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Anti-Doping Convention (T-DO)

**“Compliance with Commitments Project »
Respect by Italy
of the Anti-Doping Convention**

Reports by:

- Italy**
- The evaluation team**

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A. Report by Italy

PREFACE

This report consists in a collection of documentation, information and description of the efforts carried out in Italy to fight the spread of the phenomenon of doping in sports.

The assessment of the importance and effectiveness of these efforts is to be carried out by the Evaluation Team charged by the Council of Europe with the task of verifying the fulfilment on the part of Italy of commitments taken on in signing the Anti-Doping Convention.

Italy believes it has made concrete and significant efforts following the ratification of the Convention which occurred formally in February 1996.

We trust that these efforts will be judged to be positive although we are fully aware that in order to overcome this scourge, it cannot be enough simply to abide by the guidelines of the Convention, but that it is necessary to co-operate with other parties in order to permit that the Convention itself, in a dialectical process that reflects the evolution of doping, succeeds in adapting the necessary measures to protect sports and athletes from unlawful attempts and temptations.

INTRODUCTION

The Problem

It is difficult to establish an indicative date for the origin of the problems of doping in sports, but it can be affirmed that the need to adopt measures to protect the health of top-level athletes was already felt immediately after the war.

Law no. 1055 approved on December 28, 1950 is to be considered in this light.

The first case of doping which made a deep impression on Italian public opinion occurred during the Rome Olympics when a cyclist participating in the time trials in the street lost his life. It was during the Rome Olympics that the anti-doping Laboratory of Rome began to operate on an experimental basis. Two years later, it was operating on regular basis, carrying out anti-doping analyses in sports activities both on the national and international level.

The Italian experience can thus boast a 40-year history: it has, however, been a difficult and controversial experience, for the increasing sophistication of tools of detection has never succeeded in discouraging those seeking easy achievements and easy money. Thus, despite the profusion of efforts, the battle in Italy, as in the rest of the world, is far from over.

The issue of doping has been, and indeed still is, central to modern sports. Since the advent of the first anti-doping schemes in the mid-1960s up until the present day, the problems linked to doping in sport have increased at an accelerating rate (Tjornhom. 1997:20-23). As the use of doping agents and methods in sports has grown and spread, more and more people have become aware of the need to tackle this problem. In the same way that sport is in its very essence international, so must also problems that arise in connection with sport be resolved by means of international commitments. This report has been written, as with the evaluation of the efforts to combat doping in Norway in the light of the Council of Europe's Anti-Doping Convention.

The Council of Europe's commitment to anti-doping campaigns is rooted in the common understanding shared by its members that doping in sport poses a threat to the fundamental essence of sport. The Council of Europe has been involved in anti-doping work since 1967. The basis of its commitment can be recognised in the following quotations from the preamble to the Anti-Doping Convention: *Sport should play an important role in the protection of health, in moral and physical education and in promoting international understanding.* The Convention elaborates further on the concern that the continuously increasing abuse of doping agents and methods entails consequences with regard to both health and ethics for the future of sport as a mainstay in our cultural heritage. The Anti-Doping Convention also claims:

that public authorities and the sports organisations have complementary responsibilities to combat doping in sport, notably to ensure the proper conduct, on the basis of the principles of fair play, of sports events and to protect the health of those that take part in them.

The Council of Europe's Anti-Doping Convention is a manifestation of the responsibility that rests on the public authorities and the voluntary sports organisations in the efforts to eliminate doping.

The focus on doping towards the end of the 1970s resulted in the first public statements acknowledging that this was a serious problem that had to be dealt with. At the Second Conference of European Ministers Responsible for Sport, held in London in 1978, doping was discussed at great length and in great detail, and a resolution was passed under the title: *Ethical and human problems in sport.*

This was the first time that the desire and the need to co-operate and harmonise anti-doping efforts across national boundaries was expressed. It was not until 1989 however, that the Council of Europe was able to present an anti-doping convention that was acceptable to the member states and non-member countries that wished to co-operate on this matter. Norway approved the convention, and the Minister of Foreign Affairs, Mr Kjell M. Bondevik, signed the agreement in November 1989.

In 1997, the Council of Europe Committee for the Development of Sport (CDDS) launched its project "Compliance with Commitments", which was in connection with the Committee of Ministers' decision to evaluate the extent to which the various member states have followed up agreements concluded under the auspices of the Council of Europe.

Italy has agreed to submit to an assessment of the measures it has adopted to comply with the guidelines of the Convention of the Council of Europe.

On the other hand, the Italian representatives succeeding one another in the various meetings have always sustained the imperative need for anti-doping measures adopted in the various countries and by the Sports Organisations on the international and national levels to be applied in a uniform and harmonious manner.

The assessment thus becomes Italy's contribution in determining the way in which the Anti-Doping Convention of the Council of Europe can bring about the hoped-for global project to overcome this scourge.

The Mission

CONI agreed to submit to an inspection under the "*Compliance with Commitments*" Project in 1998 in the belief that appropriate measures had already been adopted to bring anti-doping activities on the national level in line with the measures set out in the Anti-doping Convention of the Council of Europe.

In that same year, three events occurred which led the Government to request a deferment of the deadline established for the writing of the National Report. The request was made on two subsequent occasions.

These events were the following: on the one hand, there were problems arising from anti-doping checks carried out in football which were harshly criticised and led CONI to review all the technical activity related to the operations of the Anti-doping Laboratory; while on the other hand there was the Government's decision to effect a complete re-organisation of the operational structure of the National Italian Olympic Committee, assigning it specific tasks in the prevention and suppression of doping which until that time had not been foreseen. At the same time, the Italian Parliament was assessing as many as five bills against doping which were to be unified in order to be presented in a single bill which might be acceptable to all the various political factions in Parliament.

It would thus have been untimely to submit for the perusal of the members of the Group of Examiners a Report which would likely not have been up-to-date because of the rapid and continual changes occurring in the regulations. The amendment decree of CONI's statute was approved by the Government in July 1999 and it was not until the end of 2000 that the process was concluded with the final approval of CONI's new revised Statute.

Law no. 376 on doping of December 14, 2000 concluded its enactment process with final approval and publication in the Gazzetta Ufficiale dello Stato on December 18, 2000, coming into effect on 2/1/2001.

Well aware of the need to be nevertheless prompt in the completion of preliminary activities of national concern, the departments of the Ministero per i Beni e le Attività Culturali responsible for sports requested and held two meetings with CONI officials having responsibilities in this area on February 22 and March 22, 2000.

It may be useful at this point to mention that the Government, continuing its vigilant efforts in monitoring the phenomenon of doping, had in 1971 already enacted a law on the protection of health in sports activities and on the campaign against doping which was submitted to the Conference of European Sports Ministers held in London in 1978. This law, however, never went into operation both because the national health structure was unsuited to tasks and functions which were not strictly medical and because the measures to be carried out were unsatisfactorily described.

Moreover, CONI, which in Italy is a state-controlled body, has always been active in urging sports Federations to take concrete initiatives in the fight against doping with the provisions established in the international regulations.

CONI's public nature therefore permits the Government to supervise the initiatives carried out by this organisation and to confer legal status on its anti-doping regulations. And thus it is in relation to this same public nature of CONI and the Ministry that the collaboration created for the preparation of this Report must be perceived. In the month of January 2001 the attorney Lina Musumarra was assigned the task of drawing up the national report on doping, as an independent expert. Having appointed the independent expert, the Ministero per i Beni e le Attività Culturali, asked for CONI's full co-operation.

Methodology and the gathering of data

The purpose of this report is to permit the Group of Examiners to understand and assess the current national situation as it exists now, described by an expert who while being independent is nevertheless familiar with the culture and way of life of her own country.

The individual articles of the Agreement have therefore been perceived as the titles of short compositions for the purpose of describing the Italian situation without including any additional comment.

Since there was no intention of conferring a scientific character on the paper, the description of the facts and the information provided did not undergo any kind of scientific process. The information, documents and facts are presented as they are and as they appear within the national experience.

In fact, it was decided that a selection or processing of data, while being valid on the scientific level, might have however altered the actual situation with the natural tendency to interpret the data in the most favourable light in order to make a good impression. The references for what is described in the report are taken directly from documentation of a bibliographical nature as well as official public documents.

Only for the description of operational procedures have interviews been resorted to with top-level officials in the pertinent areas.

We refer here, for example, to the procedures related in a technical sense to anti-doping tests starting with the taking of a sample of body fluid and ending with the completion of laboratory analyses.

Italian measures against doping up to the ratification of the Anti-doping Convention of the Council of Europe

As has previously been pointed out, in Italy CONI is a state-controlled public body and not a private association.

The rules and regulations it establishes as guidelines for the activities carried out by the various National Sports Federations are approved by the Government, which supervises CONI, and are therefore of a governmental nature.

For this reason, in the chronological evolution of the measures adopted in the fight against doping, no distinction will be made between Parliament, the Government and CONI.

We have already pointed out that Italy's concern for the problems related to the protection of the health of athletes goes back to the immediate post-war period.

In actual fact, a Federation of Sports Medicine was set up as far back as 1929 when there was an attempt to make a medical check-up establishing fitness for athletes in top-level competition obligatory.

This Federation was officially recognised by CONI in February 1930.

In 1945, with CONI's re-organisation, the Federation was included among those which comprised CONI - Federazione delle Federazioni Sportive (Federation of Sports Federations) - and took on the present name of Federazione Medico Sportiva Italiana (Italian Federation of Sports Medicine).

Following the above-mentioned Law 1055/50, the most significant legal initiative carried out by Parliament occurred in 1971 with the approval of Law 1099 regarding the revision of responsibilities related to health safeguards in sports activities and introducing into the legal system the concept of the crime of doping and its regulation and sanctions.

The law-maker's decision is linked to the concern for a widespread phenomenon which was no longer covert but which as we have already indicated deeply disturbed Italian public opinion during the Olympic Games held in Rome in 1960.

The Anti-doping Laboratory of Rome, established by the Italian Federation of Sports Medicine, had started operations as far back as 1960, even though 1962 is indicated as the date for the start of systematic anti-doping analyses.

The regulations with regard to anti-doping contained in Law 1099 did not succeed in fulfilling the tasks entrusted to it, even though in 1975 the list of prohibited substances established by a Decree on the part of the Ministry of Health was published in the Gazzetta Ufficiale dello Stato of 29/9/1975, no. 259.

Basically, the law provided for the concrete co-operation of the Italian Federation of Sports Medicine in carrying out measures for health safeguards in sports activities and the training of sports physicians and massagers.

Since the law did not limit activities regarding anti-doping inspections carried out by CONI and the Italian Federation of Sports Medicine, its non-application had no effect on anti-doping inspections carried out by the Sports Organisations in accordance with the guidelines provided by the International Olympic Committee and other international bodies.

A kind of connection between the Recommendations of the Council of Europe and the measures adopted in Italy in this field can be perceived as far back as the 1970s. In the 1970s and 1980s, the Sports Federations, aware of the problem, on their own initiative too on responsibility for anti-doping inspections and this activity was carried out in a more or less routine manner until 1998 when the Johnson case exploded.

We must emphasise, however, that even before this time, with the presentation of a number of bills on anti-doping in the Italian Parliament, a lively debate had been started on the subject which gave rise to a study and the creation of a National Fund for anti-doping initiatives.

In 1988, after the adoption of many other measures, CONI issued a directive to all the National Sports Federations with the purpose of bringing all the various federal regulations related to prohibited substances and sports sanctions into line with those of the International Olympic Committee. In 1989 the Italian Parliament approved Law no. 401 designed to legally penalise sports fraud. This law over time was to be used to sanction crimes related to doping, albeit in a controversial manner.

Believing the simple directive issued to the Federations telling them to bring their anti-doping regulations into line with international norms to be insufficient, in 1993 CONI decided to create a centralised structure, and thus a supra-federal body, with the task of preventing and suppressing the use of prohibited substances.

Two Commissions were formed as a result: A Scientific Commission on Anti-doping and a Study Commission on Doping.

Even with subsequent changes in the name, structure and procedures of the Commissions, CONI, under the supervision of the Government, worked towards the standardisation of the regulations and sanctions for the fight against doping both on the national level and in relation to the dispositions of the International Olympic Committee.

It is useful at this point to recall that CONI was required by a Decree of the President of the Republic in 1986 to bring its own activities in sports management into compliance with the guidelines of the International Olympic Committee. Among the measures proposed in the period up to 1995, one of the most significant was the surprise inspections provided for by a CONI Commission in addition to those already provided for by the National Sports Federations. In 1994 the total annual number of routine and surprise controls exceeded 10,000.

In national anti-doping activities, the Federations were being increasingly obliged to apply the regulations foreseen by the International Olympic Committee, separating their responsibility in this area from that of the International Federations.

A different interpretation of the directives of the International Olympic Committee had in fact created a conflicting situation with the International Cycling Union with regard to the applicability of a sanction to an Italian cyclist who had tested positive in an international race held in Italy.

The Sports Arbitration Court, requested to intervene in order to settle the disagreement, had expressed the opinion that all events involving the international participation of athletes should be held with the application of all the Rules established by the International Federation.

On the other hand, domestic regulations established by a national Anti-doping Authority could be applied to all sports events on the national calendar. In 1995, CONI went ahead with a further and more incisive restructuring of the central Organisms responsible for the fight against doping. An Office for the Centralised Co-ordination of Anti-doping Activities was created and more particularly an Office for Anti-doping Investigations was established with precisely defined and specific investigative tasks.

All disciplinary procedures were revised to bring them into line with the principles contained in the Council of Europe Convention:

1. the investigative party is distinct from the requesting party;
2. the process is fair and equal, with the safeguarding of the principle of cross-examination and the right of the interested party to representation and assistance before the Sports Justice Organ;
3. disciplinary provisions are incontestable before second-instance Organs;
4. an Investigative Commission has the following responsibilities:
 - a) assessment of requests made by the Office for Anti-doping Investigations for bringing a charge against the parties under investigation and the non-suit of the anti-doping procedure;
 - b) prevention and consulting services;
5. the Office for Anti-doping Investigations has exclusive responsibility for the investigation of the facts in anti-doping cases;
6. the procedures for carrying out anti-doping inspections are regulated on an analytical basis.

In 1995 as well, after signing the Convention on 16/11/1989, Italy concluded the subsequent procedures entrusting the task to the Ministry of Foreign Affairs. The November 29 1995 Law, no. 522 - "Ratification and execution of the Anti-doping Convention, with appendix, made in Strasbourg November 16, 1989" - authorised the President of the Republic to ratify the Agreement itself.

On February 12 1996, continuing the connection between the national and international situations, Italy ratified the **Anti-doping Convention** (promoted by the Council of Europe).

Anti-doping measures following ratification of the Council of Europe Convention

Since 1996 a number of bills have been presented in Parliament to introduce more up-to-date anti-doping regulations into the current system.

It should be pointed out, however, that there had already been an attempt to approve a new anti-doping law in the late 1980s.

The attempt was not successful due to an early dissolution of the Houses of Parliament.

In 1997, the Senate Health and Hygiene Commission examined five anti-doping bills at the same time and a Committee was created with the precise and specific aim of achieving a standard and uniform text.

After a long parliamentary process, the law was approved on 14/12/2000, no. 376, and came into effect on 2/1/2001.

In early 1997, CONI further improved its own Anti-doping Regulation which the national Federations were then enjoined to adopt.

A provision was included governing cases in which the Federations had failed within 90 days to accept the Regulations established by CONI and approved by the Government, to the effect that the same applications would nevertheless be applied to all affiliates of the Federation in question.

With regard to CONI, a complete overhaul of the regulatory system was carried out, proceeding as well to the re-constitution of all the Organs operating in the sector.

These included:

- Central Co-ordinating Office for Anti-doping Activities
- Commission for Surprise Controls
- Office for Anti-doping Investigations
- Investigative Commission on Doping

In the year 1997 CONI also approved the launching of the *“Io non rischio la salute!”* (*“I am not going to put my health at risk!”*) campaign.

The Campaign was proposed by the Scientific Commission on Anti-doping, but in order to permit its going into effect it was limited to a check of the state of the athlete’s health by measuring the haematic parameters which can be dangerously altered through the abuse of EPO.

Since it is not possible to distinguish through lab tests synthetic EPO from natural EPO, it is not possible to have unquestionable proof of doping practice, so that the athlete in these cases is suspended from any sports activity as a precautionary measure and can return to activity only when the haematic parameters return to normal.

The dissuasive activities carried out under the Campaign achieved favourable results since in 2000 before the Olympic Games not one of the about 1500 athletes tested presented haematic parameters outside the normal range.

Currently, the country is involved in the application of the provisions in the new Anti-doping Law which provides for a Committee, within the Ministry of Health, with the task of arranging for anti-doping inspections in addition to the planning and supervision of national anti-doping activities.

The approval of the Law does not constitute an impediment to anti-doping inspections effected by CONI and by the National Sports Federations which, since 2001, have continued with a different strategy.

In fact, in the belief that the more than 10,000 annual controls carried out for the most part on a routine basis during competitions is rather high, the sports organisation felt that the controls could be reduced with the contemporaneous and considerable increase in the number of surprise controls or of those carried out in periods when the athlete is not competing.

The reduction in the number of inspections, resorting on the other hand to surprise controls or to controls effected in periods of non-competition, on the one hand permits quality improvement of the controls themselves and on the other makes it possible to designate any financial resources which may have been saved in the process to activities of information and prevention.

PROBLEMS AND ISSUES

Anti-doping controls

In 1998, the Scientific Director of the Anti-doping Laboratory of Rome, questioned by a Public Prosecutor who was investigating the possible abuse of drugs in the world of football, declared that anabolic steroids were not tested for in all the controls carried out.

Laboratory officials believed in fact that statistically the incidence of anabolic steroid use was of small significance and as a result an absolutely random criterion was adopted with complete testing being carried out in only 30% of the checks effected in football.

Not only public opinion but the sports world itself was caught by surprise by this statement. As a result, the managing bodies of the Italian Federation of Sports Medicine were dissolved and replaced by a Commission which dismissed the staff of the Laboratory, which had in the meantime also been deprived of its IOC accreditation, and, under pressure from public opinion, the President of the Olympic Committee resigned as well. An administrative investigation carried out immediately by the Italian government accused CONI of not having duly supervised the activity of the Laboratory. The Italian Courts also intervened in the matter, but after carrying out the necessary investigation the Public Prosecutor of Rome did not pursue the case not having determined on the basis of the elements under scrutiny that a punishable crime had been committed. The Laboratory was thus reconstituted and entrusted to a new team of scientific and technical personnel.

Due consideration, however, must be given to the fact that the controls carried out annually in football total about 5000 on average and that of these about 1500 (according to statements made by Laboratory officials) until 1998 underwent complete testing.

None of the athletes, however, could know whether he would be subjected to complete or partial testing. In actual fact, no-one imagined that only partial tests might be carried out until the news came out. Even though the Anti-doping Laboratory of Rome had been closed, the controls continued and the tests were carried out by Laboratories accredited by the IOC: in Barcelona, Poland, Kreischa and Lausanne.

The rate positive test results from 1996 to 2000 in football only are shown in the following table:

FOOTBALL

1996	1997	1998	1999	2000
1	2	7	19	17

The marked increase in the number of positive tests from 1998 is partly due to the fact that starting in that year positive results in tests for cannabis-based agents were also taken into consideration.

The Growth Hormone

During the year 2000 CONI authorised the Scientific Commission for Anti-doping to carry out, in conjunction with the "*Io non rischio la salute!*" Campaign, a study to determine the possibility of defining haematic parameters which would permit an assessment of the risks involved for the health of athletes making use of the prohibited growth hormone.

The problem in this case was a different one compared to that which had already been resolved with regard to EPO.

If in fact the prohibited substance cannot be detected by means of laboratory tests, in the case of EPO there is most certainly an alteration of some haematic parameters, the hematocrit reading in particular, whose base value, while varying from one individual to another, is sufficiently constant over time and at any rate reappears in a well-defined range of values. The hGH on the other hand is produced by the body in a so-called pulsatile manner and can present values that are apparently anomalous. The study authorised by CONI provided that along with the hGH an additional 10 haematic parameters would be taken into consideration, the measurement of which could better clarify the condition of each individual athlete. The Anti-doping Scientific Committee began to gather some information, during the "*Io non rischio la salute!*" campaign, concerning primarily the hGH, but including some of the other parameters on an apparently random basis. The preliminary data collected as a result do not present any scientific significance.

About 60 athletes of the more than 500 tested presented highs only for the hGH value due undoubtedly to the pulsatile manner in which the hormone is produced without there being any altered collateral parameter that would lead to the suspicion that use had been made of the prohibited hGH.

Unfortunately, a journalist gained access to the information, although it was protected under the privacy of personal information law, and it was given great prominence by an important Italian daily which suggested that five athletes who had won Olympic medals at the Sydney Games had resorted to doping.

A week later the *Gazzetta dello Sport*, a sports daily belonging to the publisher of the paper that had carried the news, announced, with reference to documentation provided by CONI's Anti-doping Commission, that the news item had been nothing more than a hoax.

A report on the incident was submitted to the Monitoring Group of the Council of Europe in November 2000.

The Medical Commission of the International Olympic Committee was informed as well. Every clarification was provided to the World Anti-doping Agency.

A complaint was lodged with the penal law authorities with regard to the violations related to the law on the privacy of personal information and an internal administrative investigation was ordered, the results of which have not yet been made public.

COUNCIL OF EUROPE ANTI-DOPING CONVENTION

Art. 1 Aim of the Convention

With a view to the reduction and eventual elimination of doping in sport, the Parties undertake, within the limits of their respective constitutional provisions, to take the steps necessary to apply the provisions of this Convention.

Art. 3 Domestic Co-ordination

- 1. The Parties shall co-ordinate the policies and actions of their governmental departments and other public agencies concerned with combating doping in sport.**
- 2. They shall ensure that there is practical application of this Convention, and in particular that the requirements set out in art. 7 are met, by entrusting, where appropriate, the implementation of some of the provisions of this Convention to a designated governmental or non-governmental sports authority or to a sports organisation.**

Given the alarming spread of the practice of doping in sports not only among professional athletes but also among amateurs and young people who practise sports for personal pleasure, in Italy the matter has been dealt with in various laws. On the national governmental level, under Law no. 1099 of October 26, 1971 on "*Health Safeguards in Sports Activities*" doping is for the first time defined a punishable crime, providing for the punishment by means of a fine (transformed into an administrative sanction *ex lege* no. 689/1981) of both the competing athletes who make use of substances which may be harmful to their health (defined subsequently in a Ministry of Health Decree) with the aim of artificially modifying their natural energies, and of those who administer such substances, as well any person in possession of the substances in question who is found during sports competitions in the areas reserved for the athletes, the competitions or staff.

Art. 1 of Law no. 401 of December 13, 1989 ("*Measures in the games and illegal betting sector to safeguard fair procedures in competitive sports*") introduced into the penal system the crime of "*fraud in sports competitions*", committed by any person who in order to achieve a result different from that obtained in proper and fair competitive procedures commits fraudulent actions with this purpose.

While one current of legal thought holds that the use of a doping substance may be thus included in the criminal case in point on the condition that the substance has the purpose of altering the results of the sports competition, the justice system has tended to be more restrictive, affirming that the position of the active subject of the crime is restricted to those who do not have the subjective qualification of "*participants in sports competitions*".

If the doping agent is included among the narcotic and psychotropic substances indicated in the tables prepared by the Ministry of Health, it is possible to apply Law no. 162 of June 26, 1990 and Presidential Decree no. 309 of October 9, 1990 ("*Collection of laws governing the control of narcotics and psychotropic substances, prevention, cure and rehabilitation of the related states of drug dependency*"), which have introduced sanctions on the administrative or penal level.

Legislative Decree no. 539/1992 as well, implementing EEC directive 92/26, concerning the classification for the provision of medicines for human use, sets out penal and administrative sanctions for those who furnish prohibited drugs to athletes.

The laws in question do not yet permit, however, their effective application in doping cases, restricting themselves to the punishment of the athlete, while it is necessary to pursue all those who share responsibility in doping, given the increasingly profitable business activity carried on around this phenomenon.

For this reason, since 1998 the Italian Parliament has presented various bills, among which mention should be made of Law no. 1222 of September 14, 1994 entitled “*Rules and regulations for the fight against doping and the safeguarding of health in sports activities*”, which defines doping as a crime and in addition to sports sanctions sets a fine for athletes testing positive, providing moreover that doping cases are to be reported to the legal authorities and that those sharing responsibility, physicians, pharmacists and any person who furnishes prohibited substances, even free of charge, to the athletes be pursued and punished.

This bill was followed by others which were then brought together in one bill on “*Rules and regulations related to health safeguards in sports activities and the fight against doping*” presented in September 1998.

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

- 1. The Parties shall adopt, where appropriate, legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.**
- 2. To this end, the Parties or, where appropriate, the relevant non-governmental organisations shall make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.**
- 3. Furthermore, the Parties shall:**
 - a) assist their sports organisations to finance doping controls and analyses, either by direct subsidies or grants, or by recognising the costs of such controls and analyses when determining the overall subsidies or grants to be awarded to those organisations;**
 - b) take appropriate steps to withhold the grant of subsidies from public funds, for training purposes, to individual sportsmen and sportswomen who have been suspended following a doping offence in sport, during the period of their suspension;**
 - c) encourage and, where appropriate, facilitate the carrying out by their sports organisations of the doping controls required by the competent international sports organisations whether during or outside competitions; and**
 - d) encourage and facilitate the negotiation by sports organisations of agreements permitting their members to be tested by duly authorised doping control teams in other countries.**
- 4. Parties reserve the right to adopt anti-doping regulations and to organise doping controls on their own initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.**

With Law no. 522 of November 1995, the President of the Republic was authorised to ratify the Anti-doping Convention of November 16, 1989 and this act was finalised on February 12, 1996. In this way a comprehensive set of rules and regulations dealing with the use of pharmaceutical chemical substances designed to improve performance in sports, was incorporated into the internal legal system. This constituted an attempt to overcome the fragmentary nature of the legislation

dealing with the matter in question making provision for suitable measures to fight the phenomenon of doping in a comprehensive manner.

The decisions that have already been taken with great dedication in the field of sports regulation, through the establishment of suitable regulating tools for the detection and suppression of doping, have been confirmed on the national level, establishing a close relationship in pursuing a common objective. In particular, there is recognition of the connection between the safeguarding of correct behaviour in sports performance, under the profile of the psycho-physical integrity of the athlete, and the more general principles of the safeguarding of health and moral instruction, guaranteed as fundamental rights of the individual in articles 32 and 33 of the Constitution. Under “*internal co-ordination*” falls as well Legislative Decree no. 242 of July 23, 1999 concerning the reorganisation of CONI, which in art. 2 establishes that the public body “*shall be responsible within the field of sports regulations for the adoption of measures for the prevention and suppression of substances that alter the natural physical performance of athletes in sports activities*”.

The Italian legislator thus intervened recently with Law no. 376 of December 14, 2000 (effective January 2, 2001) concerning “*Rules and regulations for health safeguards in sports activities and the fight against doping*” which contributes to re-ordering the subject matter, including innovations with respect to the preceding Law no. 1099/71 on the issue of doping itself, while the regulation contained in this law and in the related decrees of the Ministry of Health on the eligibility for the various competitive sports activities remains the same.

The entire question of doping is thus re-defined, starting with the definition of the purpose of sports activities according to the principles set out in article 32 of the Constitution: “*the promotion of health for the individual and society*”. The notion of doping however is not linked to the albeit potential harm caused by any application of techniques, methodologies or substances which can be equated with the “*administration of drugs or biologically or pharmacologically active substances and the adoption or subjection to medical practices which are not justified by pathological conditions and are designed to modify the psychophysical or biological conditions of the human organism in order to improve the competitive performance of athletes*”.

Doping is also equated with the so-called pharmacological, chemical and physical manipulation, which consists in the use of substances and methods which alter or seek to alter, the integrity and validity of urine samples used in anti-doping tests (art. 1, paragraph 3). In keeping with the main purpose of safeguarding the health of the athlete is the provision for permitting the latter to undergo a specific treatment, which may or may not be pharmacological, in “*the presence of pathological conditions*”, on the condition that these are substantiated (art. 1, paragraph 4). The need for therapeutic treatment permitting the athlete to participate in sports competitions is nevertheless subject to “*the respect for sports regulations*”, considering, as is well-known, that the IOC medical code, to which most of the national and international sports federations subscribe, is rather strict with regard to the admissibility of the therapeutic use of normally prohibited substances.

The need for a close link between the regulatory autonomy of individual countries and that of international organisations appears as well in reference to art. 2 concerning the classification of doping substances. The Ministry of Health will in fact be subject to respect the classificatory regulations contained in the Strasbourg Agreement, as well as the indications of the IOC and the international organisations responsible for the sports sector (this is the case of the World Anti-doping Agency). Various tasks are assigned to the Commission for the supervision and control of doping and for health safeguards in sports activities (articles 3-4), at the same time respecting the jurisdictions of the Regions, which, within the regional health plans, carry out planning functions with regard to prevention efforts and health safeguards in sports activities, co-ordinating as well the activities of the laboratories used for testing in sports activities on the local level (art. 5).

Article 6 of law 376/2000 provides for the adjustment of the regulations of sports organisations in compliance with the provisions contained therein.

Article 7 provides rules to be adopted for drugs containing doping substances.

Article 9 re-introduces penal provisions into the Italian legal system, in view of the fact that those established under articles 3 and 4 of law no. 1099/71 had been made non-punishable.

The crime can be attributed above all to “*whosoever procures for others, administers, assumes or at any rate encourages the use of drugs or substances*”, in other words, “*whosoever adopts or undergoes medical practices*”, going back to the definition of doping introduced by the law in question. In such a case the punishment is imprisonment for a period of from three months to three years, along with a fine of 5 to 100 million lire, “*unless the fact constitutes a more serious crime*” (such as involuntary manslaughter).

An independent assumption of wrongdoing, of particular importance in a comparison with the existing laws of other countries, can be applied in the case of the sale of drugs outside the traditional channels such as pharmacies, including hospital pharmacies, dispensaries open to the public and other structures which directly handle drugs. In such a case the punishment is a 2 to 6-year prison term and a 10 to 150 million lire fine (paragraph 9). It is clearly evident that with Law no. 376/2000 the Italian government has begun a process involving the direct assumption of responsibility in carrying out functions of directing and controlling activities against doping, as well as the assignment of tasks with regard to health safeguards, without however in the meantime limiting so-called “*sports autonomy*”. An attempt has been made rather to “*up-date*” the principles contained in article 32 of the Constitution, providing for the adoption of tools which are more in keeping with actual social conditions.

The law provides for funding of 516,500 euros for the operation of the anti-doping Laboratory and of 1,033,000 euros for the operation and activities of the National Anti-doping Commission.

It is not possible at this time to provide further information with regard to how the Commission will decide to use the funds made available to it.

The expenses of the sports organisation are however well-known: in the year 2000, CONI and the National Sports Federation spent a total of more than 7,500,000 euros.

Amounts in euros	1998	2000
Samples	335,697	413,166
Laboratory Rome	1,807,599	1,807,599
Laboratories abroad		1,084,559
Education and Information	103,291	103,291
Research	516,457	516,457
Legal activities and legal studies	258,228	258,228
Administrative costs	1,032,914	1,032,914
Staff CONI/NSF (about 50 employees)	1,807,599	2,324,056
Totals	5,861,786	7,540,271

The division of costs incurred in the fight against doping accords with the system used by the Monitoring Group of the Anti-Doping Convention for its annual database. A comparison is made between 1998, the year in which the Anti-doping Laboratory in Rome was re-organised, and 2000.

Art. 5 Laboratories

1. Each Party undertakes:

- a. either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the Monitoring Group under the terms of Article 11.1.b;**
- b. or to assist its sports organisations to gain access to such a laboratory on the territory of another Party.**

2. These laboratories shall be encouraged to:

- a. take appropriate action to employ and retain, train and retrain qualified staff;**
- b. undertake appropriate programmes of research and development into doping agents and methods used, or thought to be used, for the purposes of doping in sport and into analytical biochemistry and pharmacology with a view to obtaining a better understanding of the effects of various substances upon the human body and their consequences for athletic performance;**
- c. publish and circulate promptly new data from their research.**

In Italy, there are two Anti-doping Laboratories, the Rome Laboratory accredited by the IOC and the Florence Laboratory, which also belongs to the Italian Sports Medicine Federation.

The latter Laboratory carries out anti-doping analyses with regard to controls on the amateur level or to those categories that are not subject to IOC regulations.

For the purposes of the activities which interest this report reference need be made only to the Rome Laboratory.

Although it was created on the initiative of the Italian Sports Medicine Federation which includes among its functions the fight against doping and the management of the Laboratories, the Laboratory itself is characterised by its own autonomy under the technical and scientific profile.

In fact, the Anti-doping Laboratories are more properly chemical rather than biological laboratories and therefore their functions do not properly correspond to the knowledge and activity of a physician specialised in sports medicine.

Even before the closing of the Laboratory, the Scientific Director of the Laboratory was a professor of chemistry at the University of Rome.

The re-formation of the Laboratory was entrusted to a graduate in chemistry and pharmacy, who was also an expert on anti-doping having already a member of CONI's anti-doping Office for Anti-doping Investigations.

The tasks assigned to the new director of the Anti-doping Laboratory were the following:

1. To reconstitute the staff, following the period created as a result of the change in management which occurred along with the suspension of IOC accreditation,

2. To resolve the violations discovered with regard to safety and hygiene in the workplace, and meet all the legal requirements governing the possession and use of narcotic substances for scientific purposes;
3. To improve the interior space of the Laboratory and to re-organise the activities carried out therein, giving priority consideration to the requirements imposed by the chain of custody of the samples, and contemporaneously, to bring the Laboratory back to its full analytical potential, with the initial aim of passing the first-level re-accreditation tests (effected in the first week of March 1999 in the presence of the Secretary of the IOC Bio-chemical and Doping Sub-Commission, Prof. Jordi Segura, and of gaining full re-accreditation (taking place October 18-24, 1999), without however neglecting its indispensable research activity;
4. To bring about the modernisation and integration of the analytical instrumentation, required to make it possible to carry out complete tests ensuring quality control on all the samples received by the Laboratory;
5. to establish a complete management and quality control programme with the aim of obtaining certification in accordance with the internationally recognised ISO regulations.

The mission is to be judged successful considering the fact that since the early months of 2000 the IOC again conferred complete accreditation to the Rome Laboratory while procedures to obtain ISO recognition are currently underway.

The new Anti-doping Law devotes a specific article to the Laboratories responsible for health tests for sports activities.

The most significant aspect provided for by art. 4 of the Law is that the Anti-doping Laboratories be subjected to supervision by the Istituto Superiore di Sanità, the scientific body of the government which works alongside the Ministry of Health, and that any form of supervision on the part of the sports Organisation be removed.

Another aspect of particular importance concerns the creation of Anti-doping Laboratories throughout the national territory, which would have to intervene in all those activities which fall outside traditional sports (body-building gyms, etc.) and which make up a flourishing market that is particularly well-organised for the sale of substances prohibited in conventional sports.

The Italian Law confirms the directive of the Convention according to which national Anti-doping Laboratories must be capable of obtaining accreditation from the competent International Sports Organisations. It seems that the experience of the Italian Sports Medicine Federation in the entire process of Anti-doping tests from the taking of a sample to the second verification analysis is at this point in time irreplaceable. This is true above all with regard to the availability of almost 900 doctors trained in the correct procedure for taking a sample for anti-doping tests. Thirty per cent of the financial resources of the activities provided for under the Anti-doping Law are designated for the work of the accredited Laboratories.

With regard to what is more specifically expressed in article 5 of the Convention, we may briefly respond in the following way:

In Italy there is at least one Anti-doping Laboratory accredited by the IOC, which is subject to supervision by a governmental Organ that has no involvement in the sports field.

Sports Organisations have the right of access to the Laboratory sustaining the costs with assistance from CONI which covers part of the general costs. The Laboratory has a highly qualified staff specifically trained to carry out the specific functions of the Laboratory. The Laboratory carries out, with all the necessary confidentiality, appropriate research programmes in collaboration with similar Laboratories accredited by the IOC. The research results are validated and made use of by the Medical Commission of the IOC.

Art. 6 Education

- 1. The Parties undertake to devise and implement, where appropriate in co-operation with the sports organisations concerned and the mass media, educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport. Such programmes and campaigns shall be directed at both young people in schools and sports clubs and their parents, and at adult sportsmen and sportswomen, sports officials, coaches and trainers. For those involved in medicine, such educational programmes will emphasise respect for medical ethics.**
- 2. The Parties undertake to encourage and promote research, in co-operation with the regional, national and international sports organisations concerned, into ways and means of devising scientifically-based physiological and psychological training programmes that respect the integrity of the human person.**

With regard to information campaigns on the health risks incurred by doping, we can mention the recent initiative (February 25, 2001) launched by Italy (Ministry of Culture and the Information and Publications Department of the Prime Minister's Office) with the support of the European Union.

The European Commission has financed the translation and adaptation into French, Greek and Portuguese of a commercial with the slogan "*Nothing can sully sports if sports are clean*", which had already been launched in Italy, and its subsequent broadcasting on the main television networks in Italy, France, Greece, Luxembourg and Portugal.

Moreover, within the framework of the public-awareness campaigns promoted by local bodies as well, mention might be made of the initiative presented in September 2000 by the City of Rome in collaboration with the Ministry of Education with the slogan, "*If you've got sports in your blood, don't add anything else*".

The campaign was carried out in two phases: the first involved training for personnel, physical education teachers and health referral staff in the educational institutions of the City and Province of Rome.

The second provided for the creation of workshops and seminars with the aim of producing a book to be distributed in the school.

Another recent initiative addressed primarily to the schools was promoted by the Ministry of Education, along with the Provveditorato agli Studi di Massa Carrara, CONI and the "*L. Einaudi*" Secondary School in Carrara. This involved a project for the training of physical education instructors called "*Prevention of Doping Among Students*", which provided for a series of didactic packages presented during the six-day training session (March 19-24, 2001).

Finally, with regard to information campaigns we wish to mention both those promoted by amateur sports associations, based on the distribution of informational brochures on the phenomenon of

doping and meetings and debates with experts in the field and top-level sports champions, and those launched on the initiative of Sports Promotion Bodies.

More particularly, in September 2000 the Unione Italiana Sport per Tutti (UISP, Italian Sports for All Union) presented the "*Dracula Doesn't Drink Doping*" project, which provides for the organisation of a public-awareness campaign both in Europe and beyond, and the production of material for young people (15-25 years) on the issues involved in the phenomenon of doping in amateur sports, by means of an innovative communicative methodology, which actively involves the young people themselves in the creation and distribution of the informational material among their peers.

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

- 1. The Parties undertake to encourage their sports organisations and through them the international sports organisations to formulate and apply all appropriate measures, falling within their competence, against doping in sport.**
- 2. To this end, they shall encourage their sports organisations to clarify and harmonise their respective rights, obligations and duties, in particular by harmonising their:**
 - a. anti-doping regulations on the basis of the regulations agreed by the relevant international sports organisations;**
 - b. lists of banned pharmacological classes of doping agents and banned doping methods, on the basis of the lists agreed by the relevant international sports organisations;**
 - c. doping control procedures;**
 - d. disciplinary procedures, applying agreed international principles of natural justice and ensuring respect for the fundamental rights of suspected sportsmen and sportswomen; these principles will include:**
 - (i) the reporting and disciplinary bodies to be distinct from one another;**
 - (ii) the right of such persons to a fair hearing and to be assisted or represented;**
 - (iii) clear and enforceable provisions for appealing against any judgement made;**
 - e. procedures for the imposition of effective penalties for officials, doctors, veterinary doctors, coaches, physiotherapists and other officials or accessories associated with infringements of the anti-doping regulations by sportsmen and sportswomen;**
 - f. procedures for the mutual recognition of suspensions and other penalties imposed by other sports organisations in the same or other countries.**
- 3. Moreover, the Parties shall encourage their sports organisations:**
 - a. to introduce, on an effective scale, doping controls not only at, but also without advance warning at any appropriate time outside, competitions, such controls to be conducted in a way which is equitable for all sportsmen and sportswomen and which include testing and retesting of persons selected, where appropriate, on a random basis;**
 - b. to negotiate agreements with sports organisations of other countries permitting a sportsman or sportswoman training in another country to be tested by a duly authorised doping control team of that country;**

- c. to clarify and harmonise regulations on eligibility to take part in sports events which will include anti-doping criteria;
- d. to promote active participation by sportsmen and sportswomen themselves in the anti-doping work of international sports organisations;
- e. to make full and efficient use of the facilities available for doping analysis at the laboratories provided for by Article 5, both during and outside sports competitions;
- f. to study scientific training methods and to devise guidelines to protect sportsmen and sportswomen of all ages appropriate for each sport.

The particular organisational structure of the Italian Sports Organisation has been discussed several times, in relation as well to the present article 7. It seems nevertheless useful to recall that the status of state-controlled Public Body has facilitated the adoption on the part of all the National Sports Federations of anti-doping measures compliant with the provisions of the international sports organisations.

It is with the encouragement of CONI, that the Federations have over time brought an ever greater number of anti-doping measures into effect. Thus, the 10 Sports Federations that had put anti-doping measures into place in 1987 became 53 in 2000, as shown in the following table.

ANTI-DOPING INSPECTIONS

NSF and other bodies	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
CONI-surprise checks								1.117	1.262	1.107	117	953	425	1.000
Italian Aeroclub													20	25
Track and Field	346	300	406	510	577	711	633	611	693	724	810	845	515	673
Italian Automobile Club						4	8		10	4		8	50	51
Baseball and Softball					28	71	58	48	56	36	44	69	24	40
Bowls													30	30
Hunting								16	18	16	16	25	16	15
Canoe and Kayak				26	14	48	80		4			38	62	84
Canoeing			19	109	197	105	47	77	55	31	40	35	40	49
Cycling	2.788	2.904	1.632	2.143	2.862	3.259	2.257	2.279	1.918	1.089	815	2.168	1.385	1.321
Gymnastics			7		4				18	25	21	39	30	98
Football	2.700	1.728	2.257	2.118	3.960	4.492	4.696	4.795	4.090	4.630	4.708	4.696	5.254	5.098
Handball			24	4	8	4					1	31	32	52
Golf					12	21	19	39	30	20	19	29	43	45
Hockey and Skating		46	66	153	206	173	61	67	13	37	40	63	94	60
Field hockey										14			52	75
Wrestling Weight lifting Judo Karate	50	122	305	445	640	593	459	270	115	224	344	561	254	187
Motorcycling	19	43	36	60	59	54	57	33	24	33	9	23	41	43
Speedboat Racing					57	60	30	30	24	21	11	21	23	24
Swimming			8	89	102	106	75	71	84	79	169	194	359	336
Basketball				60	316	176	158	410	271	546	288	379	448	430
Volleyball				36	124	40	60	142	164	46		56	170	329
Modern pentathlon	28		63	56	66	75	44	45	40	72	59	41	36	8

Sports fishing				47	18	1	1	12	8	4	4	5	30	32
Boxing	116	96	111	70	138	131	93	84	62	105	105	88	124	56
Rugby				30	26		19	26	34	16	4	28	100	158
Fencing	3	22	46	55	49	52	37	36	27	37	36	37	72	64
Water-skiing			28	10	17	26	19	13	21	18	25	27	38	29
Sports on ice				14	79	83	151	104	21	46	67	111	165	140
Sports for the handicapped						4		22		7	55	33	11	36
Equestrian sports										2	6	9	30	33
Winter sports	134	8	89	32	215	43	107	52	114	122	140	214	149	0
Tennis					40	52	100	58			8	53	102	104
Table tennis						10						4	12	18
Target shooting				11	71	109	137	186	114	110	107	108	96	66
Skeet shooting	53	14	67	24	76	40	16	55	34	48	40	76	48	35
Archery								39	18					33
Sailing					20	8	2	3				18	49	35
American football			24	9	6	6	18						26	
Climbing					6								10	6
Automobil special licences													7	5
Billiards														5
Bowling														5
Bridge														10
C.U.S.I.				4		28	12							
Canoeing- fixed seat										12		11	24	22
Cricket													8	9
Checkers													10	5
Dancing														37
Chess													10	5
Orientation sports												4	6	2
Sports for the deaf-mute														8
Traditional sports														5
Surf													3	4
Triathlon			5	10	10	5	10	15	25	25	27	32	18	18
Wushu Kung Fu														5
TOTALS	6237	5283	5193	6125	10003	10590	9464	10755	9367	9315	8135	11132	10551	11063

Moreover, as has already been indicated, CONI's efforts consisted in harmonising all national anti-doping regulations, having among its tasks that of establishing guidelines for federal regulations. Thus all the Federations have had to conform their own anti-doping Regulation to the provisions established by CONI with the consent of the governmental Supervisory Organ. Now that with reforms in the field of sports the Federations have acquired legal status under private law, distinct from the public status of CONI, thus gaining a greater level of autonomy, anti-doping Regulations and legal procedures with regard to sports must nevertheless be approved by CONI.

With regard to the general principles contained in paragraph 2 of article 7 of the Convention, which must form the basis for anti-doping Regulations, a perusal of the provisions contained in CONI's anti-doping Regulation will show that the former are all included therein. Nevertheless, a number of observations might be useful:

The only evident difference between the CONI Regulation and the international rules regard the carrying out of additional verification or revision tests. In the Italian regulation, in fact, the result of the first analysis in the Laboratory does not automatically determine a positive result for doping. In order to ascertain a definitive positive reading, counter tests must also be verified with costs

sustained by the Administration and not by the athlete involved, who maintains the right to be present and to be assisted by an expert of his choice.

The issue regarding the lists of pharmacological classes, doping agents and prohibited methods is more complicated in that paragraph 2b) of article 7 refers only to the lists adopted by the competent international sports organisations, in apparent disagreement with the provisions of article 11, paragraph 1b) which assigns the task of approving the same list of substances to the Monitoring Group.

In this regard, despite the existence of the list approved by the Monitoring Group and published, as a result of the ratification of the Convention, in the government's Gazzetta Ufficiale, the Italian anti-doping organisation has thus far believed that it should refer exclusively to the list established by the International Body (IOC) recognised as the competent body for the accreditation of the Laboratories. This decision arises from the fact that the Laboratories accredited for anti-doping tests operate on the basis of the list established by the Organism which grants accreditation.

From the point of view of disciplinary regulations, it would be quite inappropriate to refer to a list that differs from that used by the Laboratories which are requested to carry out the testing. This problem threatens to become more serious and there is an urgent need to resolve it in relation to the promulgation of the list of prohibited substances and methods by the World Anti-doping Agency and to the attitude in this regard which may be taken by the National Supervisory Commission which has also been assigned the task, by the national law on doping, to propose a national list of prohibited substances and methods to the Health Minister.

At this point, it may be of interest to indicate the substances that have shown up in positive results in the 1996-2000 period.

		1996	1997	1998	1999	2000
	A. Stimulants					
	Total: *	13	7	34	22	31
	Cocaine		1	6	7	6
	Ephedrine	3		6	4	2
	Pseudophedrine	2		5	5	2
	Amphetamine		1	3		1
	Norephedrine	1		3		3
	Norpseudoephedrine			2		1
	Caffeine	3	1	1	1	2
	Cropopamide	1	1	1		1
	Crotetamide	1	1	1		1
	Phendimetrazine		1	1	1	2
	Phenmetrazine		1	1	1	2
	Amineptine			1		
	Heptaminol			1		1
	Pemoline			1		
	Phenylpropanolamine	1		1	1	
	Sinephrine					4
	Phentermine				1	2
	Propilexedrine				1	1

	Ethylephrene	1				
	A/C. Beta Agonists	1996	1997	1998	1999	2000
	Total:*	0	0	6	6	3
	Salbutamol			6	5	3
	Terbutaline				1	
	C. Anabolic Agents	1996	1997	1998	1999	2000
	Total:*	14	8	32	20	17
	Stanozolol			1	2	
	Metenolone			2	2	1
	Clostebol	2	3	9	2	1
	Metandienone				2	
	Nandrolone	5	4		11	
	Altered T/e	4	1	1	1	
	Norandrosterone			10		7
	Noreticolalone			6		6
	Metitestosterone			1		2
	Oxandrolone	1		1		
	Mesterolone			1		
	Clembuterol	2				
	B. Narcotics	1996	1997	1998	1999	2000
	Total:*	0	2	0	0	0
	Morphine	2				
	D. Beta-blockers	1996	1997	1998	1999	2000
	Total:*	0	0	0	1	4
	Carteolol				1	1
	Atenolol					2
	Carvedilol					1
	E. Diuretics	1996	1997	1998	1999	2000
	Total:*	0	1	0	4	6
	Fursemide		1		4	4
	Clorthalidone					1
	Canrenone					1
	G. Peptide hormones	1996	1997	1998	1999	2000
	Total:*	0	0	0	0	1
	hCG					1
	H. Other substances	1996	1997	1998	1999	2000

	Total:*	2	0	21	42	51
	Cannabis	2		17	27	36
	Lidocaine			3	12	12
	Mepivacaine				2	1
	Bupivacaine				1	1
	Ropivacaine					1
	Benzbromarone			1		
	*some of the positive results correspond to several substances found in the same sample					

With regard to the reciprocal recognition of sanctions, in the national Regulation, the sanction is applied to the athlete and is extended to any other type of sport he may wish to participate in.

International reciprocity is governed by the International Federations and still to be resolved is the problem with the International Cycling Union which permits athletes sanctioned for doping on the national level to nevertheless compete in competitions over which it has control.

Anti-doping checks are carried out in Italy in large numbers and involve both sexes in relation to their respective rates of participation in the various sports disciplines.

The following graph shows that as early as 1992 and then in 1994 the threshold of 10,000 annual checks had been exceeded to then stabilise in the years following 1998.

It has not been possible to date to negotiate agreements with other countries for subjecting athletes to anti-doping tests on a reciprocal basis due to the difficulties involved in granting the athlete his right to be aided by experts of his choice for the second verification test.

In view of the situation already discussed, the new Law against doping provides in article 6, that all national sports Organisms accommodate their respective Regulations, which therefore must exist, to the provisions of the Law itself.

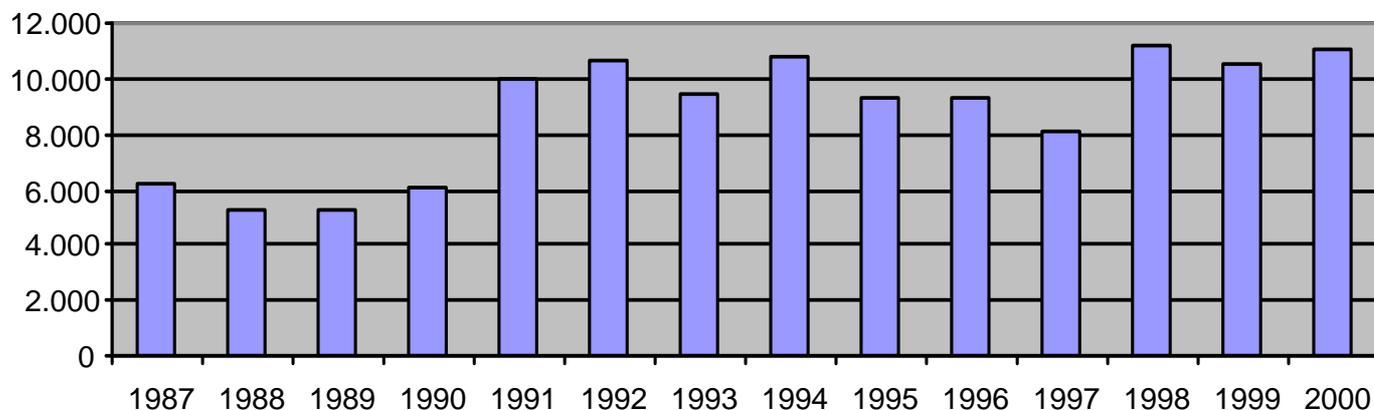
On this point it seems appropriate to point out that the Law introduces into the national regulation the punishable crime of doping and that the athletes themselves who test positive under the Law, can be sentenced.

Moreover, an aggravation of the punishment is provided for in cases where a member or manager of the sports Organisation is found to be responsible for the act of doping.

The Law also introduces an aspect which has hitherto not been fully regulated by the international and national sports Organisation and that is the right of the athlete to be able to compete in the event that he is required to take medication containing otherwise prohibited substances for medical reasons.

The Law refers the regulation of this specific matter, which is definitively absolved of all responsibility of a criminal nature, to the sports Organisations

Total inspections in the 1987-2000 period



Total controls in the 1987-2000

Art. 8 International Co-operation

1. **The Parties shall co-operate closely on the matters covered by this Convention and shall encourage similar co-operation amongst their sports organisations.**
2. **The Parties undertake:**
 - a. **to encourage their sports organisations to operate in a manner that promotes application of the provisions of this Convention within all the appropriate international sports organisations to which they are affiliated, including the refusal to ratify claims for world or regional records unless accompanied by an authenticated negative doping control report;**
 - b. **to promote co-operation between the staffs of their doping control laboratories established or operating in pursuance of Article 5;**
 - c. **to initiate bilateral and multilateral co-operation between their appropriate agencies, authorities and organisations in order to achieve, at the international level as well, the purposes set out in Article 4.1.**
3. **The Parties with laboratories established or operating in pursuance of Article 5 undertake to assist other Parties to enable them to acquire the experience, skills and techniques necessary to establish their own laboratories.**

The Government has always encouraged CONI to maintain relationships of international collaboration in order to co-operate in the adoption of uniform measures for the campaign against doping.

Co-operation occurred on various levels and with different kinds of expertise.

On the more strictly institutional level, Italy furnished its collaboration both in the drawing up of the Anti-doping Convention and its approval in Reykjavik in 1989.

An Italian Delegation took part in the work of the Monitoring Group, even while awaiting the ratification of the Convention, after which date (1996) Italian participation steadily increased.

On the more strictly sports level, CONI did not fail to make efforts to encourage international co-operation.

By way of example, we recall the multilateral international agreement to unify measures in the campaign against doping, signed in Rome on 13/12/1989, in a meeting organised by CONI at the invitation of the Olympic Committees of the Soviet Union and the United States of America and supported by 11 countries.

In the period following the ratification of the Convention, the Italian Government and in particular the Minister responsible for Sports, supported an important political effort, both during the meetings promoted by the European Union and during the World Conference Against Doping held in Lausanne, to support and promote the creation of a new World Anti-doping Authority which would be autonomous and independent both of the Governments and of the Sports Movement.

The presence of eminent Italian specialists such as Prof. Antonio Dal Monte and Dr. Fabio Pigozzi on the medical sub-committees of the International Olympic Committee and on the medical and/or anti-doping Commissions of a number of International Federations, has facilitated the exchange of international experiences. Concrete collaboration, although not officially formalised, took place between the authorities responsible for the campaign against doping in Italy and France. The excellent relations developed within the structures of the Council of Europe have also facilitated collaboration between Italian and Austrian authorities in circumstances in which they had to subject non-competing Austrian athletes training in Italy to anti-doping controls. CONI takes part in studies and research promoted by the International Olympic Committee and by the European Union Commissions designated as HARDOP and CAFDIS. Other attempts at bilateral collaboration were not successful for various reasons.

For the tests related to "6 NATIONS" in Rugby, the competent English Authority preferred to use its own staff who were evidently more experienced than the Italian Authority in taking samples in this specific discipline.

CONI was unable to join the IADA Consortium due to the difficulty involved in justifying the costs of joining the Consortium. The difficulty is evidently related to the fact that CONI is a public body. Nor was it possible to come to an agreement of reciprocity between CONI and the Australian anti-doping agency during the Olympic Games at Sydney, due to the different regulations in effect in the two countries. In Italy, in fact, the athlete is considered positive only after the second verification tests ordered by the authorities, with the athlete having the right to be present and to receive assistance. Since, according to the Italian Regulation, the verification test would have to take place within 7 days of the first, it would be difficult to permit an athlete to exercise his right to be assisted by an expert during the verification test.

The expert in question would have to be present during the possible disciplinary process and thus would necessarily have to have been selected in Italy. This regulatory situation hindered the drawing up of bilateral agreements until Spring 2001, when with the national law on doping becoming effective, CONI decided to bring back the system in effect on the international level.

After the suspension of its IOC accreditation, the Anti-doping Laboratory of Rome returned to full operations in the period between late 1998 and early 1999, including collaboration on the international level with the officials of the anti-doping Laboratories accredited by the IOC, and announced its willingness to act on behalf of the World Anti-doping Agency.

Art. 9 Provision of information

Each Party shall forward to the Secretary General of the Council of Europe, in one of the official languages of the Council of Europe, all relevant information concerning legislative and other measures taken by it for the purpose of complying with the terms of this Convention.

The Italian Authorities have not failed to provide the Council of Europe and parties acting on its behalf all information and reports in accordance with the dispositions of this article.

To this purpose, we point out that during the meeting on the Monitoring Group (28-29/3/2001) a copy in the English language of the Italian law against doping which came into effect on 2/1/2001 was distributed to all those present.

B. Report of the evaluation team

Article 1

Aim of the Convention

The Parties, with a view to the reduction and eventual elimination of doping in sport, undertake, within the limits of their respective constitutional provisions, to take the steps necessary to apply the provisions of this Convention.

The evaluation team carried out its mission against a difficult political and legislative background inasmuch as a new law (No. 376/2000), passed on 14/12/2000, was in the process of being implemented and there had been a change in government since its publication.

Italy's national report covers general anti-doping policy in a factual way, leaving on one side a qualitative analysis of the actual situation in the country. The Italian legislative background is explained in some detail, together with the problems encountered in getting the new law passed and implemented.

It is interesting to note that Italy has a strong tradition of legislation in the anti-doping field, since no fewer than six laws have been enacted since 1950. To this extensive domestic legislation should be added Italy's ratification of the Council of Europe Anti-Doping Convention on 12 February 1996 by Law No. 522 of 29 November 1995, which thus formalised the desire to bring domestic action into line with international activities. Following this ratification a number of anti-doping measures were introduced in Italy, as described in Italy's national report. This considerable legislative activity is clear evidence of the country's political commitment to fight doping and its awareness of the serious implications of the phenomenon for the very future of sport.

It should be noted that while Law No. 401 of 1989 is based on the ethics of sport and is designed mainly to combat fraud in sport, more recent legislation focuses on health protection aspects and gives special responsibility to public health authorities. However, by making reference to sporting events' compliance with regulations, the new law establishes a logical connection with its forerunner. Some of the anti-doping powers hitherto granted to the CONI (Italian Olympic Committee) have now been transferred to central government and to an independent agency, although the CONI continues to play an important role. Italian legislative history in this field thus demonstrates the growing hold of central government. There has been a gradual but continuous transfer of sports organisations' powers to central government, and the new legislation represents the culmination of this trend. The gradual removal of responsibilities from sports authorities to public agencies seems to indicate that the government doubts the ability of the sports movement to solve the doping problem, a distrust unquestionably related to the most recent cases uncovered in Italy and at international level. This scepticism is reflected in statute law by the establishment of a government commission on monitoring and control of doping in sport.

The main new powers given to central government are as follows:

- Defining the methodology for doping controls;
- Determining the list of banned substances and methods;
- Specifying the sporting events for which controls are to be carried out;
- Carrying out controls;
- Organising doping prevention and information campaigns;
- Exercising partial responsibility for disciplinary action, with introduction of criminal penalties, including for users of substances.

It should here be mentioned that, during the evaluation visit, the two legislative frameworks (old and new) continued to coexist to an extent hard to assess inasmuch as some implementing decrees and operational agreements had yet to be formalised. This unusual situation put the evaluation team in an awkward position for the requisite assessment, especially as a political debate seemed to have begun on the merit of the legislation.

It seems, broadly speaking, that Italy has introduced the legislation, under its constitutional provisions, to apply the Convention nationally. In particular, the new law makes reference to the Convention and its principles in its very first article. There exists in Italy a clear perception of the need to combat doping in sport effectively and a political will to resolve this problem through legislation, as attested by the large number of parliamentary bills over the past 20 years.

The evaluation team believes that it is difficult to make a full appraisal of compliance with the terms of the Convention in the light of the information provided by Italy's national report and the evaluation visit. This opinion is strengthened by the fact that since the new statutory provisions have not yet been fully implemented and enforced it is very hard to assess their possible repercussions for the Convention.

Article 2

Definition and scope of the Convention

1. *For the purposes of this Convention:*

a. *"doping in sport" means the administration to sportsmen or sportswomen, or the use by them, of pharmacological classes of doping agents or doping methods;*

b. *"pharmacological classes of doping agents or doping methods" means, subject to paragraph 2 below, those classes of doping agents or doping methods banned by the relevant international sports organisations and appearing in lists that have been approved by the Monitoring Group under the terms of Article 11.1.b;*

c. *"sportsmen and sportswomen" means those persons who participate regularly in organised sports activities.*

Italy now recognises the WADA/IOC list approved by the Convention's Monitoring Group and is thus fully complying with its Convention commitments. However, the fact that the new law has established a government commission with the power to draw up the list of banned substances and methods suggests a possibility that this commission might agree its own list, which might not be the same as the international list.

The evaluation team underlines this risk of international unconformity, even if Section 2 of the law draws attention to the requirement to compile this list in accordance with that of the Convention's Monitoring Group. There seems to be a risk of dual responsibility for compilation of this list, since the recently established commission for monitoring and control of doping is able to draw up its own list.

The Italian system covers all licensed sportsmen and sportswomen whatever their age or their level of competition, which is entirely in keeping with the spirit of the Convention. The legislation thus makes provision for a dual regional and national approach. However, in practice, prevention and control measures vary enormously depending on the individual sport.

Article 3

Domestic co-ordination

1. *The Parties shall co-ordinate the policies and actions of their government departments and other public agencies concerned with combating doping in sport.*
2. *They shall ensure that there is practical application of this Convention, and in particular that the requirements under Article 7 are met, by entrusting, where appropriate, the implementation of some of the provisions of this Convention to a designated governmental or non-governmental sports authority or to a sports organisation.*

Various stakeholders are currently involved in combating doping, with the different functions being shared between government agencies and sports organisations.

We thus have 4 main stakeholders:

- Central government:
 - Central government acts through the Ministry for Cultural Assets and Activities, which exercises supervision over all CONI activities.
 - The Ministry of Health plays an important role since the new commission for monitoring and control of doping has been set up under its authority.
 - The Ministry of Justice ensures that statutory provisions are enforced by judges.
 - Parliament passes the relevant implementing decrees.
- The regions: Their powers are laid down by Section 5 of Law No. 376.
- Sports organisations:
 - These are private-sector organisations that have been given independent legal personality by the Melandri decree (Decree No. 242, Article 15.II). They are in fact closely supervised by the CONI, which exercises this right by establishing anti-doping regulations for the federations.
- The CONI:
 - The status of the CONI does not seem to have been altered by the new law; it has kept its special character of an organisation which is both public (under ministerial supervision) but also private, since it actually belongs to the sports movement, which itself is in the private sector.

Within the CONI itself, five bodies are involved in combating doping:

- The Anti-Doping Commission
- The Scientific Commission
- The Anti-Doping Prosecutor's Office
- The Ethics Committee
- The Anti-Doping Liaison Office.

The very specific nature of the CONI should enable it to act as an interface between all the stakeholders, whether public or private, who are combating doping in Italy.

The existence of so many stakeholders makes the situation somewhat complex on the ground. Attempting to summarise the division of work, we arrive at the following situation (section numbers refer to the Anti-Doping Act):

- Testing: Central government (Section 3), regions (Section 5), CONI (Section 6) and possibly the federations under CONI supervision;
- Analytical laboratory: Italian Federation of Sports Medicine (FIMS) and regions;
- Education and information: Central government, regions, CONI and federations are all involved;
- List: Undivided responsibility of the ministerial commission for monitoring and control of doping;
- International co-operation with public-sector organisations: Sole responsibility of central government;
- International co-operation with sports authorities: Not mentioned in the Act;
- Responsibility for discipline: Central government (Section 9) and federations (Section 6; and Decree No. 242, Art. 15.I)

Only part of this system is in operation and in fact corresponds to the old system in which the CONI had full responsibility for organisation. As already mentioned, in such circumstances it is very difficult to predict and, all the more, to assess the relevance of the new measures and their compliance with the Convention. Nevertheless, the evaluation team has some fears concerning the system's complexity and in particular the risk of dual responsibilities to which it is exposed. More specifically, one can see certain problems in organising controls which may be conducted by at least three of the parties involved. Even though controls by central government do not yet exist, we already observe several different types of control procedure.

For in-competition controls, we find:

- Model 1 (Cycling): The place, date and number of controls, together with control procedures, are determined by the federation. The information is sent to the CONI, which carries out the requisite controls on its own responsibility.
- Model 2 (Football): The federation carries out all controls on its own responsibility.
- Model 3 (Athletics): Same as Model 1 but with additional controls conducted on the federation's own responsibility.

For out-of-competition controls there are also different procedures:

- Model 1 (Cycling/football): Controls are conducted solely by the CONI.
- Model 2 (Athletics): The federation may carry out controls in addition to those of the CONI.

Comments on controls

The system appears complex, with an obvious risk of overlapping responsibilities and a probable diminution in the overall deterrent effect for the same number of controls. The federations' involvement in the present model seems too great to guarantee an independent system and maximum deterrence. The proportion of out-of-competition controls provided for by the Convention and promoted by the Monitoring Group as being the most effective appears rather low. Moreover, advance warning of these controls seems in actual fact to be quite lengthy (at least 24 hours), which means that they cannot be regarded as unannounced controls within the meaning of the Convention. Furthermore, the fact that Italian sportsmen and sportswomen do not have to report their ordinary travel significantly reduces the effectiveness and deterrent effect of the out-of-competition control system. Thus the Italian control programme does not seem to be designed for

testing Italian athletes training abroad. The evaluation team was not told of any agreements between the CONI and anti-doping agencies abroad which would remedy this shortcoming.

The evaluation team believes that unannounced out-of-competition controls should be increased bearing in mind the comments on how to make them effective. The evaluation team also voices its apprehensions concerning domestic co-ordination of the various anti-doping measures owing to the complexity of the system arising from the new legislation and above all the large number of stakeholders. The information contained in Italy's national report is insufficient to answer this concern. It seems that a single independent joint body comprising representatives from both the sports movement and the public authorities might be an effective solution and one which would have the merit of approaching international standards. The evaluation team believes that the setting-up of such a body to carry out controls would avoid unnecessary duplication and produce a more effective and deterrent system for the same financial outlay. In the view of the evaluation team there is no guarantee that the present CONI commission will be independent.

Article 4

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

1. *The Parties shall adopt, where appropriate, legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.*
2. *To this end, the Parties or, where appropriate, the relevant non-governmental organisations shall make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.*
3. *Furthermore, the Parties shall:*
 - a. *assist their sports organisations to finance doping controls and analyses, either by direct subsidies or grants, or by recognising the costs of such controls and analyses when determining the overall subsidies or grants to be awarded to those organisations;*
 - b. *take appropriate steps to withhold the grant of subsidies from public funds, for training purposes, to individual sportsmen and sportswomen who have been suspended following a doping offence in sport, during the period of their suspension;*
 - c. *encourage and, where appropriate, facilitate the carrying out by their sports organisations of the doping controls required by the competent international sports organisations whether during or outside competitions; and*
 - d. *encourage and facilitate the negotiation by sports organisations of agreements permitting their members to be tested by duly authorised doping control teams in other countries.*
4. *Parties reserve the right to adopt anti-doping regulations and to organise doping controls on their own initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.*

Apart from describing general statutory provisions, Italy's national report does not clearly state Italy's strategy for controlling the import, movement, possession, distribution and sale of banned doping agents. The meetings of the evaluation team with police, judicial and customs representatives during the visit showed that action was being taken in this field and had produced

practical results, but its organisation remains vague in the minds of the authors of the national report. Indeed, the positive results noted by some of the people to whom we spoke seemed due more to personal initiatives or random factors than to co-ordinated and systematic organisation. In particular, co-operation with the judiciary seems quite difficult to achieve in certain cases. As for control of drugs distribution by wholesalers to pharmacies, this depends on the health authorities and is neither mandatory nor systematic.

The national report does not mention any international agreements to facilitate testing of Italian sportsmen and sportswomen abroad.

The cost of federations' doping controls is covered by the CONI.

The new law provides for the establishment of a database on movement of drugs containing doping agents. Manufacturers are also required to mention on the packaging and package inserts of these drugs the presence of agents that may produce a positive doping test result.

Although this measure has not yet been applied, the evaluation team welcomes this initiative, which it considers very useful in terms of information and deterrence.

Article 5

Laboratories

1. *Each Party undertakes:*

- a. *either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the Monitoring Group under the terms of Article 11.1.b;*
- b. *or to assist its sports organisations to gain access to such a laboratory on the territory of another Party.*

2. *These laboratories shall be encouraged to:*

- a. *take appropriate action to employ and retain, train and retrain qualified staff;*
- b. *undertake appropriate programmes of research and development into doping agents and methods used, or thought to be used, for the purposes of doping in sport and into analytical biochemistry and pharmacology with a view to obtaining a better understanding of the effects of various substances upon the human body and their consequences for athletic performance;*
- c. *publish and circulate promptly new data from their research.*

Since the evaluation team did not include an expert analyst, purely technical aspects relating to analytical processes will not be considered here. In particular, the evaluation team was unable to gauge whether the laboratory's technical and human resources were equal to the number of controls carried out. The Rome laboratory has now obtained its reaccreditation from the IOC and should be certified to ISO 17025 standard by the end of 2002, which will guarantee the quality of the work done.

Analysis

Before its suspension by the IOC in 1998, the Rome laboratory stated that it had carried out 11,132 controls in a year, and in 2000 it conducted some 5500. The Rome laboratory belongs to the Italian Federation of Sports Medicine (FIMS). Such ownership may be debatable inasmuch as the FIMS does not have the necessary funds to run the laboratory, which must therefore seek funding elsewhere. The funds are currently provided by the CONI, even though the 2000 law makes the National Institute of Health solely responsible for supervising laboratories, and sports organisations no longer have any right of supervision over them. This separation of funding and supervisory bodies might be a source of problems in the future.

The new law also provides for the establishment of 20 regional laboratories which would not be accredited laboratories and whose procedures and funding are a puzzle to the evaluation team. **The possible coexistence of these laboratories seems likely to generate liaison difficulties as well as problems regarding the legal status of positive analyses from a non-accredited laboratory.**

Research

The Rome laboratory is working in 5 key areas of research:

- Doping and drug abuse;
- Evaluation of alternative biological matrices for doping detection;
- Study of new drugs' doping potential (dorzolamide);
- Development of screening methods based on structure/activity relationships;
- Development of advanced confirmation methods.

A list of the laboratory's scientific publications on these topics was given to the evaluation team.

With respect to the collection of urine samples, the system described to the evaluation team included a pool of 900 sports doctors able to collect the 11,000 samples annually. These doctors are trained and supervised by the FIMS. The observers cannot infer from the information gathered whether conflicts of interest relating to the individual sports tested by the doctors are taken into consideration or not.

Article 6 Education

1. *The Parties undertake to devise and implement, where appropriate in co-operation with the sports organisations concerned and the mass media, educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport. Such programmes and campaigns shall be directed at both young people in schools and sports clubs and their parents, and at adult sportsmen and sportswomen, sports officials, coaches and trainers. For those involved in medicine, such educational programmes will emphasise respect for medical ethics.*
2. *The Parties undertake to encourage and promote research, in co-operation with the regional, national and international sports organisations concerned, into ways and means of devising scientifically-based physiological and psychological training programmes that respect the integrity of the human person.*

Various educational initiatives were described to the evaluation team:

- The “I take care of my health” campaign is voluntary in nature and seems to be aimed specifically at top-level athletes.
- A series of TV commercials aimed at heightening general public awareness of the problem of doping was broadcast concurrently in France, Greece, Italy, Luxembourg and Portugal and was supported by the European Commission.
- Two regional programmes, one in Rome and the other in Carrara, were directed specifically at schools.
- Last but not least, a project launched by the Italian Sport for All Association and whose title the examiners found somewhat objectionable: “Dracula doesn't drink dope”!

The evaluation team was not informed of any projects based on or using the *Clean Sport Guide* produced by Council of Europe. The various people contacted in this field by the evaluation team, and in particular the coaches' representative and the athletes' representative (the CONI vice-chairwoman) all stressed the importance of education and a preventive approach in order to combat doping effectively. Specific mention was made of the need to take action earlier and in schools.

The Italian authorities' acknowledgement of the educational dimension seemed genuine to the evaluation team, which notes, however, that the sports federations are allowed considerable freedom as to whether or not they do educational work. Although some non-sport activities are subject to statutory anti-doping controls, the target of fitness centres, which are particularly exposed to doping pressure, does not actually seem to have been taken into account nationally. In this field too, the evaluation team believe that the existence of a national liaison and reference body would probably be of benefit.

Article 7

Co-operation with sports organisations on measures to be taken by them

1. *The Parties undertake to encourage their sports organisations and through them the international sports organisations to formulate and apply all appropriate measures, falling within their competence, against doping in sport.*
2. *To this end, they shall encourage their sports organisations to clarify and harmonise their respective rights, obligations and duties, in particular by harmonising their:*
 - a. *anti-doping regulations on the basis of the regulations agreed by the relevant international sports organisations;*
 - b. *lists of banned pharmacological classes of doping agents and banned doping methods, on the basis of the lists agreed by the relevant international sports organisations;*
 - c. *doping control procedures;*
 - d. *disciplinary procedures, applying agreed international principles of natural justice and ensuring respect for the fundamental rights of suspected sportsmen and sportswomen; these principles will include:*
 - i. *the reporting and disciplinary bodies to be distinct from one another;*

- ii. *the right of such persons to a fair hearing and to be assisted or represented;*
 - iii. *clear and enforceable provisions for appealing against any judgement made;*
 - e. *procedures for the imposition of effective penalties for officials, doctors, veterinary doctors, coaches, physiotherapists and other officials or accessories associated with infringements of the anti-doping regulations by sportsmen and sportswomen;*
 - f. *procedures for the mutual recognition of suspensions and other penalties imposed by other sports organisations in the same or other countries.*
3. *Moreover, the Parties shall encourage their sports organisations:*
- a. *to introduce, on an effective scale, doping controls not only at, but also without advance warning at any appropriate time outside, competitions, such controls to be conducted in a way which is equitable for all sportsmen and sportswomen and which include testing and retesting of persons selected, where appropriate, on a random basis;*
 - b. *to negotiate agreements with sports organisations of other countries permitting a sportsman or sportswoman training in another country to be tested by a duly authorised doping control team of that country;*
 - c. *to clarify and harmonise regulations on eligibility to take part in sports events which will include anti-doping criteria;*
 - d. *to promote active participation by sportsmen and sportswomen themselves in the anti-doping work of international sports organisations;*
 - e. *to make full and efficient use of the facilities available for doping analysis at the laboratories provided for by Article 5, both during and outside sports competitions;*
 - f. *to study scientific training methods and to devise guidelines to protect sportsmen and sportswomen of all ages appropriate for each sport.*

The CONI has hitherto been the cornerstone of the Italian system, supervising the sports federations directly. This CONI anti-doping supervision has been exercised by laying down standard anti-doping regulations which are used by the sports federations as the basis for their own regulations. The CONI has an interesting status; on the one hand it is held to be a public-sector organisation by decree (Decree No. 242/99, Article 1) and is therefore under the supervision of the Ministry for Cultural Assets and Activities and, on the other hand, it belongs to the sports movement. Anti-doping activities come under five different commissions within the CONI (cf. comments under Article 3).

There are no official government representatives on CONI decision-making bodies, but the sports federations are represented on them. The CONI therefore seems obliged to act as a mediator between the sports movement and government agencies. The federations, moreover, have become private-sector organisations by decree (Decree No. 242, Article 15.II), which gives them greater independence.

The evaluation team has found it difficult at this stage to assess the impact of these changes and Law No. 346 on the CONI and implementation of the Convention's provisions.

The Convention's provisions aimed at encouraging sports organisations to lay down anti-doping regulations and to carry out doping controls on their athletes on an adequate scale according to internationally agreed standards, may be considered to have been taken into account by existing Italian legislation.

As far as disciplinary procedures are concerned, the principles of natural justice are respected with regard to sportsmen and sportswomen, especially the right to a fair hearing. As for penalties, the evaluation team notes that Italy has chosen to criminalise the use of doping agents by sportsmen and sportswomen at all levels. As a result, offending athletes are liable to prison sentences, irrespective of their nationality.

This choice, which demonstrates a strong political determination to take effective measures, deserves to be commended accordingly but is also a cause of anxiety to members of the team inasmuch as, on the international level, it is out of step with the Convention's purpose of international harmonisation of rules and, in particular, penalties. Furthermore, the evaluation team draws attention to the constant setbacks recorded by countries which have in the past tried to criminalise use of doping agents.

We may therefore legitimately wonder about the chances of success of this radical measure in Italy and the future problems in applying it. Its application to foreign sportsmen and sportswomen in particular is likely to run into difficulties or, at the very least, discourage foreign athletes from competing in Italy, which would be to the detriment of Italian sport and is certainly not the intended aim.

Still on the subject of penalties, it should be noted that simple possession of doping agents is not covered by legislation – something which may be regarded as an omission in the law.

Another omission is the fact that refusal by a sportsman or sportswoman to undergo a control is not specified as a statutory offence.

As for the list of banned substances and methods, the situation is rather unclear. As already mentioned, there is a theoretical risk of seeing different lists published in Italy by different authorities, even if there is unambiguous reference in the legislation to the list approved by Monitoring Group for the Convention. This risk could be easily averted if the national supervisory committee, which has the power to draw up its own list and submit it to the Health Minister, decided unilaterally to adopt systematically the international list proposed jointly by the World Anti-Doping Agency and the IOC.

The law also gives sportsmen and sportswomen the right to use banned substances for a well-established therapeutic purpose. Although this is a legitimate right, it is, on the other hand, more surprising to find that sports organisations are responsible for supervising it, which guarantees neither transparency nor harmonisation.

Article 8

International co-operation

1. The Parties shall co-operate closely on the matters covered by this Convention and shall encourage similar co-operation amongst their sports organisations.

2. The Parties undertake:

- a to encourage their sports organisations to operate in a manner that promotes application of the provisions of this Convention within all the appropriate international sports organisations to which they are affiliated, including the refusal to ratify claims for world or regional records unless accompanied by an authenticated negative doping control report;*
 - b to promote co-operation between the staffs of their doping control laboratories established or operating in pursuance of Article 5;*
 - c to initiate bilateral and multilateral co-operation between their appropriate agencies, authorities and organisations in order to achieve, at the international level as well, the purposes set out in Article 4.1.*
3. *The Parties with laboratories established or operating in pursuance of Article 5 undertake to assist other Parties to enable them to acquire the experience, skills and techniques necessary to establish their own laboratories.*

With regard to international co-operation, Italy's national report does not reveal any formal co-operation with other countries outside the Council of Europe framework. It refers only to the presence of Italian specialists at international level and policy measures taken by Italian government authorities. The only practical work that seems to exist in this field is with France and Austria. In this connection, the CONI representatives whom the evaluation team met were anxious to emphasise their desire for practical international co-operation and declare that they were unable to pursue it inasmuch as the law had transferred this responsibility to the government commission alone.

The Rome laboratory takes part in international science projects and its technical and scientific work at international level is in accordance with its mission and complies with its Convention commitments under this article.

The evaluation team considers that, excepting the work of the laboratory, Italy's international co-operation in the anti-doping field could be more extensive given the country's experience and its substantial work in this area.

Article 9

Provision of information

Each Party shall forward to the Secretary General of the Council of Europe, in one of the official languages of the Council of Europe, all relevant information concerning legislative and other measures taken by it for the purpose of complying with the terms of this Convention.

Italy consistently replies to the questionnaire for the Monitoring Group's database on national anti-doping programmes.

In addition, the Italian authorities' annual report to parliament on national anti-doping activities and performance statistics complies with the terms of Article 9.

General conclusions and recommendations of the evaluation team

The Italian system, as described to the evaluation team, is distinguished by the fact that it is in a difficult transitional period between implementation of a new statutory system which is incomplete because certain implementing regulations have not yet been adopted and an old system still partially operative. Obviously, this unusual situation did not facilitate the assessment, but the writers of this report have tried to emphasise the various elements of the present or future system likely to promote or, on the contrary, hinder compliance with Convention commitments. The observers are conscious that some of their comments anticipate a likely situation not based on observed facts. Such projection is the result of the specific transitional situation with which the evaluation team was faced and which requires the reader to exercise a certain amount of caution when interpreting their analyses and recommendations.

Domestic co-ordination

Parliament's obvious determination to transfer a large measure of responsibility for doping control to central government in the new law does not seem to have been fully reflected in organisational terms, since although new government bodies have been created – in particular the commission for health monitoring and control in sport – the role of the sports or joint organisations which used to perform the same functions in the previous system is not clearly defined. The somewhat confused situation at present leads us to fear a lack of co-ordination and possible harmonisation problems, since the system described did not obviously show a body in charge of general co-ordination; on the contrary, various duplications of responsibility may emerge, especially between CONI and government commissions. These overlapping responsibilities may, of course, create jurisdiction disputes between the various stakeholders.

In these circumstances, the evaluation team is in favour of a single, independent co-ordinating body in which both public authorities and sports authorities should be represented.

International harmonisation

In terms of international harmonisation, a number of aspects observed in the new system may not meet with international approval. In this connection, the evaluation team is worried by the disciplinary dimension of Italian legislation, which provides for criminal penalties not only for instigators and suppliers, as desired, but also for actual users of banned substances. For international competitions on Italian soil this measure can naturally be applied to sportsmen and sportswomen who are foreign nationals. Moreover, this eventuality might be exacerbated by the legal possibility of the existence of a special list drawn up unilaterally by Italy and applying on its soil. As indicated in this report, some of the Convention's provisions may not be applied under the proposed new system.

In the present world situation, with a World Anti-Doping Code being drawn up by the WADA, the evaluation team draws the Italian authorities' attention to the risk that unilateral legislative action which fails to acknowledge the international dimension may hinder Italy's ability to adopt and implement an international legal instrument of this sort.

* * *

The evaluation team would like to thank the Italian authorities warmly and sincerely for the nature of their welcome, for the report that they were given and for the spirit of total confidence and transparency which prevailed throughout the visit. In particular the assistance and constant presence

of Mr Mariano Ravazzolo for the whole of our visit and all our interviews greatly contributed to the mission's effectiveness.

Composition of evaluation team

- Dr Alain Garnier, Medical Adviser, Ministry of Sport, France; Chair of Monitoring Group
- Mr Manuel Brito, President, National Institute of Sport, Portugal
- Prof Dr Ulrich Haas, Chair, National Anti-Doping Commission, Germany
- Mr Mesut Özyavuz, Secretary of Monitoring Group, Sports Department, Council of Europe

Programme for evaluation visit

Tuesday, 2 October – Morning

- Meeting at Ministry for Cultural Assets and Activities (Ms Lina Musumarra, author of Italy's national report and legal adviser to former Minister; Mr Mario Pescante, State Under-Secretary at the Ministry for Cultural Assets, with responsibility for sport).
- Meeting with Mr Vincenzo Parrinello, Head, Anti-Drugs Field Force, Sicily, and Ms Stefania Terenzio, Anti-Doping Co-ordination.

Afternoon

- Meeting at Ministry of Health with Mr Cursi Cesare, State Under-Secretary at the Ministry of Health, with responsibility for the fight against doping; Dr Giovanni Zotta, Chair, Commission for Health Monitoring and Control in Sport, and members of the Commission.
- Meeting with Mr Gianni Bondini, legal regulations expert, *Gazzetta dello Sport*, and Mr Gian Paolo Porreca, scientific medicine expert, *Il Mattino* (Naples).

Wednesday, 3 October - Morning

- Meeting with the CONI Anti-Doping Liaison Office (Dr Mario Orienti, Director), the Anti-Doping Commission (Dr Giuseppe Porpora and Mr Cono Federico), the anti-doping prosecutor (Mr Giacomo Aiello), the Scientific Commission (Prof Luigi Frati) and CONI senior officials (Dr Giovanni Petrucci, President, and Dr Raffaele Pagnozzi, Secretary-General)

Afternoon

- Meeting with representatives of sports federations: Football (Dr Biagio Martino, Vice-President, Football Federations' Anti-Doping Commission), cycling (Dr Marcello Standoli, Secretary-General of the Federation) and athletics (Dr Roberto Fabbicini, Secretary-General of the Federation).

Thursday, 4 October - Morning

- Visit to anti-doping laboratory (Dr Francesco Botré, laboratory director) and the Federation of Sports Medicine (Dr Giorgio Santilli, President, and Dr Renato Manno, Secretary-General).

Afternoon

Meeting with coaches' representatives (Mr Eddy Ottoz, coach, Italian Athletics Federation, and member of the CONI Executive Committee; Mr Oreste Perri, coach, national canoeing team) and athletes' representative (Mrs Diana Bianchedi, CONI Vice-President and Olympic fencing champion).