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## **Anti-Doping Convention (T-DO)**

### **Compliance with Commitments project**

## **Report of the Monitoring Group's Consultative Visit to Ukraine on the implementation of the Anti-Doping Convention**

Kyiv, 16-17 October 2002

### **Introduction**

The consultative visit was organised on the request of the State Committee on Physical Culture and Sports of Ukraine (SCPCS) and the team was welcomed by its Chairwoman, Mrs Maria BULATOVA. The composition of the team and the programme of the visit are set out in the Appendix.

Ukraine signed the Anti-Doping Convention on 2 July 1998 and ratified it on 29 November 2001 (entry into force on 01/01/02). The question of the fight against doping is given the utmost importance by the Ukrainian Government. The doping cases of some elite athletes are also relevant to this political consideration.

According to the Ukrainian Constitution, the Convention itself has the status of a national law. For the implementation of the Convention, new steps have been taken by adopting new legislation and making financial resources available. The ratification of the Convention and the undertakings followed show clearly the political willingness of the Ukrainian authorities to tackle the scourge of doping in sport.

### **Observations and recommendations through the articles of the Convention**

#### **Article 2 of the Convention : Definition and scope of the Convention**

The Ukrainian Law on Anti-Doping Control in Sports has another definition on doping than that of the Convention. This law does not refer to the list adopted in the framework of the Convention. As the Convention itself has the force of a law, this situation creates a duality in the legislation and a lack of harmonisation at national level.

Ukrainian law on anti-doping control in sport does not include a definition of sportsmen and sportswomen, which can create problems interpreting to which persons the law is applicable.

*The Consultative team urges the Ukrainian Government to revise the above-mentioned law in order to recognise and adopt the list of banned substances approved by the Monitoring Group (IOC/WADA list) and also to define those liable to be subject to the law (see also comments under Article 7).*

### **Article 3 of the Convention: Domestic coordination**

In the Ukraine, sport is mostly directed and administered by governmental agencies. Wide understanding has been created between different governmental agencies to assure the implementation of the Convention. During the consultative visit, a round table discussion with representatives of cabinet ministers, and the ministries of foreign affairs, justice, the interior, health, education and science, finance, defence and customs was organised. During the discussions and exchanges of information between the representatives of the Ukrainian Government and members of the Consultative team, more understanding was created with regard to the commitment of the Convention and in the practical steps to create an anti-doping organisation in the Ukraine. All consultative help was welcomed by the Ukrainian representatives.

A new anti-doping organisation (the National Anti-Doping Centre) will start on 1 January 2003. To commit all governmental and non-governmental parties to the new organisation, the SCPCS, federations, athletes, Ministry of Health, National Olympic Committee, medical and pharmaceutical experts will be represented on the Supervisory Board of the new committee. The new board will consist of 19 members. The Consultative team found this rather large and some doubts were expressed as to whether such a large board could work effectively from an administrative point of view.

The National Anti-Doping Centre is independent but is financed by the government and is governed by Regulations. The objectives are described in the Regulations, as are the powers of the Centre. It is this Centre that decides on the doping controls. Although quite recently established, the Centre will engage 18 persons at the end of 2002.

The budget envisaged for the Centre is about 1 million Euros. It will finance 1 200 samples in 2002 and 2 000 samples in 2003. Fifty percent should be out-of-competition controls. This is a good number and proportion for a new body starting work.

*The Consultative team consider the coordinating initiative taken between different ministries in the field of anti-doping a very good step and strongly recommend to give a standing/institutional status to the national coordination (Article 3.1 of the Convention). This coordination will be particularly useful in the Ukraine for the foreseen process of legislative revision and for the coordination of the national action against the trafficking of doping substances.*

The Consultative team also finds that the National Anti-Doping Centre could well fulfil the Convention's demands on such an organisation for doping controls (Article 3.2 of the Convention). *However, the number of members on the Supervisory Board seems to be too great for work to be efficient. It should be limited, for example, to nine or twelve members, and the professional qualifications of its members should be well-balanced, preferably with*

*legal, medical and sporting competences. Also, the responsibilities of the SCPCS and the Supervisory Board of the National Anti-Doping Centre should be well defined between the two institutions to avoid any problems or conflicts.*

The Consultative team congratulate the Ukrainian authorities on including the National Committee of Ukraine on sports for disabled in the framework of the anti-doping control system.

#### **Article 4 of the Convention: Restriction of the availability and use of doping substances and methods**

New legislation has been created to restrict availability of banned substances. Some basic co-operation has been created between the SCPCS and the Ministry of Internal Affairs. Practical steps to restrict the availability of banned substances are therefore just beginning. Quite a lot of new effort is recommended to the Ukrainian governmental agencies to co-operate with corresponding international agencies in order to achieve results in this problem.

The Ukrainian Government is planning to grant about 1 million Euros to anti-doping activities in 2003. Most of the financing is targeted at doping controls and analysis, and an additional 600 000 Euros are promised by the Ministry of Finance for purchasing new equipment for the laboratory. The control system, however, is still to be developed and not all sports organisations (discussions with the NOC and federations) are well enough prepared yet to adopt the rules and regulations of in- and out-of-competition testing. There seems to be no clear system as to how federations will be sanctioned if they do not follow anti-doping rules and regulations. *It is recommended for the Ukraine that a system to withhold governmental financing of organisations and individuals who do not follow anti-doping regulations be established, if it is not yet the case.*

An article on the Law on Physical Culture and Sport forbids anyone engaged in sport to use a substance prohibited in the legislation or by a national or international sports organisation or in competitions. There is also a Law on Anti-Doping Control in sport. There are certain provisions in the Penal Code for the prohibition of drugs in general. Inciting someone to use prohibited substances is considered a criminal offence. Trafficking of anabolic steroids is prohibited but taking such substances into the country for personal use is permitted.

*Concerning the restriction of the availability and use of doping substances and methods, the Consultative team is of the opinion that the Ukraine legislation should be revised to make the law more comprehensive in the light of Article 4 of the Convention, Recommendation No. 2/94 of the Monitoring Group and Recommendation (2000) 16 of the Committee of Ministers of the Council of Europe.*

#### **Article 5 of the Convention: Laboratories**

An anti-doping laboratory was established in Kiev a year and a half ago. It is owned by a private company, working on doping analysis in accordance with an agreement with the State Committee and receives funding from the government. Samples are analysed by screening and if any results are dubious they are sent either to the Moscow, Cologne (both accredited) or Warsaw (not yet accredited) laboratory. The laboratory is accredited by the Ukrainian State Standardisation Office, and not by IOC, ISO or any international office. No positive findings have been made so far in the Ukrainian Laboratory.

The staff of the laboratory consists of a director and 7 technicians. All of them work in doping analysis but also in other analytical procedures related to the other activities of the laboratory (ecological, pharmaceutical, analysis of food supplements). The laboratory carries out investigations concerning anabolic steroids and food supplements. In 2001 the laboratory received 200 samples from doping controls and in 2002 it received 300 samples from the State Committee and from the National Football Federation.

The laboratory has the adequate analytical equipment (HPLC, GC, GC/MS, UV-Vis, etc.) to perform the “screening” procedures in doping control samples, but lacks equipment to perform the confirmation procedures of some compounds, mainly in terms of low concentrations (GC/MS/MS, IRMS, LC/MS, etc.). The laboratory has good facilities and a good security system. *Nevertheless, the laboratory should optimise the system to preserve the quality of the doping control samples in terms of size and security of the refrigerator. The laboratory should change its technical and administrative procedures in order to conform with the ISO 17025 standards. The laboratory should receive the copies of the anti-doping forms with the samples and not only a copy of the chain of custody of the samples. The laboratory should only receive samples from the National Anti-Doping Centre or from international federations through agreement and never directly from national federations, as is the case at present with the National Football Federation, for example.*

It was discussed several times during the visit if it is sensible to establish a fully accredited laboratory in Kiev while analysis could be bought from other accredited laboratories in Europe. The Ukrainian laboratory experts and representatives of government are persuaded that they need their own laboratory and they have discussed with some neighbouring countries if they could co-operate in this matter. They want to start the accreditation process as soon as the demands are known.

*The question of accredited doping laboratories seems to be very important to several countries. It is necessary to take into account the real cost of such a laboratory with regard to the needs of the country.*

*If the Ukrainian Government signs an agreement with a private laboratory, the Consultative team considers that the quality should be guaranteed. The costs should not impede other important anti-doping work.*

*The agreement with the government should clearly define the rights, duties and responsibilities of each party, in particular:*

- *Duties of confidentiality, independence and other ethical issues;*
- *Definition of the annual financial support from the government and the amount of sample analysis that the laboratory should perform to the National Anti-Doping Centre;*
- *Duty of the laboratory to analyse only samples arriving from the National anti-doping programme elaborated by the National Anti-Doping Centre and from agreements signed with relevant international organisations. The laboratory should not analyse samples arriving directly from National Sports Federations;*
- *The National Anti-Doping Centre should have the responsibility to designate the IOC laboratory that will make the confirmation of suspect samples;*

- *The laboratory should avoid having only an exclusive supplier to provide analytical equipment or other equipment or services;*
- *The laboratory should define criteria to avoid conflict of interests between its activity as an anti-doping laboratory and other activities performed by it (pharmaceutical studies, analysis of food supplements, etc.).*

The proposed World Anti-Doping Code Standards provide concrete guidance in these matters.

#### **Article 6 of the Convention: Education**

The new anti-doping organisation is to be operational at the beginning of 2003. So far, only a few activities in education have been made, however the educational agency of the Anti-Doping Centre is already at work. In fact, education is easy to launch because everything is very centralised by the government. Different institutes take part in the anti-doping education process including medical, legal and pedagogical aspects. Some material has been produced on banned substances and health of athletes. Seminars for athletes, coaches, sports medical doctors have been organised. In the education of sports medical doctors a study session on anti-doping is included. No website or telephone line has yet been established but the experts of sports medicine are available for athletes' and coaches' questions. Some sports federations (like the Athletics Federation) have been more active than others.

*In the future, the federations could take a more active role on informing their own athletes on anti-doping issues.*

*The National Anti-Doping Centre should define the criteria for approving the therapeutic use of banned and restricted substances and create an easy way to implement a national system to receive and store the medical notifications. All the athletes and medical staff should be well informed about the procedures concerned with the medical notification. The National Olympic Committee should co-operate with the National Anti-Doping Centre in terms of education. Again, the proposed standard on therapeutic use exemptions in the World Anti-Doping Code should be used to develop these criteria.*

#### **Articles 7: Cooperation with sports organisations on measures to be taken by them**

Ukraine is a country with a great tradition in terms of sport. More than two hundred medals gained by Ukrainian athletes in the Olympic Games are a demonstration of this tradition.

The country has at this moment about 1300 elite athletes. The implementation of an anti-doping program is essential to the sports policy of the Ukraine. The Consultative team congratulate the Ukraine public authorities for the decision to create an anti-doping control system in Ukraine. The creation of a completely new system is a good opportunity to begin the construction of a programme according to the International standard for doping control (ISO/PAS 18873) and the draft standards on doping control in the World Anti-Doping Code. The construction of a quality system above an old structure is more difficult than building a completely new organisation in conformity with the quality norms.

Government and sports federations have traditionally close co-operation in the Ukraine. In fact, when the new anti-doping organisation is operational, close co-operation in exchanging information between federations and the new organisation will be vital for further development.

*The National Anti-Doping Centre should be given full authority in anti-doping issues doping controls, results management, education and information, international co-operation and in issuing doping regulations. The athlete's rights and responsibilities should be clear to all partners. It should establish a large and firm in- and out-of-competition doping control programme in the country.*

*The National Anti-Doping Centre should work in the seven different steps of the draft I.S.D.C standards:*

- 1- Test Distribution Planning*
- 2- Selection and Notification of Athletes*
- 3- Preparing for and Conducting the Sample Collection Session*
- 4- Handling of samples*
- 5- Sample Analysis*
- 6- Results Management*
- 7- Disciplinary Procedures, Sanctions and Appeals.*

*The conformity of the national anti-doping system with these quality norms is very important to preserve the rights of the athletes and the solidity of the system and to prevent conflicts. The National Anti-Doping Centre is a valuable framework. According to it, the national anti-doping plan should be revised annually with the help of the National Sports Federations, dividing the sports into different risk groups and defining criteria to calculate the number of in- and out-of-competition controls to perform in each sport and the total number of controls to be carried out in the Ukraine. In 2001, 792 samples from anti-doping controls were collected in the Ukraine:*

- 448 International in-competition ;
- 147 International out-of-competition (by International federations and WADA)
- 92 National in-competition
- 105 National out-of-competition

The Anti-Doping Centre decides on the national doping controls; these are then carried out by doping control officers in the Medical Centre. Every year a plan is drawn up concerning which doping controls are going to be carried out. Controls are paid by the state and some sports federations pay for extra controls. The Football Association carries out its own doping controls, according to UEFA or FIFA requirements. Other federations do not have money for extra controls. Many federations are engaged in anti-doping work in other respects with the Anti-Doping Centre.

*The Consultative team recommend that the Ukraine should increase the number of anti-doping controls, mainly the national ones (both in- and out-of-competition), due to the high number of elite and non-elite athletes participating in national competitions. Each National Sports Federation should have anti-doping regulations approved by the National Anti-Doping Centre's Supervisory Board, in conformity with the National anti-doping legislation. The National anti-doping legislation and the anti-doping regulations of each National Sport Federation should define the criteria and the procedures that warrant the fulfilment of the ISO standards.*

***The National Anti-Doping Centre should define criteria for the selection of the athletes and competitions to be controlled mainly by random. The national anti-doping legislation and anti-doping regulations of each National Sport Federation should define the procedures for the notification of the athletes with the warrant that the out-of-competition doping controls are made with no notice.*** The National Athletics Federation seems to be the well-organised sport federation in the Ukraine in terms of anti-doping policy. The National Anti-Doping Centre can use its experience for the development of the National anti-doping system.

***The National Anti-Doping Centre should have a training programme for doping control officers. These officers should be completely independent from the sport that they are controlling. All the athletes, coaches, support personnel and officials should be informed about their rights and duties during a doping control. The National anti-doping legislation should define an anti-doping form that should be used in all the doping controls carried out in the Ukraine.***

***The transport of the samples between the doping control station and the laboratory should be done in accordance with the ISO norms. The National Anti-Doping Centre should create documentation to the chain of custody of the bag and samples and provide a contract with a transport supplier with ISO certification.***

***The National Anti-Doping Centre should supervise the activity of the anti-doping laboratory.***

***The results management should be done with the co-operation of the anti-doping laboratory, the National Anti-Doping Centre and the National Sports Federations, all parties preserving the confidentiality.***

***The National Anti-Doping Centre should have a technical commission for approving the therapeutic use of banned and restricted substances and to advise the Supervisory Board about technical and scientific issues.***

When there is a positive screening, the sample is sent to an accredited laboratory for confirmation. Positive cases are handled according to the international federation rules. If there is an appeal body set up according to the IF regulations, that appeal body is used. The State Committee has to approve of the sanction and can withdraw financing of contracted sportsmen.

If there is no appeal body in the federation rules, the athlete can go to civil court. Problems may arise in this situation as the Law on Anti-Doping Control in Sports has a different definition on doping than that of the Convention. As the Convention is considered as a law, there will be two definitions for the court to take into consideration.

***The Consultative team recommend that the Law on Anti-Doping Control in sport should be made uniform to the definition in the Convention.*** With the World Anti Doping Code being adopted, maybe this amendment can wait for the final wording of the Code and possible amendment of the Convention.

***It is recommended to work on harmonising disciplinary procedures and ensuring that there is a system in every sport that gives the athlete the possibility of appeal within a sport organisation to a second instance.***

*The Ukraine should reinforce the mutual recognition of anti-doping controls made by national anti-doping organisations of other countries with the signature of the Additional Protocol to the Convention, for example.*

***Article 8 of the Convention: International Cooperation***

International co-operation is vital in the phase where the Ukraine is currently. Actively seeking for best practices to be benchmarked is one point, as is influencing the international community. Close relations with Council of Europe, IOC and WADA are now essential. Bilateral agreements should be considered on the basis of how to use information from other countries and when knowledge is improving how to help neighbour countries to improve their system. All experts of Council of Europe offered to help the Ukraine in establishing their new system.

**Conclusion**

It is clear that the Ukrainian Government has a strong political willingness to take further action in the field of anti-doping, helped, as was the impression of the Consultative team, by the concern and wish to avoid any national tragedy and shame in Ukrainian sport. The recent undertakings set out a good framework and basis for the national anti-doping policy: ratification of the Convention, adoption of new regulations, creation of a national anti-doping body. The Consultative team hope that the observations and recommendations outlined in this report could provide help for the implementation of a comprehensive and consistent anti-doping programme in Ukraine.

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The Consultative team thanks the Ukrainian authorities for hosting this consultative visit and for its good organisation and for the very warm hospitality shown to them in Kiev, in particular to Mrs Mariya Bulatova, Mr Myroslav Dutchak, Mr Valerii Zhuliaiev, Mr Anatoliy Putsev and Mrs Nella Demianets and their colleagues.



## **Appendix**

### **Composition of the Advisory Visit Team**

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### **Programme**

16 October 2002

#### **Morning**

Visit to the Olympic Glory Museum

Meeting with the Chairman of the State Committee of Ukraine on Physical Culture and Sports  
Mrs. Maria BULATOVA and others

Meeting with the President of the National Olympic Committee of Ukraine, Mr. Ivan  
FEDORENKO as well as the presidents of the sports federations and sportspeople

#### **Afternoon**

Visit to the recreational centre of the DYNAMO Football Club

Visit to the National Opera and Ballet Theatre

17 October 2002

#### **Morning**

Visit to the anti-doping laboratory

A round-table discussion with the representatives of:

- Parliament Committee Secretariat on Youth, Sports and Tourism
- The Cabinet of Ministers of Ukraine
- Ministries of Foreign Affairs, Finance, Internal Affairs, Public Health, Education and Science

#### **Afternoon**

Press conference