Quality Project to meet the ISO/PAS 18873 standards in the doping control and in this way support the international harmonisation process.

The Federal Republic of Germany stated that it would be pleased to receive an official visit from an Evaluation Team nominated by the Monitoring Group in the coming years.

**Comments of Germany on the Draft Opinion on the German Auto-Evaluation Report
T-DO (2002) 16 prov**

*(transmitted to the Secretariat on 15 November 2002 at the occasion of the
Monitoring Group meeting)*

The additional remarks and recommendations made in the opinion will be answered by the following comments.

Article 2

Definition and Scope of the Convention

The report comments the definition of doping given in the convention.

Regarding the intake of substances on the list of prohibited classes and prohibited methods it was stressed that Germany publishes the list adopted by the Monitoring Group also in a German version in the Federal Law Gazette.

It was explained, that so-called bodybuilders seem to be included in the definition (“c. ‘sportsmen and sportswomen’ means those persons who participate regularly in organized sports activities”).

The question about the responsibility and support of antidoping work was described under article 3 of the German report.

Article 3

Domestic coordination

The anti-doping commission as a body seems to be not fully independent because of its connection with the Federal Sports Association and the National Olympic Committee as described in the report. Nevertheless the members are independent in their work and the decisions will be carried out by the responsible bodies. To achieve full independence, a National Anti-Doping Agency was founded in 2002.

The responsibilities in sport and even in anti-doping matters are widely spread between different governmental authorities and different sports bodies. Therefore the two pillars of anti-doping policy, repressive measures (including controlling and punishing offences) and prevention (including information and education) are spread to a lot of responsibilities. Research is the basis for development and reinforce the capacity of both pillars.

There is also a remarkable difference between the sports organisations, which are in the public interest and have a non-profit-making character and the fitness centers, which are commercial bodies. Even in this field the responsibilities are spread.

Additional financial support can only be given if the work of an organization is in public interest and cannot be financed in another way. Therefore the fitness centres cannot be financially supported by government but sport clubs and sport federations can.

Coordination and possible cooperation with the fitness centres are organised in the field of prevention by the working group on anti-doping of the Ministers for Sports of the "Länder" e.g. with the National Association of Fitness Centres (ADF) and the Association of Vocational Trainers for Fitness Coaches.

Article 6

Education

As mentioned in Art. 3 the responsibilities in prevention are widely spread. It is therefore impossible to dictate an overall prevention policy on anti-doping education. The only way to organise educational measures for all target groups is to coordinate the work of the responsible bodies.

It only seems, that the educational work would not be systematic but the scientific input and the cooperation on high level education makes sure, that everybody who will get informed about anti-doping matters can reach the information he needs. This work should be done in the future by a new funded anti-doping organisation, the National Anti-Doping Agency (NADA).

Article 7

Cooperation with sports organisations on measures to be taken by them

The ISO/PAS 18873 is a draft open for discussion by the members of the International Organisation for Standards. As mentioned in Art. 4 the organisation of the measures in anti-doping will change with the new NADA. The principles of ISO/PAS 18873 will be kept in mind.

Article 8

International cooperation

Germany reported its activities according to assist states in establishing an accredited laboratory. The report includes also the opinion, that more than 26 laboratories cannot work economically regarding worldwide 100 000 samples analyses a year. Therefore establishing of new laboratories needs a reasonable rise of the yearly number of samples by WADA.

Article 9

Provision of information

It was remarked in the report that the information given by Germany was not published correctly in the database because of notifying only one laboratory in the last years.

Summary and conclusions

Regarding to ISO/PAS 18873 the question arises about the liability of this paper. R. Frost, press and communication manager of ISO, reported: "The first drafts are expected to be completed by the second half of 2002."

Germany therefore would like to ask for more information.

Germany is ready to send experts as lecturers to an IPT symposium and supports the tasks of IPT.

For further information of the situation in anti-doping matters you will find enclosed the Anti-Doping chapter of the 10th Sports Report given to the Parliament by the Federal Government. *(CoE NB: not appended here, as the mentioned report is not in English.)*