

Norway

“Compliance with Commitments Project”  
Respect by Norway of the Anti-Doping Convention

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#### **Preface:**

This project was commissioned by the Ministry of Cultural Affairs. The research question was formulated under the best co-operative relations. The report was written in the period 1 September – 1 December 1997 at the Norwegian University of Sport and Physical Education (NIH).

As the sole project manager, I have had a great deal of invaluable help from a number of people. I would like to take this opportunity to thank the Ethics Department of the Norwegian Olympic Committee and Confederation of Sports (NIF). I owe a special debt of gratitude to Tove Indgjerd and the staff at the archives of the Ministry of Cultural Affairs.

Jan Ove Tangen has been my supervisor and source of inspiration in the writing of this report. This has resulted in useful and absolutely necessary changes during the course of the writing, for which I am indebted.

*NIH 14 November 1997.*

*Bjørn Barland*

*Project manager*

#### **Abstract:**

This report is an evaluation of the Norwegian efforts to combat doping in sport in relation to the

Council of Europe's Anti-Doping Convention, paying particular attention to the commitments laid down in Articles 1, 3, 4, 5, 6, 7,8 and 9.

The conclusion of this evaluation report is that the anti-doping work in Norway complies with the commitments provided for by the above-mentioned Articles. I have discussed the way in the Council of Europe's Anti-Doping Convention may have influenced anti-doping measures in Norway. By looking at the distribution of roles between the central government and the sports community from a historical perspective, I have attempted to demonstrate that the central government became noticeably more involved in and committed to the battle against doping in Norway after 1989. By way of a conclusion, I have tried to ascertain whether this a process that has come about due to factors on a historical, an organisational or a personal level.

This report is intended as part of the basic material for the forthcoming hearing under the auspices of the Council of Europe. I have therefore not drawn any definitive conclusions, but have tried rather to indicate certain areas that deserve further study and issues that can be raised during the hearing.

## **1. Introduction**

### **1.1 The problem**

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 (Tjørnholm 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 an 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 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. Norway agreed to such an evaluation in connection with the Anti-Doping Convention. The necessity of such an evaluation was justified on the grounds that the Council of Europe needs to monitor whether countries that of their own accord ratify its agreements actually take any concrete steps to fulfil or realise the intentions laid down in these agreements. At this point, it might be useful and fitting to give a more concrete explanation of the assignment that I have been given.

## **1.2 The assignment**

The general framework for this project was outlined in a letter from the Ministry of Cultural Affairs dated 19 August 1997, in which it was stated that the prime objective of this study would be to evaluate Norway's compliance with the commitments laid down in the Anti-Doping Convention of 1989. The letter also called for a study of the following topics specifically:

- *A brief review of Norwegian efforts to combat doping from approx. 1970 up until 1997.*
- *A summary of the measures that have been implemented in connection with the undertakings agreed to in the Anti-Doping Convention.*
- *A study of how successful the various measures imposed by the Ministry of Cultural Affairs have been with regard to greater involvement of the Norwegian Confederation of Sports (NIF) in anti-doping schemes.*

Against the background of this letter, the finer details that have been mentioned here and a meeting with the Ministry as the body commissioning the project, the following problems have been deemed relevant:

**. What is called for in the obligations laid down in the Council of Europe's Anti-Doping Convention? These obligations are formulated in particular in Articles 1,3,4,5,6,7,8 and 9.**

**. What measures has Norway implemented in an attempt to meet the commitments outlined in the above-mentioned Articles? The measures that have been implemented must be documented at a number of different stages and levels, both**

**within the government and in the voluntary sector, in. e. the Norwegian Confederation of Sports (NIF).**

**. What funds have been granted and what kinds of resources (both financial and other, for example competence) have been made available in order to facilitate the fulfilment of the agreed undertakings, within the government and in the voluntary sector.**

**. What results have the various measures yielded with regard to increased efforts to combat doping in the Norwegian Confederation of Sports (NIF)?**

When I met representatives of the Department of Sport Policy, a division within the Ministry of Cultural Affairs, there was clearly a wish for a concrete specification of the measures that Norway has implemented in relation to the Anti-Doping Convention. I have therefore chosen to focus this report on what has been done and what kinds of resources have been made available. And it is here that we meet one of the main challenges afforded by this project. The Anti-Doping Convention is a political document by means of which the individual countries make a commitment at the political level. The Convention may be interpreted as a political instrument used to control the voluntary organisations in the battle against doping. In Norway, the connections between the organised sports community as a whole and the state are so close that it can sometimes be difficult to draw a line between what has been categorised as a government responsibility, and what rests on the individual organisations. Per Selle (1995) has asked whether the links between the sports organisations and the state in Norway are so many and so tight, that they must be regarded as going hand in hand. The intimate "familial" ties between the government and sports organisations will therefore form the backdrop, against which this evaluation will be made. I will go into this aspect in more detail in connection with my discussion of Article 1 below. In addition to this perspective of the relationship between state and sport, I also want to approach the problem from the angle of the campaign against doping in the Norwegian context, in relation to the international efforts to eliminate doping. Here then we have two approaches that in conjunction yield some interesting results, as we will see below.

The Council of Europe's Anti-Doping Convention is based on principles laid down in a preamble, and consists of a total of 19 Articles, of which Articles 1,3,4,5,6,7,8 and 9 define the responsibilities and duties of the individual member states. The other Articles set out the political rules for making amendments to the convention.

Article 1 defines the aim of the convention: that the parties shall, as far as their various constitutions allow, reduce and if possible eliminate doping.

Article 3 deals with the need to establish national co-ordinative bodies that also embrace the relevant bodies outside the sports organisation.

Article 4 describes measures against doping at the national level, and outlines guidelines for appropriate actions that the respective parties should take in relation to sports

organisations that do not fulfil their obligations in this respect.

Article 5 deals with doping control laboratories and their role in the battle against doping.

Article 6 treats the parties' commitments in respect of education and information. It also discusses the obligation of each individual country that is party to the convention to perform relevant research into methods that will constitute an alternative to the use of doping agents and methods.

Article 7 describes the co-operation with sports organisation on measures such as monitoring and controls, procedures for the enforcement of the doping regulations, and legal procedures for the imposition of penalties.

Article 8 refers to the commitments entailed by international co-operation. It places particular emphasis on the importance of sharing information, and co-ordinating the efforts in the various separate countries.

Article 9 defines the obligation to inform the Council of Europe about the measures taken with the aim of abiding by this Convention.

The objective of this report is then to evaluate the anti-doping campaign in Norway on the basis of these Articles. In connection with my discussion of some of these Articles, I will also give a brief historical review of the measures Norway had already implemented against doping prior to its ratification of the Convention. The relevance of these kinds of "digressions" may not be immediately apparent, in relation to the given research question. In my opinion, however, it is important to underline that a number of the undertakings laid down in the Convention had already been included in the Norwegian anti-doping efforts, long before Norway signed the Convention. I think it is necessary to take this aspect into account, although it may result in this report being more voluminous and more extensive than was originally envisaged. I have tried to justify this decision as follows: by juxtaposing the undertakings laid down in the 1989 Convention with the measures implemented in Norway before and after the Convention came into force, the issue may then arise as to whether it is Norway that has agreed to follow the rules set out in the Convention, or whether it is the Council of Europe's Anti-Doping Convention that has decided to implement, or at least follow the example of, the ideology on which efforts to combat doping have been based in Norway since the early 1970s.

This kind of question may ring somewhat self-congratulatory, and I shall deal with this aspect in more detail later in this report. As already mentioned, however, Norway's joining the Convention was important in that it resulted in a stronger political influence on the national schemes as well. The fact that Norway had played an active part in the formulation of the Council of Europe's Anti-Doping Convention also lent the domestic campaign against doping in sport international "weight".

I would like to demonstrate my argument here by means of a brief example. Thanks to the Convention it became legitimate on a political level to introduce earmarking of funds

for the anti-doping campaign. This is stated explicitly in Article 4.2, and came to fruition in Norway in a change in practice introduced in 1992. This intervention in the integrity of the sports organisations must be seen in relation to the ongoing, new “positioning” in the relationship between the state and sports organisations. The trend we have seen since the late 1980s and into the 1990s is a constant debate concerning the balance of power between the government and the sports organisations in a variety of different fields. It would appear that these discussions will probably continue and accelerate up until the turn of the century.<sup>1</sup> The fact that many of the undertakings laid down in the Convention were already in practice in Norway before it came into force is thus intended to explain the chosen structure of this report. It will be crucial to look at the measures that were already in use before the Convention came into effect, at the concrete commitments and obligations set out in the various Articles, and at what changes have occurred in the Norwegian anti-doping campaign since it joined the Convention. I will give a brief summary at the end of my discussion of each of the Articles.

An obvious aspect of this evaluation of the actual results of the scheme in Norway will be a concrete review of what resources both the Ministry of Cultural Affairs and the Norwegian Confederation of Sports (NIF) have allocated to the efforts, and how they have been used. In this respect it is vital to look not only at actual allocations, i. e. the financial resources that have been made available. In this kind of discussion of resources it is also important to look at the other types of resources that have been used, such as various forms of competence that have been employed. The link between the state and the sports community provides a prime example of how they share and benefit from each other's competence and resources. In some areas it is the state that intervenes at the political level, defines the premises and lends weight to the international anti-doping efforts. This may in turn result in an increase in resources allocated to the Norwegian Confederation of Sports (NIF) and the campaign against doping in sport, in order to realise the political decisions that have been reached. In other areas it is the Norwegian Confederation of Sports that makes its special skills and competence available in connection with the political work in which Norway is involved, in order to furnish the political efforts with a concrete content above and beyond the level of mere political principals. On the basis of the close connections between the government and the sports organisations in Norway, this kind of collaboration has been quite natural. Collaboration like this makes the borders fuzzy and at times almost impossible to detect, for example if we need to distinguish between the two parties to determine who has done what in the various measures to combat doping.

As a part of this description, but also as a natural part of the discussion of the findings, this last aspect of the problem will be addressed. Is it possible to trace directly what, or in

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<sup>1</sup> In this respect I am referring to statements made by Secretary of State Fossum and Director General Skaset from the Ministry of Cultural Affairs in connection with the National Conference on Sport held in April 1997. Both issued, in my opinion, an explicit warning against the current trend in sports. A sports movement that was no longer a popular movement would not be able to reckon with the same degree of government support. It was no longer in the public interest to finance, fully or partially, a popular movement that was heading away from voluntary and value-oriented, and towards stock-exchange listing and commercial operations (The Ministry of Cultural Affairs 1997).

which way the allocations from Ministry of Cultural Affairs, generates activities in the Confederation of Sports? This is a common question in evaluation research. How can we validly gauge the effect of measures that have been introduced? With regard to anti-doping schemes, this question is highly relevant in the light of the close links that have been outlined between the Ministry of Cultural Affairs and the Ethics Department of NIF.

At this juncture, it is perhaps appropriate to turn our attention to a discussion of the methodology.

## 2. Methodology

The choice of methodological approach in connection with an evaluation project does not differ that vastly from the methodological decisions that are the cornerstone of all sociological research. Methodology is a tool, *or a means to achieve new knowledge* (Aubert 1991/1969:96). The academic discourse about valid and invalid methods that dominated the Norwegian universities in the 1960s, and still continues to this day, would appear to indicate that the choice of method is not necessarily as simple as one is led to believe, on the basis of Aubert's definition (Mjøset 1991:171–187).

Generally speaking, it is the research question itself that determines the methodology. What is it we want to find out, and how should we use the methodological tools in order get an answer to the questions we have asked? In evaluation work, as opposed to other kinds of research, the choice of method may be somewhat restricted. The research problem as it is given, and the conditions and requirements set by the body that has commissioned the project also affect the choice of method. The resources made available to the project and the time schedule also play a part. Furthermore, the methodological approach or approaches selected must of course ensure the same conditions of scientific objectivity as any other scientific project.

The problems that are raised in this report are typical of evaluation projects in general. The concept of evaluation has been defined as: *the systematic collection of data in order to analyse the effect of an experimental project in a certain area* (Almås 1990:86). In the case in hand, the goal is to measure the effects of the initiatives that have been implemented.

In literature on evaluation, a distinction is drawn between *evaluation of products* and *evaluation of processes* (Almås 1990, Tangen 1992). The first type, evaluation of products or evaluation of results, is a method of evaluation that is applied to measure a specific result after a given input. In this connection, this will be a simple assessment or measuring of the results (if any) at various stages in the campaign to combat the use of doping in sport in Norway. Then questions may be raised such as: what kinds of initiatives have been implemented, what resources have been used on the various initiatives, and what results have they yielded on the various different levels? The answers to these questions will, as far as it is possible, give an indication of the degree to which Norway has managed to comply with the commitments it agreed to by ratifying the Council of Europe's Anti-Doping Convention. This kind of evaluation is commonly used



in extensive, completed projects. The anti-doping campaign, however, is an ongoing process which is constantly undergoing revision at various stages and on various different levels of administration in Norway. This report is then an attempt to assess the results of this campaign from 1970 up until the present day.

As is apparent from the formulation of the research problem, the evaluation will have to focus on two levels. In principle, the aim of the Anti-Doping Convention is to involve the political authorities in efforts to eliminate doping within voluntary organised sports. Therefore, this report will have start on the concrete level, by looking at the political measures that have been implemented in accordance with the commitments laid down in the Council of Europe's Anti-Doping Convention. In addition to this, however, this report must also attempt to establish what concrete results the various measures implemented have yielded in the efforts to combat doping. This may seem obvious at first glance; but it is not as easy as it might at first seem to pinpoint which processes generate which results in the anti-doping campaign in Norway. The intimate ties between the state and the sports community, in this case between the Department of Sport Policy of the Ministry of Cultural Affairs and the Ethics Department of the Norwegian Confederation of Sports (NIF), are in fact so many and so complex, that these two institutions often seem to merge; and in the short amount of time allocated to this project, it is difficult, if not impossible, to determine what came first with regard to the various different measures. This close co-operation has also created challenges with regard to choice of method. Although the Council of Europe's Anti-Doping Convention has been signed on a high "political level", by the Minister of Foreign Affairs, in Norway a great number of the executive functions of the conventions have been ascribed to the Confederation of Sports (NIF). This is not in conflict with the intentions of the Convention in any way, but what *is* interesting is that in Norway these kinds of executive functions were already being performed by the Confederation of Sports long before the convention was signed.

## **2.1 Collection of data**

The way in which data is gathered depends entirely on the kind of problems being addressed. The amount of data collected will also be limited by the amount of time and the resources that are made available. In the case of this project, funds were made available for one person to work for three months.

In order to be able to provide answers to the questions asked within the given time frame, strict limitations had to be set with regard to the method of collection of data that could be used. In this report, evaluations were for the most part made on the basis of two methods for gathering data: the use of written sources in the form of official documents, and conversations/interviews. I have chosen not to distinguish more clearly between conversations and interviews, because both have been used in this case. Conversations are generally conducted in a more informal, unstructured manner, and may yield information that the evaluator can then ask permission to quote in his report. Interviews, by contrast, are usually more structured in form: for example, they may be based on a written outline which contains clearly formulated questions. This interview guide is then used in interviews with a number of different people, and is thus an excellent tool for

comparative analyses. For the sake of clarity, I would like to confirm that the methods used in this report are what have traditionally been categorised as *qualitative methods*.

Most of the data used here originated from an analysis of official documents, found in the respective archives of the Ministry of Cultural Affairs and the Confederation of Sports. Some of the documents found in these kinds of archives are confidential, and had therefore to be studied on site. The information content of such documents that is to be used in the evaluation must also be presented in such a way that it does not violate the regulations on confidentiality. The documents on which my analysis has been based are for the most part papers that the Ministry and the Confederation of Sports retrieved at my request. A small minority of the documents used were confidential.

The purpose of conversations and interviews is to shed more light on various aspects of the material gathered from the reading of official documents. There are various individuals in both the Ministry of Cultural Affairs and the Confederation of Sports who have unique historical and specialist knowledge about this topic, which is an invaluable supplement to the written material. Equally important is also their ability to correct any misunderstanding of the material on the part of the evaluator. This kind of oral material can be gathered by means of either recording the conversations on tape or taking notes during the actual meeting itself. Structured interviews ought to be recorded on tape.

## **2.2 Discussion of the method**

*The quality of an evaluation project will never be better than the quality of the data collected* (Almås 1990:68). The whole evaluation process started with a discussion of the research questions with the body that commissioned the report. It was clear that the Council of Europe's Anti-Doping Convention was to form the basis of the evaluation. In connection with the actual writing of this report, it became apparent an early stage that quite a lot of historical data would also have to be included, in order to demonstrate how some of the undertakings set out in the Convention had in fact already been introduced in Norway long before the ratification of the Convention.

The ability of this report to answer the questions posed in the assignment will, however, depend to a great extent on the methodological approach adopted. The approach I have chosen to use here demands some discussion.

By way of an introduction, it is perhaps natural to query the quality and representativeness of the sources and the material used. By choosing a qualitative method, it is the *patterns and intentions* that will be revealed. The mass of data in the field that this report is to treat is complex and very large. There is reason to suspect that the story told in official documents is not necessarily always informative in relation to the political processes behind the various resolutions. This will depend on the accuracy and quality of the data, and the degree to which it can be used to generalise or draw conclusions about political, and possibly slightly sensitive, issues.

It can also be difficult to make an appropriate and good selection when faced with such a

mountain of data. It was not possible to compare documents in order to illuminate the issue from several angles. The limited amount of time set aside for the project also prevented a critical evaluation of the sources. This kind of critical review of the sources is an indication that the evaluator has had sufficient time to gain the necessary distance to the material, to allow a critical selection of sources. On the level of principles then, this makes this report quite unusual. In this case, the bodies under evaluation are to a great extent also the same as the bodies providing the material on which the report is based, and this of course constitutes a major weakness in the project. On the other hand, it was the Ministry of Cultural Affairs that requested the evaluation in the first place; and it is generally safe to assume that the body or bodies that are being assessed themselves want as many aspects of the topic, and as much information as possible to be made available to the evaluator. There is no logical reason for documents being withheld. Nor have I, in my role as evaluator, ever felt that information was being withheld from me. Without an active and obliging attitude at the archives of the Ministry of Cultural Affairs and the Confederation of Sports, this report could never have been completed in three months.

The methodological approach adopted here is extremely time consuming, and at the same time there was no question of being able to postpone the deadline for submission of the report a little – two factors which together mean that there is a risk that there may be “gaps” in the evaluation. In the case of this report, this was manifested in the cutting down to a bare minimum of the oral sources: the interviews and conversations. This does of course deprive the report of its own internal monitoring system, or safety check, and as a result, the report could, if taken in isolation, be deemed deficient. Fortunately, this report has a form of quality assurance in terms of the forthcoming public hearing under the direction of the Council of Europe. In connection with this hearing, any areas that have not received adequate treatment in this report can be explained in more detail, and clarified if necessary. The questions raised here with regard to principles, can and indeed ought to be discussed in that kind of forum. Any deficiencies found in this report can be expected to be ironed out in this hearing. Since this report and the report that will be written after the hearing are going to co-exist as supplements to one another, together they should serve as a realistic evaluation of the Norwegian efforts to combat doping in sport.

### **3. Norwegian measures to combat doping in relation to the Council of Europe's Anti-Doping Convention**

#### **3.1 The state and sports organisations up until 1989**

Before we settle down to discuss the relevant Articles in the Council of Europe's Anti-Doping Convention, it might be fruitful to take a brief look at some constitutional aspects of the relationship between the state and sports organisations in Norway. As mentioned in the introduction, this report can only usefully be read against the background of the descriptions that emerge of the relationship between the government and the sports community in Norway. There are many reasons for this. For example, there is the fact that Norway already met most of the requirements laid down in the Convention before ratifying it in 1989. This then raises the question: what were Norway's intentions in

joining the Council of Europe's Anti-Doping Convention?

The relationship between the public authorities and the sports associations in Norway is not regulated by Acts of law or rules. The close ties that form this relationship have been established by means of mutual co-operation and co-ordination, which have since created a political “precedent”. The co-operation between the state and private organisations in Norway goes back along way, and many organisations have contributed in their respective areas to a number of positive social developments. With regard to sport, this has been especially noticeable in respect of the issue of collective public health policy, that started to emerge in various areas in Norway around 1945 (Goksøy 1996:129–133). The core of values associated with sport grew to also incorporate a recognition of the inherent value of sport itself, along with a view that participation in sports forms an important premise for socialisation of individuals and their acceptance of central social values.

Moreover, the relationship between the state and the sports community has been so harmonious and so mutual that it has somehow managed to keep at bay the relatively powerful contradictions or conflicts of interest that might otherwise have had a detrimental effect (Goksøy 1996).

Ever since the Second World War, the Norwegian Confederation of Sports (NIF) has had a monopoly over all activities that can be grouped under the term sport. The sports community has also shown a great capacity and willingness to embrace new tendencies that appear within the leisure industry, and especially those that emerged in the 1960s. The fact that a single organisation is able to embrace activities as divergent as skiing and tennis, and forms of activity as divergent as elite competitive sport and mass recreational sport must have a logical explanation.

Perhaps this is precisely because of the strong government influence on or involvement in the organisation of sport, or perhaps it is rather because sport has acted as a central identity marker in Norway ever since the war. At any rate, affiliation to the sports movement, and participation in it has to date managed to overcome any internal conflicts within the movement (Selle 1995:340).

From the point of view of history, the government's involvement in the organisation of sport has been made legitimate through its provision of services and facilities for sports activities. In concrete terms, this was expressed first and foremost in decisions concerning, and grants for the construction of facilities (Report to the Storting, *St. meld.* no. 41. 1992–93:112). In addition to this, there was also a common understanding that the actual activities performed inside the various arenas was entirely under the jurisdiction of the Confederation of Sports (NIF). The government was interested only in ensuring that the facilities were easily accessible to everyone, and were being used for the common good. And herein lies an implicit trust that the sports associations would run their activities in keeping with the political guidelines and suggestions, which in turn legitimated the government's involvement.

In the 1970s, sport was integrated into cultural policy in Norway. In addition to the new emphasis that was being placed on cultural policy, the 1970s also marked a renaissance in left-wing radical social moralism in Norway (Olstad and Tønnesen 1986:349). The involvement of public agencies in the organisation of sport in the 1970s was as previously legitimated by means of the desire to make sport and physical activity accessible to the whole population (Report to the Storting, *St. meld.* no. 8 1973–74 "Organisation and funding of culture"). The "Sports for All" movement provided the necessary political legitimacy to justify the ever increasing government grants and contributions. The efforts of the public bodies were supposed to guarantee the future of widespread, popular participation in sports and other physical activities as a general and collective aspect of public health care. Construction projects were therefore to concentrate on local and easily accessible recreation centres for the average citizen. In addition to its unequivocal guidelines as to what the facilities were to be used for, there were also clear signals that the government wanted to keep an eye on what the various sports organisations were up to.

*The Norwegian Confederation of Sports (NIF) will continue to receive funds for activities to which it itself chooses to give priority. The funds for activities prioritised by the government and the funds allocated for activities that NIF itself chooses to prioritise must be assessed and spent separately, so that the control and overview of the public administration is not diminished (:76).*

In the 1970s, the debate about the role of sport was also coloured by the moral renaissance, as already mentioned. Was this then a sign of the times that pointed to a development away from the values traditionally associated with sport (Olstad and Tønnesen 1986:348)? The sports community felt the need to position the movement in a matrix of values with which the average man and woman were comfortable (Olsen et. al 1979). The moral renaissance of the 1970s can also be recognised in the early 1980s in a variety of statements and reports on cultural policy.

We must however also regard this change of practice in relation to the sports organisations from a wider perspective. The 1980s was a decade marked by pressure to achieve ever faster developments within sports. Sport as a movement was continuously being invited – and let itself be invited – to enter other sectors of society. The increasing commercialisation, professionalisation and focus in the media to which it was subjected led to an ever greater pressure on the limits and the value choices that sport had to take in order for it to maintain its legitimacy as a popular movement. Throughout the course of the 1980s and into the 1990s, it became ever more apparent that just because an organisation is run on a voluntary basis does not provide any guarantee of its integrity, or allow it to exist as a neutral zone disassociated from the rest of society, and as such, be capable of promoting and preserving values. An organisation such as NIF will often reflect, and perhaps even magnify, the general trends in society (Selle 1995:336–339).

The question at stake is then whether Norway's ratification of the convention in fact only equipped the authorities in this area (i. e. the Ministry of Cultural Affairs) with the legitimacy it needed to control the sports organisations in a completely different way. This question will have to remain unanswered for a while, but it will be raised again

under my review of the individual Articles below, and the concluding discussion.

### **Doping and the public authorities**

In the Report to the Storting, *St. meld.* no. 23 (1981–82) “Cultural policy for the 1980s”, it was still an express objective for the government to organise sports and physical activities under the by now well-known motto “Sport for All”. This Report to the Storting also attaches importance to the function and role of the sports community in the development and social integration of the individual. In Report to the Storting, *St. meld.* no. 23 (1981–82) “Cultural policy for the 1980s”, doping is mentioned explicitly in conjunction with a number of other undesirable developments. The concern voiced in the 1970s about unfortunate tendencies in the development in sport is thus expressed in concrete terms here:

*The Ministry is concerned about certain central trends, not least in international elite sport. We have of late been witnesses to an ever increasing degree of professionalisation and commercialisation, which in several areas now pose a serious threat to fundamental values in sports policy and cultural policy. Extreme demands on performance frequently lead to physical and emotional pressures of such a nature that athletes may suffer permanent injuries. Stimulants (doping), extreme training and one-sided and premature specialisation are examples of “performance-enhancing” measures that in both the short and the long term may have unfortunate consequences (:116).*

The Report to the Storting also emphasises the fact that the government has resolved to follow the developments in sport very closely, in order to monitor whether the grants awarded are being used in accordance with its intentions. With regard to doping, this was new and it was put on the agenda for the first time in this kind of official document. This Report to the Storting also focuses attention on the challenges faced by the sports movement. In particular, it will be pressure exerted by parties and interests associated with elite sport that the sports community will find difficult to resist. This is then a further manifestation of the government's involvement in and commitment to combating doping.

As time passed, Norway became involved in the anti-doping campaign in the international political arena too. I will treat this aspect in more detail later, but at this point it might be interesting to see how the close kinship between the state and the sports organisations was expressed in international anti-doping activities. Norway had been chosen to represent all the Nordic countries in both the preliminary stages and the final drafting of the European Anti-Doping Convention. An informal conference of European ministers responsible for sport was held in Athens in 1988, and this formed the foundations on which the preliminary work on the formulation of an Anti-Doping Convention was started. The continuous political disagreements on matters concerning the content of the Convention led to the formation of a working party that was entrusted with producing a final draft towards the end of 1989. The Ministry of Cultural Affairs once again turned to the Confederation of Sports (NIF) and asked them to nominate representatives for this project.

The Anti-Doping Convention was a political assignment, but a job that in Norway was immediately handed over to the Norwegian Confederation of Sports (NIF). This is particularly remarkable since Norway had been entrusted with representing the whole of Scandinavia politically. Later in this report, under my review of Article 8, "international co-operation", we will see how NIF, in collaboration with the other Nordic countries, managed at a relatively early stage to co-ordinate and entered into mutually binding contracts about performing doping control tests on each other's athletes. At this point in time, it was clear that all competence in this area was located in the Confederation of Sports (NIF).

At an early phase, when the European Anti-Doping Charter was being circulated for comment, NIF requested a meeting with the Ministry in order to discuss or: *hear the Ministry's opinions on how the sports organisations and the Ministry can work together in order to comply with the intentions set out in the Charter* (Letter from the Norwegian Confederation of Sports (NIF), dated 21 November 1984). However, it appears that these kinds of meetings occurred less and less frequently with the passing of time. During my work on this report, it has not been possible so far to trace a single strategy memo about the content of the mandate that the representatives from NIF would present at the meetings held in connection with the Charter, and later in connection with the Anti-Doping Convention. I have not found a single written memo, or evidence that any meetings were held at the Ministry at which the appointed representatives were given their mandate. Nor I have managed to establish exactly how many meetings were held between NIF and the Ministry.

There was obviously such a degree of consensus about this assignment, that both parties took it as a matter of course. Or perhaps the reason is rather that the Ministry at this juncture had little or no interest in this issue. The report that was written about the progress of the work on this task was never commented on by the Ministry.<sup>2</sup>

The constitutional links between the government and the sports community in Norway were also highly visible in the international schemes concerning sports-related issues before 1989. As early as in 1978, Norway indicated its official position on anti-doping schemes in an international forum. At the "2nd Conference of European Ministers responsible for sport" held in London in 1978, Norway voiced its views on the principles on which the battle against doping in sport should be founded, and this was a political position that did not go unnoticed:

*It was at the London Conference that the Norwegian Minister responsible for sport announced his Government's support for the policy of the Norwegian Confederation of Sport, which would not tolerate the use of doping agents by Norwegian competitors, even if that meant that the price to be paid in the future was that Norwegian athletes would no longer win medals in major international events* (Council of Europe 1990:8).

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<sup>2</sup> This information has been confirmed by both Harald Tronvik and Rune Andersen, both of whom were actively involved in the entire process right up until the presentation of the final draft of the Convention in 1989.

Norway's clear anti-doping profile has obviously had an impact on the preparatory work on the Council of Europe's Anti-Doping Convention. The first step in this process was the formulation of a Charter, which was a less formal procedure. Norway was involved in this work right from the beginning, and played a relatively active role. Once the work on this charter was completed, it was decided to formalise the intentions in the more legally binding form of a convention. To achieve this, a formal working committee had to be established, the task of which was to present proposals to the various different bodies of the Council of Europe. In connection with this formal planning of the content of the Convention, Norway was nominated to represent the Nordic countries. In Norway it was decided that a representative from the Confederation of Sports (NIF) should be appointed to this task, for obvious reasons.

*On the background of the great commitment of the Confederation of Sports to international preventative work with regard to doping, the Ministry deems it desirable that the Confederation of Sports further Norwegian interests in this project*  
(The Ministry of Cultural Affairs, 8 March 1989).

In this way, work on the international anti-doping campaign in Norway became a joint venture between the state and the sports community. As we shall see later on, this co-operation has spread during the course of the 1990s to other areas too, which I will discuss in connection with my evaluation of Article 8.

Yet another manifestation of the government involvement in the efforts to combat doping appeared in 1988, when Norway's Minister of Justice, Ms Helen Busterud, gave a lecture at the first world congress on anti-doping, held in Ottawa in Canada in June 1988 (The Norwegian Confederation of Sports (NIF) 1988:15).

### **3.2 Compliance with Article 1**

The first Article of the Council of Europe's Convention reads as follows:

#### **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.**

In the Report to the Storting, *St. meld.* no. 41 (1991–92) “Report on Sports”, the government's commitment to the anti-doping campaign is given a politically more prominent position in relation to that of the sports organisations. This was the first report to the Storting that treated sport as an independent element in the cultural policy in general. In the 1980s, the issue of sport became ever more central to the general public debate. Sport was accepted as a major and equally valuable aspect of the Norwegian identity and culture, but the tone of the reports to the Storting from the 1970s and the early 1980s is still noticeable. The state regarded the voluntary organisations, in this case the Confederation of Sports (NIF), as a natural operator in the field with regard to cultivating sport in such a way that it is accessible to everyone committed to the protection of health in the community as a social value. This can therefore not be



regarded as a fore-warning of any imminent changes in the basic structure of the relationship between the state and the sports organisations (113).

Nevertheless, despite the fact that the overall structure was stable, there were very clear signals that changes would be made in practices. The government called for a clearer overview of what the funds were being spent on. In many areas funds were actually earmarked for specific purposes, such as “sport for children and teenagers”, and “the anti-doping campaign”

The Ministry of Cultural Affairs was at this point still satisfied with the work that the Confederation of Sports was doing in battle against doping, but at the same time it also recognised that the problem was of such a character that it was imperative that the government become more actively involved.

*The sports organisations are under a considerable amount of pressure, both internal and external, and central values may be lost if the participants and the organisers do not begin to work actively to uphold the traditional ethical norms (:123).*

The Ministry thus wanted to ensure that the anti-doping campaign retained its high public profile, and as a means to this end it decided to introduce earmarking of funds for the campaign within NIF. This kind of change in practice illustrates several interesting points. The Ministry of Cultural Affairs took the developments within organised sports seriously, and wanted to provide concrete assistance to the Confederation of Sports in its efforts to eliminate the problem. There are however also clear indications of a new tightening of the reins, in that the Ministry of Cultural Affairs voiced its desire for a more prominent position in the Confederation's battle against doping. The government funds for sports activities were legitimated by the overriding goals with regard to sports policy. The earmarking of funds for anti-doping activities must thus be interpreted as a wish to make a statement that the anti-doping campaign was a priority, also within the Norwegian Confederation of Sports (NIF).

The Ministry of Cultural Affairs also drew attention to the influential forces outside of the sports community that render the battle against doping more difficult. With a view to meeting this challenge, the Ministry of Cultural Affairs decided to broaden the scope of its commitment to anti-doping initiatives, and make it a high-priority social goal. I will return to this aspect in more detail in connection with my discussion of Article 3.

Since 1991, the debate concerning sports policy in Norway has been more concerned with the role of the government in the light of its framework grants or earmarked financial subsidies for sports activities (The Ministry of Cultural Affairs 1997).

## **Summary**

The prime objective of Article 1 is to encourage the parties, within the limitations set by their respective constitutional provisions, to take the necessary steps to comply with the commitments set out in the agreement.

So, what has been done in Norway in an attempt to realise the objectives of the Article? The fact that sport has a solid ideological basis and is perceived as being of inherent value in cultural policy in general has led to a very close connection between the state and the sports organisations in Norway (Selle 1995).

With regard to constitutional changes, the state has manoeuvred itself into a position where it can earmark funds for anti-doping activities within the organisation, an aspect to which we will return later in this report.

At first glance it might appear as if the events of 1989 and the Convention have resulted in a change in the roles within the close co-operation between the public authorities and the sports organisations. Prior to 1989, it seemed that the sports community was the active agent in the campaign against the use of doping. It appeared that there was no awareness of the issue in political circles, and the case was treated on the premises of the Confederation of Sports (NIF) alone. It was the sports organisations that were in charge, both on the level of their own organisation, but more interestingly, also as an active advocate in the anti-doping work on the political level. This can be seen in the absence of political signals from the government to the Confederation regarding its work on the Anti-Doping Charter, and subsequently on the Convention. This can be explained on grounds of the lack of interest on the part of the Ministry. A possible reason for this might be that the Ministry and NIF shared such similar interests that strategy documents were not even considered necessary.

Since 1989 however, it might appear that the state has taken over the role of the active party, and that the Confederation of Sports has been demoted to the role of operator within its own field, providing assistance in the political work only by virtue of its specialist competencies.

I will look into why this sort of development has occurred, if indeed it has, in the discussion at the end of the report.

In what ways has Article 1 of the Anti-Doping Convention influenced the Norwegian anti-doping campaign? There can be no doubt that Norway had already implemented the measures described in the aim of the Convention.

### **3.3 Compliance with Article 3**

In the early days, from 1970 on, the Norwegian Confederation of Sports (NIF) was alone in the battle against doping. This can be attributed to the fact that doping was a problem specific to sport. However, during the course of the 1980s it became clear that the phenomenon of doping could no longer be isolated to organised sports alone. In 1987, the Sports Assembly therefore decided to institute a co-ordinative joint venture with the police, the Directorate of Customs and Excise and the Norwegian Medicines Control Authority.<sup>3</sup> This was an unequivocal signal from the Confederation of Sports that they

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<sup>3</sup> As early as in 1983 the Norwegian Pharmaceutical Product Compendium had already entered doping as a separate chapter, with advice and information for medical staff.

wanted to place the campaign against doping in a broader social perspective. Furthermore, in connection with this Article, I would therefore also like to look at the co-ordination work that is now being carried out outside organised sports. The co-ordinative initiatives within the Confederation of Sports will be discussed later. At this point I would simply like to mention briefly that the co-ordination activities within the Confederation are a result of the actual model of the organisation itself. All the organisational levels within the Confederation are subject to the same regulations with regard to doping. The developments leading up to the most important changes in the legislation on anti-doping will be treated in connection with the discussion of Article 7.

### **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.**

The issue of doping as a social problem, as opposed to a problem for the sports community in isolation, has been expressed in both the Norwegian Official Report NOU 1990:30 and the Report to the Storting, *St. meld.* no. 41. (1991–92). I will return to NOU 1990:30 in more detail in my assessment of the legislation.

One consequence of the acknowledgement of the many ramifications of doping was that in summer 1994 the Ministry of Cultural Affairs arranged a meeting between the Ministry of Health and Social Affairs, the Ministry of Defence, Headquarters Defence Command Norway, the Norwegian Board of Health, the Norwegian Confederation of Sports (NIF) and the Ministry of Cultural Affairs. The outcome of this meeting was that an informal committee would be established that could co-ordinate and disseminate information about problems pertaining to doping relevant to the areas of responsibility of the various bodies involved. The committee was made up of representatives from the following institutions:

- Aker Hormone Laboratory
- The Ministry of Children and Family Affairs
- Headquarters Defence Command Norway
- The Ministry of Defence
- The Ministry of Justice
- The Ministry of Education, Research and Church Affairs
- The Ministry of Cultural Affairs
- The Norwegian Confederation of Sports (NIF)
- The Norwegian University of Sport and Physical Education (NIH)
- The Norwegian Board of Health (on behalf of the Ministry of Health and Social Affairs)

The Directorate of Customs and Excise.

The committee was headed by the Director General of the Department of Sport Policy under the Ministry of Cultural Affairs (Kdi), Mr Hans B. Skaset, and had four meetings, the last of which was held on 21 March 1996.

During question time in the Storting (Parliament) on 10 January 1996, the Minister of Health was asked about the Ministry of Health and Social Affairs' strategy with regard to the issue of doping outside organised sports.

The Minister of Health's answer to this question was long and very detailed. The most important point was the government's objective to formalise the committee, which at this point was still informal and under the auspices of the Ministry of Cultural Affairs. In consultation with the Ministry of Health and Social Affairs, the committee was made part of the Ministry of Cultural Affairs on 13 August 1997, with the following mandate:

- 1) to ensure the best possible co-ordination of the anti-doping campaign in Norway;*
- 2) to make every effort to keep itself abreast of international developments within the field, and contribute to ensuring that important information reaches the general public, and especially the communities that are particularly affected;<sup>4</sup>*
- 3) to formulate and implement a plan of action for anti-doping activities in Norway, placing particular emphasis on activities outside organised sports communities;*
- 4) to initiate research and development in this area that will be of relevance in strengthening the scientific foundations and impact of the campaign.*

The most important message broadcast by this body is its explicit function with regard to the battle against doping in "society at large". This was no longer a phenomenon that could only be linked to sport, but which was now also being met in a number of different circles (Internal memo, the Ministry of Cultural Affairs, Department of Sport Policy, 26 August 1997)

The Committee consists of representatives from:

Aker Hormone Laboratory  
The Ministry of Children and Family Affairs  
Headquarters Defence Command Norway  
The Ministry of Defence  
The Ministry of Justice  
The Police  
The Ministry of Education, Research and Church Affairs

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<sup>4</sup> The abuse of doping substances and methods, and the constitution and function of this committee are mentioned in chapter 7 of Report to the Storting, *St. Meld.* no. 16 (1996–97) "Policy on narcotics".

The Ministry of Cultural Affairs  
The Norwegian Confederation of Sports (NIF)  
The Norwegian University of Sport and Physical Education (NIH)  
The Norwegian Board of Health  
The Ministry of Health and Social Affairs  
The Directorate of Customs and Excise.

The Committee is administered by the Ministry of Cultural Affairs, and has been appointed for two years. It is a central government body, the main objective of which is to initiate measures to make anti-doping activities *outside* NIF's area of responsibility more effective. The Committee will thus not intervene in areas that are currently under the jurisdiction of the Confederation of Sports, but the two bodies will of course co-operate wherever and whenever this is appropriate. The Committee has come about as a natural consequence of the political signals that formed the background, against which §162b of the General Civil Penal Code was passed in the Storting (penalties for doping). The Committee also reflects the opinions and intentions voiced in Report to the Storting no. 41 on sports, in which the government recognises the need to assist and support the sports organisations in their battle against doping, by expanding the scope of doping as a problem, and regarding it from a broader social perspective.

### **Summary**

The co-ordination of efforts to combat doping in Norway reflect the division of responsibility that is called for in Article 3 of the Convention. In particular we notice how *other public agencies concerned with combating doping in sport* have been drawn in.

Nor should we overlook the co-ordination schemes that have come to fruition in connection with various educational programmes and campaigns, which are being financed by a number of different ministries. I will return to this aspect in connection with Article 6 "Education".

The establishment and subsequent formalisation of this kind of body is an important and necessary weapon in the battle against doping being waged by the sports community. The division of responsibility also plays a crucial role in this respect. Thanks to the existence of this kind of formal committee, the Confederation of Sports can now devote more time and energy to concentrating on sports-related issues, as well as now also having the opportunity to co-operate with other agencies in anti-doping actions in other areas.

Article 3 should also be compared with Article 7, which also deals with co-operation and co-ordination.

### **3.4 Compliance with Article 4**

This the first Article in the Convention that deals with the introduction of measures in concrete terms. Due to the structure of this evaluation report, some of the measures that are called for in this Article will be discussed in connection with other Articles, for

example measures connected to rules and procedures for testing.

In connection with my treatment of this Article, I will concentrate for the most part on subsections 1, 2 and 3a. The other commitments described under this Article in the Convention (3b, c and d) will be evaluated in connection with Articles 7 and 8 in this report. In this section then we will be looking at the legislation under civil law, and perhaps one of the most important points from the perspective of this report – the introduction of grants earmarked for anti-doping initiatives in the Confederation of Sports (NIF). The Ministry of Cultural Affairs has revised its procedures with regard to allocation of funds for anti-doping activities. The question is whether this has come about as a direct consequence of the Convention.

#### **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 or 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 anti-doping controls on their initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.**

#### **Legislation**

Prior to 1989, there were no Acts of civil law in Norway that dealt specifically with the issue of doping. A number of the substances that were included on the international list of prohibited doping agents were, and indeed still are, well-known medicines. Thus, the

civil law, in this case the Medicinal Products Act, could be applied to a certain extent in doping offences, but the maximum penalties were very low, and the Act was extremely unclear with regard to its application in cases of doping.

Article 4, subsection 1 of the Council of Europe's Convention is worded as follows:

**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.**

On 27 March 1992, the government introduced a Bill to parliament about penalties for doping offences (Proposition to the Odelsting *Ot. prp.* no. 46 (1991–92)). Here, the government proposed an amendment of the existing Act of law, with increases in the penalties for importation, possession and sale of banned doping products, and in particular preparations that entailed a health risk, such anabolic steroids. This Bill marked a broadening of the authorities' battle against doping, which was now also being waged in arenas outside organised sports. The Bill was legitimated partly by virtue of its being a public health issue, since doping could no longer be regarded as a problem for sports organisations alone, and partly also as a step towards meeting the sports community halfway in the campaign against doping.

*Doping damages the reputation of sport, and may thus have unfortunate repercussions in other areas in society too, and also be detrimental to the general public health. On the other hand, society may also be able to reap some benefits, which it can subsequently apply in its battle against abuse of medications and drug addiction, from the sports community's anti-doping initiatives, with its clear ideology, mine of information about negative medical side effects, and experience in charging and punishing offenders (NOU 1990:30:10).*

The amended paragraph 162b now read:

*Any person who unlawfully manufactures, imports, exports, stores, sends or conveys any substance that, pursuant to provisions made by the King is deemed to be a means of doping shall be guilty of a doping felony and liable to fines or imprisonment for a term not exceeding two years.*

*The penalty for an aggravated doping felony shall be imprisonment for a term not exceeding six years. In deciding whether the offence is aggravated, special importance shall be attached to what sort of substance is concerned, its quantity and the nature of the offence.*

*The penalty for a negligent doping felony shall be fines or imprisonment for a term not exceeding two years.*

*The penalty for complicity in a doping felony or in the use of a means of doping as specified in the first paragraph shall be as otherwise provided in this section.*

(Proposition to the Odelsting, *Ot. Prp.* no. 46, 1991–92:22, (Recommendation to the

Odelsting, *Innst.* O. no. 64, 1991–92:5)).

The Act came into force on 1 July 1993. In addition to the prohibitions laid down in the Act, it was also decided that the Act would be re-evaluated at a later date, in order to assess prohibition of other doping agents and methods (*Innst.* O. no. 64, 1991–92:3–4). This re-evaluation of the Act was to be carried out within two years, but as yet has still not been performed.

### **Financial support for anti-doping activities**

The Norwegian state-run football pools *Norsk Tipping* was established immediately after the Second World War, and the profits from this were, and continue to be distributed between three areas: research, sport and culture. Today this money is distributed equally between the three. In the period covered by this report, it has been the Ministry of Cultural Affairs that has been responsible for the allocation and distribution of the funds that go to sport.

Initiatives to combat doping and the costs thereof were originally entered into NIF's accounts under “other measures”, and continued to be up until 1992. It was often very difficult to see what funds had been spent on what, and a number of figures and items in the existing accounts were “very unclear”. Throughout the whole of the 1970s and into the 1980s however, there was little reason to doubt that the funds were being spent appropriately, and so this system was retained. During this period, there appeared to be a great deal of political consensus in the Confederation of Sports concerning the priority given to anti-doping efforts.

Up until 1989, *all* of the measures implemented to prevent the spread of doping were included as a sub-entry under “other measures”. After 1989 however, the money that went to the Hormone Laboratory at Aker Hospital was clearly marked as an expense, while funds spent on general anti-doping initiatives still continued to be entered under “other measures”. Money was also donated to help finance various local anti-doping campaigns, but this will be discussed in more detail under Article 6 "Education". The situation in 1989 and in 1990 was therefore that the Confederation of Sports budgeted for its anti-doping schemes under the heading “other measures”, and that NOK 850,000 of public funds was awarded to NIF, to cover the expenses at Aker Hormone Laboratory.

Article 4, subsection 2 of the Convention, however, paves the way for the imposition of financial sanctions on parties affected by the Convention:

**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;**

In connection with these subsections, it is perhaps natural to look at the subsidies that form the backbone of the co-operation between the government and the Confederation of Sports with regard to anti-doping. In order to demonstrate the most obvious developments, I have decided to look at the period 1989–1996.

The first signals from the Ministry of Cultural Affairs that it intended to introduce changes in its routines associated with the financing of the anti-doping efforts in the Confederation of Sports came in 1991. The Department of Sport Policy under the Ministry of Cultural Affairs expressed its wish for an overview of “figures that get lost in the system” under this entry, in connection with the allocation of funds that year. The Ministry also remarked that it was very unclear what resources the Confederation of Sports itself was spending on anti-doping, and that it appeared that the NIF's budget for anti-doping initiatives was not in keeping with the guidelines on priorities suggested by the Ministry of Cultural Affairs. Funds were allocated for three positions at the Hormone Laboratory at Aker Hospital, plus 20% of a planned anti-doping campaign – a total of NOK 1.341 mill. In connection with its processing of the application, the Ministry made it clear that an increase in funds for these entries was out of the question, unless the organisation itself presented a clearer profile on doping in its budget priorities.

In 1992 the Confederation of Sports applied for and was granted NOK 6 million for its anti-doping work. 1992 was the first year that the Ministry of Cultural Affairs, represented by the Department of Sport Policy, withheld funds, pending a more detailed and long-term budget from NIF for measures to combat doping. A warning to this end was issued in the Report to the Storting, *St. meld.* no. 41 1991–92, on sports. The Ministry of Cultural Affairs' requirement that the Confederation of Sports produce a clearer profile for its aims in anti-doping efforts was presented to NIF in the form of a letter (dated 23 December 1991), and can therefore be regarded as a concrete change in procedure. This is surely an unequivocal warning from Ministry of Cultural Affairs that from now on it intended to monitor the Confederation's internal disposition of its budget for anti-doping measures more closely than previously. The Ministry also made it clear that this earmarking of funds should not be regarded as sufficient action on its own, and thus a good excuse for the organisation to “rest on its laurels” with regards to internal disposition of its own budget. This then marks the introduction of a change in practice in the relationship between the Ministry and the Confederation. The Ministry also considered various control measures that would more clearly illustrate the extent to which this change in budgeting routines generated increased activity in the campaign against doping. Targets were to be set up with regard to the prospective increase in doping controls, measured in the number of tests performed and how the Confederation of Sports spent the money allocated for anti-doping campaigns. However, I have not managed to ascertain, in connection with this report, whether any such targets were ever actually implemented.

The Confederation of Sports was also now required to submit an annual report each year, before new subsidies would be granted. The purpose of this was that the Ministry would be able to see whether the various schemes described in the budgets were actually being carried out.

The Norwegian Confederation of Sports responded to this move by the Ministry of Cultural Affairs by presenting a business plan and budget for anti-doping efforts for the period 1992–1995 (letter from the Norwegian Confederation of Sports (NIF), 28 January 1992). The Ministry acknowledged this budget, but desisted from committing itself to the figures quoted in the plans submitted by NIF.

It is however interesting to note that the Ministry of Cultural Affairs has by and large followed the budget proposed by the Confederation of Sports. In fact it has been NIF that has deviated from its own plan in its internal disposition of the budget to the greatest degree.

Below are the planned budgets. The figures in brackets are the “accounting figures” for this period.

**Financial plan: (NOK million)**

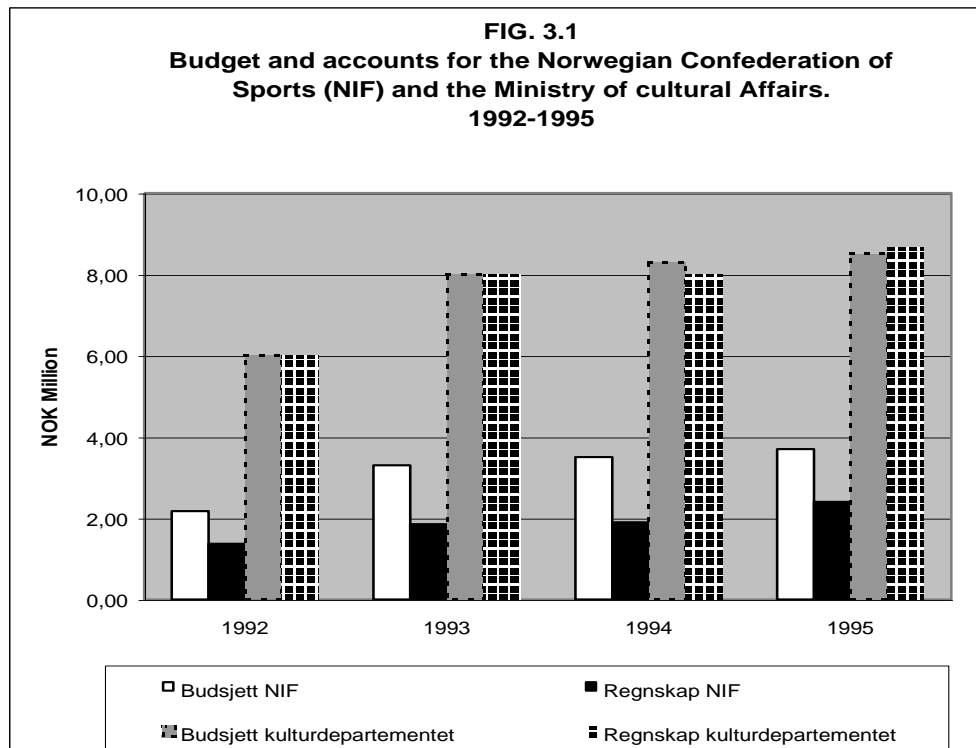
	1992		1993		1994		1995	
The Confederation of Sports (NIF)	2.17	(1.37)	3.3	(1.85)	3.5	(1.90)	3.7	(2.4)
The Ministry of Cultural Affairs	6.0	(6.0)	8.0	(8.0)	8.3	(8.0)	8.5	(8.65)*
Total:	8.170	(7.37)	11.3	(9.85)	11.8	(9.9)	12.2	(11.05)

\*NOK 1.8 million was deducted from this sum and transferred directly to the Hormone Laboratory at Aker Hospital. A further NOK 300,000 was earmarked for the Norwegian anti-doping initiatives in connection with the African Games. These figures are illustrated more clearly by means of a bar chart in fig 3.1.

As we can see from figure 3.1, there was a clear divergence between the Confederation of Sports' own budget figures and the actual accounting figures in this period. If we review the changes in procedures for allocation of funds that occurred in this period, it becomes very apparent that the Ministry of Cultural Affairs did not find the Confederation of Sports' internal disposition of its budget for anti-doping schemes satisfactory. This criticism can be found on two levels.

First of all, it is unclear what priority NIF gave to efforts to eliminate doping, despite the fact that the overall outline had been agreed upon before the Anti-Doping Convention was signed.

Furthermore, the criticism is expressed in the objections to the fact that the Confederation



of Sports revised its own internal budgets in connection with anti-doping work – the figures in which had formed the basis of NIF's application – *after* the Ministry of Cultural Affairs had awarded the funds.

In 1993 the Confederation of Sports applied for and was granted NOK 8 million. In this budget year, the practice of earmarking funds was continued, and more stringent requirements were introduced. The Ministry of Cultural Affairs was not still completely happy with the foundations on which NIF's application was based, but it nevertheless granted the amount applied for. The Ministry recognised that it would not be right to put too much pressure on the Confederation of Sports to implement new budgeting routines

in this kind of transitional phase.

In 1994 the Confederation of Sports applied for NOK 8.3 million, and was awarded NOK 8.0 million. The Ministry of Cultural Affairs justified this “under-budgeting” on the grounds that in its revised budget the Confederation of Sports had transferred NOK 1.45 million from the funds originally intended for anti-doping measures during the previous budgeting year – after it had received the earmarked funds from the Ministry of Cultural Affairs.

This was a development that the Ministry of Cultural Affairs did not take kindly to. In a letter dated 16 May 1994, it was explicitly stated that this kind of underestimation of the importance of anti-doping efforts within the Confederation of Sports' budget would have consequences for the future grant of subsidies. Figure 3.1 is a bar chart representation of the budget and “accounts” for the Norwegian Confederation of Sports (NIF) and the Ministry of Cultural Affairs in period 1992–1995

In 1995 the funds earmarked for the laboratory at Aker Hospital were removed from NIF's budget and grants entirely, and the money was now transferred to the laboratory directly from the Ministry of Cultural Affairs. The Confederation of Sports applied for NOK 8.6 million, but was awarded only NOK 6.8 million, of which NOK 300,000 was granted to finance the Confederation of Sports' responsibility for the doping controls during the African Games. I have nevertheless chosen to include this sum in the total amount granted by the Ministry of Cultural Affairs, in order to allow the comparison of the funds awarded for anti-doping measures in the bar chart in figure 3.1. In connection with the allocation of grants in 1995 too, it is clear that the Ministry of Cultural Affairs was dissatisfied with NIF's internal disposition of funds for anti-doping schemes. In the annual report from the previous year it is clear that, from an original budget of NOK 3.7 million, the Confederation of Sports has managed to slim this figure down to NOK 1.9 million. Against this backdrop, the Ministry of Cultural Affairs decided not to increase its grants until the Confederation of Sports demonstrated a clearer anti-doping profile in its own budget.

In 1996 the Confederation of Sports applied for NOK 7.6 million and received NOK 7.1 million. This represents an increase in the funds from the Ministry of Cultural Affairs in line with the increase in the budget for anti-doping schemes proposed by the Confederation of Sports. In connection with this round of allocations, there was general satisfaction that the Confederation of Sports was now stepping up its commitment to anti-doping efforts, even though the final total was still lower than that proposed in the long-term plan set up in 1992.

## **Summary**

It might be appropriate to start the summary of this section by asking whether the Ministry of Cultural Affairs is beginning to assume responsibility for the commitments laid down in the Anti-Doping Convention by means of its earmarking of funds for the battle against doping in sport.

One thing that is clear from the introduction of earmarking of funds for this work is that the Ministry of Cultural Affairs has fulfilled the requirements set out in the Convention directly. It has made the financial support it gives to the Norwegian Confederation of Sports (at least in principle) dependent on the efforts of the organisation itself, measured in terms of financial expenditure. It must also be added that the Ministry of Cultural Affairs is satisfied with the figures that the Confederation of Sports itself has proposed in relation to the financing of this work. So, what conclusions can we draw in connection with this Article? Here too I must make a reservation with regard to my evaluation. It has not been possible to find documentation to prove definitively one way or the other that this was a process that came about completely independently of Norway's ratification of the Convention.

Is it the case that the Convention was in this respect the political tool that the Ministry of Cultural Affairs needed in the ongoing political process of introducing constraints on the Confederation of Sports' activity? The Convention gives the state the legitimisation it needs to control a development that is basically positive for both parties. By means of this intervention, the Ministry of Cultural Affairs can now ensure that the Confederation of Sports continues to run its organisation on the basis of the ideological foundation that is required for a continued government commitment.

Is this, by Norwegian standards relatively marked, change in practice a direct consequence of the Convention, or was this development already in the pipeline, i. e. part of a process that had already started before the Convention was signed and came into force in 1989–1990?

It was common knowledge before the Convention that there was no longer the same commitment to efforts to combat doping in NIF in the period around 1990. As we can see from the Report to the Storting on sport, there was growing awareness that the sports community was under considerable pressure, and could no longer meet all the challenges that arose alone. Furthermore, this pressure did not only come from outside the sports organisations. There are grounds to believe that there was no longer the same consensus within the Confederation of Sports concerning how much money should be spent on anti-doping initiatives – a fact that is confirmed by the cutbacks in internal budgets after 1992. There is no doubt however, that in Norway the provisions laid down in this Article helped to provide the necessary political legitimacy for the introduction of tighter government control, by means of earmarking of funds for anti-doping schemes in NIF. Government control in this context means that the central government requires that the subsidies be spent on specified areas. There is however no wish to influence the content of the ongoing anti-doping schemes in any way attached to this change in practice.

Assuming responsibility is frequently one way of gaining power. The Anti-Doping Convention thus assumes a double function. It provides possibilities for indirect control, but also set requirements for political management. Is this to the advantage of the efforts to eliminate the use of doping in sport? What consequences does the earmarking of funds have for the Norwegian Confederation of Sports? What happens to an organisation that receives government subsidies for specifically earmarked areas? Does this become a

pretext for doing nothing, or does it pave the way for extra input by the organisation in certain crucial areas? Does earmarking as a practice lead to the alienation of this important aspect of an organisation? These are questions that will be raised in the concluding discussion in this report.

### **3.5 Compliance with Article 5**

The work to establish a doping control laboratory that would meet the requirements for IOC accreditation started in the Norwegian Confederation of Sports (NIF) in 1985. Aker Hospital in Oslo assumed the responsibility for the technical aspects of developing a laboratory in accordance with the guidelines that had been given, and the financial responsibility for the project was covered by an advance from the Confederation of Sports. The establishment of this kind of laboratory was regarded as an extremely ambitious and demanding project, but at the same time it was recognised that such a laboratory would be crucial in the national and the international battle against doping.

As already mentioned, the work on the doping laboratory was started in 1985, and since this project was deemed so central and so necessary to the fight against doping, the Sports Assembly assumed that the central government would meet the costs of such a resource-intensive undertaking (Minutes from the Sports Assembly 1987:28). The Confederation of Sports (NIF) started the ball rolling on this project before the government had given any guarantees concerning financing. As it turned out, the operation and ownership of the laboratory were subsequently entrusted to NIF, and these expenses were included in its budgets, with earmarked funds to this end awarded by the Ministry of Cultural Affairs. The Hormone Laboratory at Aker Hospital was designed to meet the standards outlined in the International Olympic Committee's (IOC) requirements for accreditation. Apart from the technical aspects of its work, the Hormone Laboratory was run single-handedly by the Confederation of Sports.

#### **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; or**

**b) to assist its sports organisations to gain access to such a laboratory on the territory of another Party.**

##### **2) The 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 on the human body and their consequences for athletic performance;**

**c) publish and circulate promptly new data from their research.**

During the course of the 1990s, matters concerning the ownership and operation of the laboratory have been discussed frequently and at length. It was argued that the laboratory ought to be independent of the Norwegian Confederation of Sports, in order to ensure that the laboratory was completely impartial in relation to the tasks it was supposed to perform for the Confederation. In the end it was decided that as of 1994, the funding of the Hormone Laboratory would be taken over by the Ministry of Cultural Affairs directly. The Norwegian Confederation of Sports, which for a long time had been calling for this kind of arrangement, was now able to purchase the services it required from the laboratory under purely professional and commercial circumstances. The Confederation of Sports still works in close co-operation with the Hormone Laboratory on a variety of research projects.

By way for an example, then, let us look at the annual report for 1995, on the basis of which it is apparent that there is a great deal of activity at the Hormone Laboratory at Aker Hospital. In 1995, it had a full-time staff of ten employees, and in April that year it also received renewed accreditation as an IOC authorised doping control laboratory. A total of 2379 urine samples were analysed for the Confederation of Sports and other international sports federations. These analyses were conducted in accordance with the regulations laid down in the IOC Medical Code, 1995. In addition, an international co-operation project was started with a Spanish doping control laboratory in Barcelona. Three members of the staff from the doping section of the Hormone Laboratory at Aker Hospital collaborated with employees from the laboratory in Barcelona for five weeks, and were together responsible for carrying out the doping control tests and analyses during the Pan American Games, which were held in Argentina 10–27 March 1995.

It should also be noted that to date members of staff from the laboratory have given seven lectures, participated in three major conferences, and have been responsible for seven publications.

### **Summary**

In Norway, preparations were being made for the establishment of a special doping control laboratory long before the Convention came into being. The only change in this area that may have occurred as a result of the Convention is that Aker Hormone Laboratory now receives money to cover its operation directly from the central government, freeing the Norwegian Confederation of Sports from any potentially compromising relationship with regard to the operation and ownership of the laboratory.

The Laboratory clearly fulfils the obligations with regard to qualification of its staff and

international co-operation. The certification of the laboratory is inherent in its IOC accreditation.

### **3.6 Compliance with Article 6**

The anti-doping activities in Norway in the years immediately after 1976 were concentrated around carrying out doping control tests (cf. the discussion of Article 7). As time passed, however, it became ever more clear that information about the phenomenon of doping in all its many guises needed to be spread among the athletes themselves, and among trainers, coaches and officials on all levels of the organisation.

At the meeting of the Executive Committee of NIF in October 1977 it was decided to develop an educational information booklet on doping. This booklet was intended to provide easy-to-read and educational information on doping, and the goal was to make sure the booklet was circulated to (and read by) all trainers, coaches, officials and specialists in the period 1978–1981. Whether all the trainers and officials actually read booklet no 3: *Sport and stimulants – doping* (Oseid 1976) is a matter I am not able to comment on. Work was started on the booklet with the following objectives in mind:

*The booklet will contribute to providing medical experts in sports federations and regional sports associations, officials, coaches, trainers and participants in sporting activities with knowledge about factors related to the use of stimulants, with a view to fostering an ethically acceptable, moral attitude to the means and ends of sports*

(The Norwegian Confederation of Sports (NIF) 1976, Booklet no. 3:5)

This booklet contained information about stimulants only, but towards the end of the 1970s there was a growing awareness that synthetically manufactured hormone products were being used, and especially anabolic steroids.

In 1980 it was decided to initiate for the very first time a scientific research project to determine the incidence and prevalence of anabolic steroid (ab)use among Norwegian athletes. This project was given the title: “Use of synthetic hormones among Norwegian athletes”, and was headed by Mr Arne Kjøde (1982). The project received a framework grant of NOK 285,000 in funding, over two years. The goal of the project was to gather information with a view to generating knowledge about what factors lead to increased use of anabolic steroids, and what techniques can be used in a preventative awareness-raising campaign to minimise the abuse and sale of steroids. These three examples of measures implemented before 1989 should then suffice to demonstrate the trends that have dominated anti-doping activities within *education* – trends that have continued to grow stronger after 1989.

#### **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.**

In 1992, the Ministry of Cultural Affairs introduced earmarking of the funds it awarded to the Norwegian Confederation of Sports (for further information on this point see the discussion of Article 4 above). In connection with this, a framework programme was devised for anti-doping activities in NIF for the period 1992–1995. This framework programme made frequent reference to the campaign activities that had been performed since 1988. The prime objective of this framework programme was that at: *All Norwegian sport shall be free of doping*. The basic principles of the anti-doping efforts were drawn up on the basis of the following keywords and guidelines – projects shall be:

- *Long-term: this will require stable and solid economic and political frames for the work;*
- *Target-oriented: a concentration of resources must be aimed at specific groups;*
- *Systematic: the anti-doping activities must undergo constant revision so that effective long-term plans can be made;*
- *Co-operative: by means of co-operation with other sectors of society the anti-doping efforts can be made more effective. Co-operation must be binding.*
- *Innovative: an effective anti-doping campaign must be based on a variety of research projects, aiming to approach the problem from different angles and in different communities.*

The main areas of concentration to attain these goals were then divided into three categories:

- 1) *Controls and investigation*
- 2) *Preventative work*
- 3) *Co-operation*

As far as controls and investigation and co-operation are concerned, I would refer you to my discussion of Articles 7 and 8 below. With regard to the preventative work, it was decided to step up the intensity of the anti-doping campaigns. Campaigns were to be introduced that targeted specific sub-populations for limited periods of time. The objective was to create and raise awareness about the issue of doping, increase knowledge, educate trainers, coaches, officials and health staff, encourage awareness of the ethical conflicts that doping entails, and reinforce the belief that it is possible to reach the top without cheating by using doping agents or techniques.

In addition to these kinds of campaigns, a variety of material was produced on doping. An overview of this can be found in chapter 11 of “The Anti-Doping Handbook”. Information has also been published on the Internet at [WWW.NIF.sport.no/doping](http://WWW.NIF.sport.no/doping). In the efforts to make the monitoring work more effective, a database has now been established

at the Ethics Department of NIF. This database is a merger of old databases, the compilation of which was a very complicated procedure, but has resulted in an invaluable resource. The database contains information about which individuals have been tested; where and when they were tested; if the test was carried out at or without advance warning; whether the test was carried out in connection with a competition or not. All the bar charts included in the section on Article 7 have been produced on the basis of the information contained in this database.

<b>ANTI-DOPING CAMPAIGN PLAN 1988–95</b>		
<b>Year</b>	<b>TARGET GROUP</b>	<b>MESSAGE</b>
1988–89:	Young participants in sports, aged 15–25 years	<i>You have a lot to lose if you start with doping.</i>
1990–92:	Trainers, coaches and officials	<i>Doping. The responsibility of trainers and leaders. As well.</i>
1992–93:	Volunteers and employees in sport	<i>You can trust us</i>
1993:	Health care staff	<i>Are you dealing dope?</i>
1992–93:	Athletes, trainers, coaches and officials	<i>Doping is cheating and the greatest threat to the values of sport ***</i>
1993:	Athletes, trainers, coaches and officials	<i>The penalties are tough</i>
1993–94:	Athletes, trainers, coaches and officials	<i>The valuable athlete</i>
1995:	Young athletes, trainers, coaches and officials	<i>You can excel without doping</i>

\*\*\* This campaign was expanded to encompass the ethical campaign and formed the starting point for the campaign “the basic values of sports”. This is a campaign that is being planned for the years leading up to the year 2000. The other campaigns have therefore been incorporated as important aspects of this large-scale campaign to promote an ethical attitude to winning and sport in general.

### **Research and documentation**

In addition to these campaigns, another fundamental principle was expressed in the Norwegian Confederation of Sports' anti-doping activities: namely the wish to be in the forefront, to be able to trace the processes and mechanisms linked to use and abuse of doping agents and methods, and the scope of their use by selected sub-populations. This resulted in a strategy document: *Strategy, research and documentation 1993–1997*. The goal of this project was defined as follows:

By means of systematic research and documentation, the Norwegian Confederation of Sports (NIF) will strive to improve its ability to organise and implement target-oriented and appropriate anti-doping activities.

In order to achieve such a goal, it was necessary to co-operate with suitable research

communities. In this case, two research institutes were chosen: Telemarks Research Bø (TFB) and Nord Trøndelags Research (NTF). The Norwegian University of Sport and Physical Education (NIH) was also involved by means of a general co-operation agreement between NIH and the Confederation of Sports (NIF), which included four concrete objectives (see the table below).

In 1993, NOK 300,000 was budgeted for the start-up phase of this extensive programme. Thereafter, NOK 200–300,000 was budgeted for each year, depending on the scope and character of the reports produced.

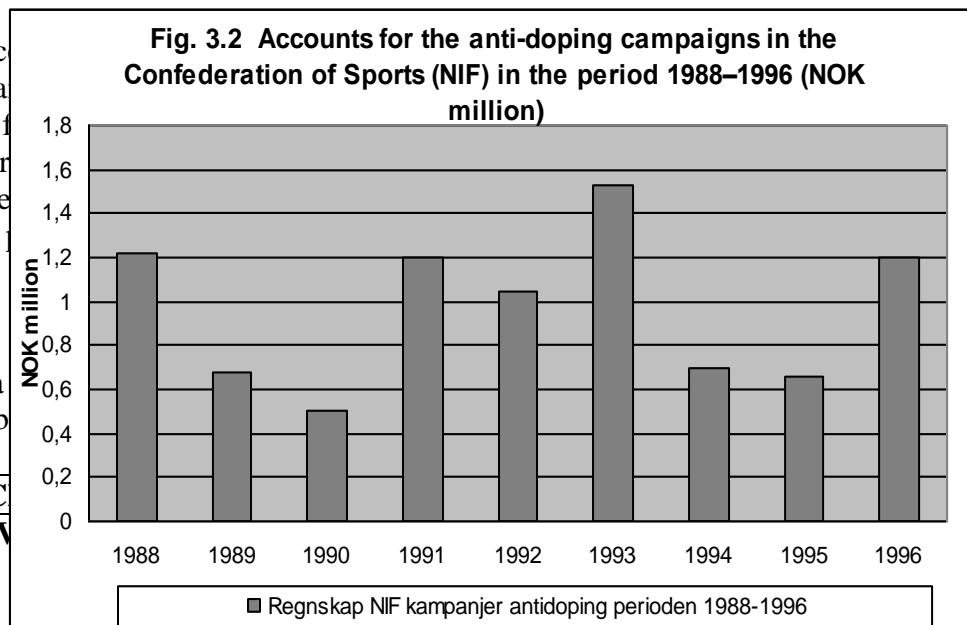
This research programme was set up as a long-term strategic programme, and it was painfully apparent right from the very beginning that there was a desperate need to build up

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<p>A) The Norwegian Confederation of Sports (NIF) aims to produce better documentation on the extent of doping abuse in organised and unorganised sports.</p>	<p>1994: <i>“To dope or not to dope”</i>.  <i>An attempt to register the use of doping agents and techniques in a sports community</i>. Report 1 (TFB).  1995: <i>Abuse of doping in the Norwegian Armed Forces. A study of scope and variations</i> (NTF).  1996: <i>Sports milieus and the use of doping</i>.  <i>An analysis of the scope and characteristics of doping abuse in individual sports federations, regional associations and fitness centres</i> (TFB).  1996: <i>The abuse of doping in registered fitness centres. An investigation of scope and variations</i> (NTF).</p>
<p>B) The Confederation of Sports (NIF) wants to register attitudes to doping in society at large and in the sports associations.</p>	
<p>C) The Confederation of Sports (NIF) wants to foster knowledge about the factors that influence and the characteristics of doping abusers and their milieu.</p>	<p>1994: <i>“To dope or not to dope”</i>.  <i>An analysis of the decision-making processes behind the use of doping in Norwegian sport</i>. Report 2 (TFB.)  1994: <i>“One choice, many reasons”</i>.  <i>Four studies to characterise Norwegian doping users and their milieus</i> (TFB).  1995: <i>Following in the footsteps of doping users</i>.  <i>Testing an educational programme with the aim of uncovering possible doping abuse among top-level athletes in eight Norwegian sports federations</i> (TFB).</p>
<p>D) The Norwegian Confederation of Sports (NIF) wants to register the extent of the knowledge about doping and anti-doping efforts in sports associations.</p>	<p>1994: <i>Norwegian trainers and sports officials: knowledge about anti-doping</i> (NTF).</p>

The accounting figures for objective A came to a total of NOK 1,207,500. There are no figures available for the other objectives.

### Summary

As far as I have been able to ascertain in connection with this report, Norwegian anti-doping activities have access to an impressive stock of material within education, research and documentation. The work to gather this sort of information was started as an aspect of the anti-doping work being performed before 1989, but it has now adopted a more long-term approach, and has become more systematic since 1992 and the

introduction of earmarking of funds. Since the introduction of earmarked government funds for this work, it has become possible to make long-term plans, thanks to the securing of access to resources that this has entailed. It is also apparent from NIF's long-term programme that it wants to stay one step ahead of the "doping abusers". This has in turn led to a clear leaning towards the development of research reports that can shed light on the various milieus and mechanisms involved, that in turn may be able to contribute to making the controls more effective. This last point will be important in conjunction with the database that has now been established, and which provides concrete information about where, when and what types of tests have been carried out. Moreover, it will be an invaluable tool when it comes to employing resources in those circles that can be classified as "risk groups".

The challenge facing the Norwegian Confederation of Sports now is how it will exploit the results of these research projects in its subsequent activities.

### **3.7 Compliance with Article 7**

Article 7 is the article that requires the most extensive treatment in this report. I have therefore decided to divide it up and look at each individual subsection separately. The Article consists of three sections, which are further subdivided into subsections. It is in Article 7 that the various concrete measures within co-ordination, enforcement of the provisions, and control measures are dealt with.

#### **Article 7.1 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.**

In this context, I would also like to refer to Article 8 "International co-operation". I would like to briefly summarise some of the elements of the international co-operation in which Norway has participated. Norwegian anti-doping activities have a prominent international profile as a result of the Nordic co-operation that was started in 1984. This co-operation came about as a natural consequence of common interests connected to anti-doping efforts in the Nordic countries, and consisted of many elements that have later been included in the Council of Europe's Anti-Doping Convention. Ratification of the Council of Europe's Anti-Doping Convention was, as already mentioned, a political decision, and the Convention was signed by Norway's Foreign Minister. In Norway, the Confederation of Sports (NIF) has played an active and natural role, both in the process leading up to the formulation of the final draft of the Convention, and after Norway joined in 1989. Similarly, the Norwegian adherence to the "International Anti-Doping Arrangement" (IADA) was also a political move that in Norway was made on the premise that NIF felt participation would be beneficial. The Norwegian Confederation of Sports supported this arrangement because it equipped them with much needed political and financial ammunition in the international battle against doping.

In 1996 the Norwegian Confederation of Sports signed a bilateral anti-doping agreement with the Chinese sports authorities. This agreement was also a result of a political co-operation between political authorities and the countries' respective sports organisations. I will return to this agreement in more detail in my assessment of international co-operation.

The next section in Article 7 has been interpreted in this report as an obligation to each individual country to abide by general principles of natural justice in connection with anti-doping efforts. At this juncture, I will review the judicial practices that form the basis of procedures applied in connection with a positive doping control test result by the Norwegian Confederation of Sports (NIF), in order to determine whether these satisfy the intentions laid down in Article 7, section 2, which is worded as follows:

**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 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.**

In connection with my evaluation of this section of Article 7, I will be looking in particular at subsections c, d, e and f. Subsections a and b will be discussed in connection with my review of other Articles. What I hope to be able to illustrate are the obligations that are embedded in the use and application of general principles of law in the

enforcement and imposition of penalties pursuant to the provisions of the doping regulations. First of all, however, we must begin with a review of the relevant rules and regulations concerning doping.

The Norwegian Confederation of Sports' (NIF) doping regulations, section 12–1 "Doping Provisions" reads as follows:

*Athletes shall be prohibited from illegally using substances and methods which are on the doping list adopted by the Executive Committee of NIF and the IOC's (International Olympic Committee) list of prohibited substances.*

*Athletes shall be prohibited from using substances or methods with the intention of concealing the use of doping substances or methods.*

*Athletes shall be prohibited from importing, acquiring, handing over or being in possession of substances which are mentioned in the first or second sentence of this section if they can (be assumed to have been or were intended to) be used in a doping context.*

*Dogs and horses used by athletes shall be subject to the doping rules and regulations which are laid down from time to time by the Norwegian Ministry of Agriculture\*. Breach of these provisions may be penalised in accordance with the provisions in chapter 11 (Penalty Provisions).\*\**

*\* Controls on dogs outside competition must only be directed against the use of anabolic steroids.*

*\*\* ESDRA's rules and regulations with a list of prohibited substances shall apply to member clubs of Norges Hundekjørerforbund (Norwegian Dog Driving Association) until the Norwegian Ministry of Agriculture has drawn up equivalent rules and regulations for Norwegian practitioners.*

Means to achieve harmonisation are inherent in the very model of organisation on which the Confederation of Sports has been structured. All the Norwegian sports associations share a common set of rules and regulations, to which all branches and levels of NIF and all its member associations must adhere. As we will see later, in connection with my review of section 3 of this Article, each individual person who takes part in any aspect of a sports event is automatically included at a level in the organisational structure that can or will be subject to monitoring and controls pursuant to the regulations. Controls and legislation are areas of responsibility that come under the jurisdiction of the Confederation of Sports in Norway, and to date, the Ministry of Cultural Affairs has never exerted any official influence on the processes related to such matters.

The measures called for in subsections e and f of Article 7.2 are fulfilled in connection with this harmonisation of activities. For more information about penalties for officials involved in doping offences, please see my treatment of the civil legislation on doping in connection with Article 4 above. The truly interesting issue in this respect, however, is whether the principles of protection of the law and due process applied in connection

with doping are in accordance with general principles of law and natural justice.

### **Legal safeguards and due process of law in general<sup>5</sup>**

In matters concerning doping, the Norwegian Confederation of Sports is a self-governing body. Infringements of the doping provisions are a matter concerning the Confederation of Sports alone, and it is the Confederation of Sports itself that must ensure that law and order is kept in its own territory. The use of substances and techniques that are classified as doping is not prohibited under civil law, with the exception of the use of controlled drugs. Although the statutory regulations and disciplinary measures related to this topic are an entirely internal matter within the Confederation of Sports, an organisation cannot formulate its own legislation without taking into account the general principles of law and justice that prevail in that society of which the organisation is a part.

**The principle of the separation of powers** is a fundamental principle in any democratic society. Within the sports community, however, it may be difficult at first to recognise this principle of the separation of powers. What becomes of the principle of the separation of powers when one single organisation has been entrusted the legislative, the executive and the judicial authority? As mentioned earlier, the problem here is that with regard to the issue of doping, the sports associations are autonomous bodies, due to the very nature of the problem. So the question here is rather whether the principle of the separation of powers has been adhered to *within* the organisation.

The Sports Assembly is the highest body within the Norwegian sports community, and it has been vested with the legislative power. It is this body that devises the rules and regulations within the framework of which all anti-doping activities must be conducted. Its tasks include formulation of regulations concerning doping, compilation of the list of prohibited substances, development of procedures for doping controls, and routines for executive work and decision making. The Sports Assembly is the legislative assembly of the “sports community” as a whole.

The Executive Committee of NIF is the executive body of the sports community in Norway, and as such it is responsible for the protection and promotion of the interests of the Sports Assembly. The Executive Committee is nominated and appointed by the Sports Assembly.

The judicial authority of the Norwegian Confederation of Sports has been vested in the Judicial Committee. Members of the Judicial and Appeal Committees are appointed by the Sports Assembly. Both of these bodies are independent and do not come under the jurisdiction of the governing bodies of NIF. The people who are elected to sit on these committees are chosen from outside the organisation.

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<sup>5</sup> This section is based to a great extent on the paper “Protection of the law and due process of law in doping cases” given by the Norwegian lawyer C. B. Hjort at the National Institute of Forensic Toxicology on 12 September 1996.



The Norwegian Confederation of Sports also has another appellate body outside of the organisation itself, namely the Court of Arbitration. This is a tribunal that deals with civil litigation, and which in both structure and manner of operation comes under Norwegian law and the Civil Procedure Act.

The Norwegian Confederation of Sports (NIF) thus adheres to the principle of the separation of powers within its structure as a self-determining organisation. The fact that NIF is an autonomous body is an unavoidable consequence of the nature of the matter. One of the main problems with self-governing bodies is that the people who hold various positions within it, who, on the basis of an organisational chart would not be expected to have any contact whatsoever, in this kind of body often know each other very well, and may nominate and elect each other in an attempt to defy the notion of the separation of powers. The Norwegian Confederation of Sports is a relatively large organisation, but the central positions are held by a small and tightly knit group of influential and well-known individuals. In this kind of closed organisation, people tend to drift from one position to another, so that functions merge and the principle of the separation of powers is undermined. This is a problem to which closed organisations are especially prone, but which can also affect more open organisations and administrations in general.

One poignant and unavoidable criticism in this respect is the very fact that NIF is self-governing body *per se*. With regard to doping, another central criticism must be that it is the Confederation of Sports itself that has been entrusted with maintaining and protecting the fundamental ideology which its member organisations profess.

Any criticism that due process of law has not been followed connected to this lack of separation of powers will only be valid if it can be linked to the enforcement of the regulations, and how the Norwegian Confederation of Sports itself applies its rules and regulations. At this point therefore it might be natural to take a look at how the rules and procedures are applied and followed.

Before we review this matter in detail, it might be appropriate first to look at the rules for the processing of cases and decision making in connection with doping control tests.

### **Processing of cases and decision making**

The Norwegian Confederation of Sports (NIF) implements the following procedures in matters related to doping, with regard to the rules for processing of cases and decision making in disciplinary cases.

If sample A tests positive, the Confederation of Sports reports this finding as soon as possible to the athlete in question, who is then given the opportunity to comment on the protest submitted. The athlete in question can then have sample B analysed, and is entitled to be present during the analysis of this sample. The sports federation in question is then informed of the test result of sample A. After this analysis of sample B, if this test has also been positive, the athlete is again allowed to make a statement, and communicate any new relevant information pertaining to the matter in hand.

All the available material is then presented to the “doping expert team”, which makes a report to the Executive Committee of NIF. The Executive Committee has delegated this task to the Working Committee (AU), which at this point decides if the case is to be dropped or if proceedings are to be instituted. (The Working Committee is composed of the president and two vice-presidents from NIF). If it is decided that charges should be brought, the case is then passed on to the Judicial Committee.

The Judicial Committee informs the suspected athlete and the relevant sports federation that the athlete is being charged with doping. At this juncture the athlete again has the opportunity to submit his / her comments on the matter. A date for a hearing is then set and the athlete is given the chance to express his / her wishes concerning legal assistance or representation, e. g. his or her choice of counsel.

The ruling of the Judicial Committee can be appealed by either party (the protester(s) or the accused). This must be done within the time limit for appeals, which has been set at two weeks (14 days) after both the parties involved have been informed of the ruling.

The Appeal Committee either dismisses the appeal or hears the merits of the case. The Appeal Committee is not bound by the decision made by the Judicial Committee, and can overrule this in either direction. The Appeal Committee can set aside the ruling of the lower body, i. e. the Judicial Committee, and send the case back for a rehearing. The ruling of the Appeal Committee cannot be re-examined. A case which has otherwise been finally settled may be reheard, however, in the event of new information being presented that can be reasonably be expected to give a different outcome.

A person who has been found guilty of a doping offence may be pardoned by the Executive Committee of NIF, if there are special circumstances in favour of this. A case in which a final ruling has been made may also be brought before the Court of Arbitration. A court of arbitration does not need to hear the material facts of the case again. The court of arbitration consists of one representative or judge for each party. The parties' judges choose a third person who then presides over the tribunal. The Court of arbitration also decides which of the parties will pay the costs of the court of arbitration. The ruling of the court of arbitration is final and binding for both parties.

This procedure has been illustrated in the form of a flow chart in Appendix 1.

What I want to focus on in particular in this report, as a matter of principle, is the question of whether the Working Committee (AU) ought to consist of more members in cases relating to doping offences. Each doping case can be stopped by the Working Committee, which is a committee consisting of just three representatives. Here it is natural to raise the objection, as a matter of principle, that this committee is too small and too closed. It is time to assess whether the Working Committee on doping issues ought not to be expanded to include more qualified people with specialist knowledge of issues related to doping.

I have not assessed factors pertaining to medical expertise or technical aspects of the laboratories in connection with this section. In this respect, I would like to draw your attention to Article 5 "laboratories". With reference to storage and transportation of samples, it has been suggested in litigation that samples have been spoiled due to storage at the wrong temperature, etc. In connection with this evaluation report however, I have not found any evidence that there have been mitigating circumstances linked to storage or transportation of doping samples.

At this juncture I would like to turn to the penalty frameworks for infringements of the doping provisions.

### **Prescribed penalty frameworks**

Punishment is normally an evil that is imposed on an offender, with the aim of making him perceive his offence as an evil (Andersen and Aubert 1997:35). According to this definition then, what counts as punishment will vary from person to person.

The penalties imposed for punishable conduct connected to doping are loss of rights / exclusion from the Norwegian Confederation of Sports as an organisation, and fines. The maximum fine for an individual person is NOK 10,000, and for an organisation (or part thereof) NOK 50,000.

In practice, breaches of the doping provisions normally entail two years' exclusion from participation in any event or activity at any organisational level of the Confederation of Sports. This includes training and the holding of any position of trust or office. If the offence is repeated, the offender is suspended for life. In the event of negligence or a mistake (of fact or law), lesser penalties may be imposed. In the event of suspension for life, a pardon may be applied for.

If a member of a club affiliated to the Norwegian Confederation of Sports has been found guilty by both NIF and an international sports federation for the same conduct, then NIF follows the guidelines laid out below (The Norwegian Confederation of Sports (NIF) 1997):

*- If the penalty imposed by the international association is the same or more lenient, the penalty imposed by the Norwegian judicial body shall apply.*

*-If the international federation imposes more severe penalties within its sport, NIF will agree to the national federation imposing that penalty. In all other respects the penalty imposed by the Norwegian judicial body shall apply.*

This is then a prime example of compliance with the commitment to harmonisation aimed for in the international co-operative activities. I will return to this point in more detail in connection with my review of Article 8.

Are these penalty frameworks based on a general principle of protection of the law and due process of the law? In the rest of society, the rule of thumb is that the penalty is supposed to reflect the crime that has been committed. In relation to the penalties for

breaches of the doping regulations, the question is then whether *there is a correspondence between the penalty and the offence that has been committed*. I will present arguments both for and against such a view here, and will not draw any conclusions towards a definitive answer in this report. The cornerstone of all anti-doping activities is the protection of the fundamental ideology of sport, namely the principle of fair play. Of equal importance is also the perspective of protection of health. Anti-doping activities must therefore also be seen in relationship to the civil legislation and the consequences for society at large (The Norwegian Olympic Committee and Confederation of Sports (NIF) 1997).

The normal penalty for a doping felony in Norway is suspension from all activities arranged by the NIF for two years, and lifetime exclusion from the Olympic Games. In some cases fines are imposed as well, and reimbursement of scholarships and grants that have been received may be required. These penalties may not seem particularly severe at first glance. However, the Doping Regulations are not intended to do more than protect sports against threats to the health and ethics of its practitioners. The Regulations are thus intended to protect a voluntary organisation, affiliation to which is completely voluntary.

The developments we have seen and the changing status of sports in society over the last few years, however, have made this issue a little more complicated. The “Bosmann” case is a prime example of how civil legislation has now moved into the domain that has traditionally belonged to sports alone. In Norway, there is also the telling development that whilst athletes are organised in the national employees' interest organisation LO (the Norwegian Confederation of Trade Unions), the Confederation of Sports belongs to the employers' organisation NHO (Confederation of Norwegian Business and Industry). Modern, top-level sports are now but a very distant relation to the recreational activities that the average citizen is involved in his / her free time.

An athlete that has been found guilty of doping thus no longer loses the opportunity to practise sports as a recreational hobby, but is rather barred from practising his / her occupation for several years, often entailing serious financial consequences. In addition, the athlete's name and reputation are tarnished by this form of penalty, and the individual is stigmatised in a way that will make him / her less attractive on the sponsorship market. In most cases, this does not pose too serious a problem. The athletes are aware that they must abide by the rules and regulations of the organisation which they have voluntarily joined.

An interesting discussion parallel to the questions that have been posed so far is whether there is even any reliable evidence proving that doping substances and techniques do in fact have the performance-enhancing and health-improving properties that their advocates proclaim (Aamo and Gulberg 1995:1221). The scientific basis for the doping regulations, founded for the most part on the risks to health connected with the use of anabolic steroids, is pretty weak – a fact which is perhaps surprising, considering the fact that anabolic steroids have been in use in medicine and within some sports milieus for over 50 years. If we juxtapose these criticisms and objections with the definition of punishment that I quoted at the beginning of this section, then I feel compelled to query

whether the punishment does in fact correspond to the nature of the crime.

The debate on the scientific validity of the evidence on which the regulations have been based can be argued from many different angles. The fact that the alleged health hazards of a number of substances cannot be documented adequately to meet the requirements for scientific proof is a precarious argument. First of all, regardless of whether this is the case or not, this is not a relevant argument in a debate on protection of the law and due process. There is an ongoing scientific discourse as to whether several of the substances that are covered by the legislation on controlled drugs entail any demonstrable risk to health (Hjort 1996). An argument based on the notion that the Doping List entails a greater risk of miscarriage of justice than other social measures is then dubious, to say the least. Another salient point is that the doses of anabolic steroids that have been reported in connection with doping are somewhere between 100 and 200 times the size of those used in medicine. Is it then possible, or even worthwhile, to argue for or against the connection between certain substances and possible harmful side effects on the basis of evidence from medical science, when we know that the grounds for comparison are invalid? (Wadler and Hailine 1989:13–14, Voy 1991:20–21).

A final discussion linked to issues of principles of law and natural justice related to the paragraph on mistake of law or fact and the reversed onus of proof. Let us start by looking at the issues of mistakes of law or fact and negligence. There has been a great deal of discussion concerning cases where athletes have tested positive for substances that they are taking for medicinal purposes, substances that are not considered to enhance athletic performance or entail any medical risk according to experts within the doping system, but which are nevertheless included on the list of banned doping substances. Are there sufficient grounds to call for the introduction of a new practice in this sort of grey area? If the top experts within doping themselves admit that a certain substance, taken in a particular form and not exceeding a prescribed dosage, can be proven to have neither a performance-enhancing effect nor entail a risk to health, then on what grounds can a person taking this substance be charged with (and punished for) a doping felony? As already mentioned, the social norms of justice, fair play and protection of health are the very foundations on which the anti-doping activities have been built, and it cannot be argued that any of these values are endangered by this. In this context I am thinking in particular of the category of doping agents "stimulants of the central nervous system".<sup>6</sup> In my opinion, in the light of this report, what is significant here is not a discussion about the meting out of punishment, but about whether judgment should be delivered or not, as the tainting of an athlete's name and being found guilty of doping will affect the possibility the individual athlete has to perform his / her sport as an income-earning occupation. And then the question arises once again of whether the penalty is proportional to the "offence" committed.

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<sup>6</sup> A discussion on this point could usefully draw on the cases of Fosli, Ribe and Okeke. It should however be noted that the suspected athlete was found guilty in only the last of these cases. Nevertheless, the strain these cases put on the individuals involved was perhaps disproportionately great in the light of the nature of the breach that had allegedly been committed.

The counter-argument to the introduction of a new practice in these kinds of cases is the significance of athletes as adult individuals acquainting themselves with the existent rules and regulations and assuming responsibility for abiding by these rules. It is also stated explicitly in all the information concerning anti-doping that if there is doubt or reasonable grounds for doubt in connection with the use of various preparations, the persons involved should contact the Ethics Department of NIF.

The last factor I would like to look at in this section is the Norwegian Confederation of Sports' attitude and practice with regard to the reversed burden of proof in doping cases. The use of a reversed onus of proof, i. e. where a defendant has to prove his / her innocence, is not accepted and is consistently dismissed as a legal practice in society at large. Why then has the Norwegian Confederation of Sports chosen to retain this practice? As has already been explained in this report, the Norwegian Confederation of Sports is a self-governing and self-judging body in cases related to doping, due to the nature of the issue. As such, NIF adheres to a principle of the separation of powers that is in line with the fundamental principles of law, at the same time as it is confronted with challenges and attempts to comply with commitments laid down in the Anti-Doping Convention.

What needs to be addressed then is the *application* of the reversed onus of proof. The sports organisations have themselves formulated a new practice, as a consequence of the case against Georg Andersen, whereby the paragraph concerning the burden of proof (§12-4 in NIF's Doping Regulations) shall be used with the utmost caution (Hjort 1996). The accused no longer has to prove 100% innocence, but 50% or more. Although the application of the paragraph concerning reversed onus of proof has thus been drastically restricted, it is still the suspected party that bears the burden of proving that negligence or intent were not present. This is a principle of law that in almost all other circumstances in society is not accepted, even with regard to serious offences such as drug crimes, violence, hard pornography, etc.

For the record, let me point out that the same rule is applied in connection with the provision in Road Traffic Act concerning driving under the influence of alcohol. This is, however, only half the truth. In drink-driving cases it is still the police that have to prove guilt, i. e. that the suspect has actually driven, that there is no doubt regarding the outcome, and that the alleged concentration of alcohol is correct. It is then always the police, i. e. the prosecuting authority that has to gather evidence to prove guilt.<sup>7</sup> Would the formal introduction of new regulations concerning the reversed burden of proof entail an improvement to the Doping Regulations? And what consequences would such a change have for the judicial recording of evidence, and the possibility to enforce the

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<sup>7</sup> In the event of a driver of vehicle subject to the Road Traffic Act admitting to having consumed alcohol, it is not possible to for him to plead his innocence on the basis of mistake of fact, i. e. that the suspect did not believe that the amount of alcohol consumed would result in the concentration of alcohol found. Mistake of fact in connection with the concentration of alcohol does not exempt a person from punishment (telephone conversation with Mr Hjort, lawyer, 4 November 1997).

doping rules?

The counter-arguments to such a change in practice are that it would be almost impossible to perform anti-doping activities, if it were not possible to use something approximating this kind of reversed burden of proof. The people who want to retain a concrete and conservative enforcement of the reversed onus of proof can ground their views in the argument that although any voluntary organisation must, as far as it is possible, comply with general principles of law and justice, in the event of a threat to the interests of the organisation, it must also be allowed to apply laws and the enforcement thereof that are not entirely accepted in the rest of society. Once again we find ourselves confronted with the issue of the entitlement of a voluntary organisation to protect its fundamental values.

A final question is whether an organisation in a Western humanistic society should be allowed to impose life sentences. This is a legal principle that has been rejected in society at large. In a democratic society everyone shall and ought to make amends for any damage he or she may have inflicted on the community, and then be allowed to start afresh. If this principle is so sacred, then should it not also apply within the sports community? The Norwegian Confederation of Sports provides for this by allowing athletes to appeal such lifetime sentences.

### **A preliminary evaluation**

Norway has a harmonised set of rules and regulations on doping, in that the organisational model on which the Norwegian Confederation of Sports has been based implies co-ordination of the routines and regulations applied by the various sports. Furthermore, all the branches in the organisation are subject to the same regulations, and it is the supreme body of the NIF that has the legislative power.

Fundamental principles of law related to the separation of powers apply, despite the fact that NIF is a self-governing body, and has to judge itself in doping cases. The requirement of the Convention that the reporting and the disciplinary bodies must be distinct has also been met. NIF's regulations fulfil the requirements concerning the rights of athletes accused of a doping offence to a fair hearing, to be assisted or represented and to appeal.

As far as enforcement of the doping regulations is concerned, I chose to focus this evaluation report on the practices adopted by the Working Committee, on behalf of the Executive Committee, in doping cases. The Working Committee (AU) has been delegated the authority to decide whether to proceed with a case or dismiss it. The Working Committee is made up of three people, the president and two vice-presidents of NIF. A great deal of power and the possibility for direct intervention in doping cases have thus placed in few hands at a very early stage. In principle, there ought to be more people that voice an opinion at this stage, or perhaps, as a matter of principle, it ought even to be discussed whether the Working Committee on doping issues should be larger.

The penalty framework in connection with doping offences has been harmonised to comply also with international regulations. In the event of a divergence between the penalties applied by a foreign sports federation and those laid down in the Norwegian penalty framework, Norway consistently chooses the more severe penalty.

The question that then begs to be asked is whether the penalty framework reflects the nature of the crime that has been committed. In the wake of this, it is also natural to query whether the gravity of doping cases is reflected in the penalties imposed. In order to be able to respond to these issues, I would have to have performed case studies of individual cases, concentrating on aspects such as how the regulations have been applied, and whether the judicial body took mistake of fact or law, negligence, etc. into consideration in its ruling.

Other principles of law are the availability of information, the ease with which athletes can understand the contents of the doping regulations, and their awareness of the consequences of infringements thereof. With regard to these issues, I would refer you to my discussion of Article 6. In principle, the rules on doping in the Norwegian Confederation of Sports have been made available in such a way that all people of full age and legal capacity ought to be able to understand them. The moment that an adult actively applies for membership in an organisation, it is presupposed that the individual in question is capable of understanding the rules and regulations according to which the organisation is run. There are nevertheless grounds to ask: have the doping regulations been sufficiently internalised at all levels and in all branches of the organisation? To what extent is it possible for an athlete always to be familiar with the contents of an ever-growing list of prohibited doping substances and techniques? It must however be pointed out that the voice of the athletes themselves is missing in this report, and questions of this kind can only really be answered by this important group of people. I have therefore chosen not even to attempt to answer these questions in this evaluation.

## **Doping controls**

The Convention emphasises that the parties shall encourage their organisations to implement effective and appropriate doping controls. Effective controls that have the intended preventative effect have historically been the cornerstone of the Norwegian anti-doping campaign.

With regard to subsection b) on agreements concerning testing of each other's athletes, I would like to draw your attention to my review of Article 8, "international co-operation".

### **A) Controls**

In Norway, people became aware of the problem of doping at an early stage, and it was soon recognised a central issue. It was the topic of a debate among medical staff in sports circles as early as in 1969. In spring 1969, the *Norwegian Association of Sports Medicine* held a meeting at which doping was a topic of discussion: something fundamentally wrong was in the process of changing athletics. In the commemorative book to mark its



25th anniversary *Jubileumsboka*, published in 1991, it is described thus:

*The developments observed from 1966 to 1967, for example, were worrying, as was reported by the Chairman, Mr Svein Oseid, in connection with the changes he noticed in athletes between the European Championship in Athletics in Budapest in 1966 and the European Cup at the Stockholm Stadium in autumn 1967. Some of the competitors in the throwing events were almost unrecognisable, displaying a completely different physique, a serious gain in weight, aggressive behaviour, bad skin and greatly enhanced performance (:32).*

Professor Knut Næss, a prominent pharmacologist, could not see what the problem was, on the basis of scientific observations, and concluded in his lecture that this topic was not and would not become interesting from a purely pharmacological point of view, because there was so little documentation about the effects and side effects of doping. Nevertheless, Professor Næss ended the 1969 meeting with a challenge to the sports community to put the issue of doping on its agenda.

In the early 1970s the gravity of the issue was finally recognised, and doping was put on the agenda. In the *Programme for Norwegian sport 1971–73*, published in 1971, the Sports Assembly declared that:

*The Sports Assembly 1971 is concerned about the means borrowed from science that are being employed in order to artificially raise performance levels in sport. This represents a breach of fundamental ethical norms. The agencies involved in Norwegian sports and the individual athletes hereby pledge to employ all the means and resources necessary to combat this trend. (The Norwegian Confederation of Sports (NIF)a 1971:16–17).*

The concern voiced in this quotation was manifested in concrete measures during the course of the 1970s.

In 1976, for example, it was decided that Norwegian athletes would henceforth be subject to doping controls. These doping controls would be performed without advance warning during periods of training and at competitions. It was the increasing use of anabolic steroids in particular that formed the basis for these efforts. The following sports were subject to this new form of monitoring: basketball, boxing, wrestling, athletics, ice-hockey, judo, rowing, canoeing, swimming, skating and weightlifting. The distribution of the controls was to be as follows:

*50% of the controls would be performed on athletes representing Norway at international events, at various times during the year*

*25% of the controls would be performed on Norwegian athletes before departures to international championships during 1977*

*25% of the controls would be performed in connection with selected Norwegian championships.*

(The minutes from the meeting of the Executive Committee 21–22 January 1977,

meeting no. 6)

In order to finance this testing programme, NOK 150,000 was allocated to the scheme that year.

In 1978, the reach of the controls was extended to include all the sports federations in Norway and all members of the Norwegian Confederation of Sports, with a budget of NOK 270,000 (meeting of the Executive Committee 8–9 September 1978, meeting no. 4). It was also decided that it would now be possible to test all athletes affiliated to NIF, and that athletes would now be tested for all the substances on the doping list. These and similar subsequent resolutions reached by the Sports Assemblies during the 1980s thus moulded the Norwegian anti-doping work within the Confederation of Sports. The concerns expressed during the 1970s took physical form as concrete measures during the 1980s. This then marks the introduction of scientific means of testing and research into mainstream sport – the issue of doping that for a long time had been regarded as a problem related to the use of stimulants in connection with competitions, now grew to embrace for example also abuse of hormones in training and competitions. The number and frequency of doping controls were stepped up, and they often targeted particular sports.

In 1990, the Norwegian Confederation of Sports amended its legislation so as to allow for the use of blood samples in control work (1990a). At the Sports Assembly in 1994, it was decided that all people who represent or participate in any event arranged by one of the organisational branches of NIF could be made subject to doping controls. In addition, a co-operation agreement was signed with Norwegian Federation of Fitness Centres concerning testing at fitness centres and gymnasiums affiliated to this organisation.

In connection with amendments to the regulations, the Sports Assembly 1994a decided that people who are not members of the Norwegian Confederation of Sports, but who participate in an arrangement under the direction of NIF could now also be tested for doping on the same terms as organised athletes, including the taking of blood samples.

Bearing this brief review of the anti-doping movement in Norway prior to 1989 in mind, let us now look at the commitments laid down in the Anti-Doping Convention.

**Article 7.3 of the Conventions reads as follows:**

**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 includes 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.**

Article 7 is then extremely extensive. In this part of this report, I would like to concentrate on control measures. Subsection 7.3.f. about studying training methods and devising guidelines and training methods appropriate for the individual sports will not be evaluated to any great degree in this report. Norway has responded to this commitment by means of the way its top-level sports activities are organised. The so-called "top-level sports model" provides for the opportunity of elite athletes from all sports to participate in the "Olympiatoppen" programme, which is located at top-level sports centre in Oslo. The aim of this model is to develop all top-level sports in Norway on the basis of sound scientific knowledge and organisational structure. The Olympiatoppen programme has been responsible for a number of measures within research and development work, the aim of which is to give the individual athlete the opportunity to attain realistic goals within his / her sport without the use of doping. The top-level sports model in Norway can thus also be seen as a response to the commitments provided for in Article 6.2.

Against the historical background I have outlined above, I would now like to show by quoting concrete figures what activities this has entailed with regard to control work in the Norwegian Confederation of Sports (NIF). In the period 1977–1995, a total of 15,208 tests have been performed by NIF, of which 12,870 were performed on members of NIF. The 12,870 tests were distributed over 10,760 athletes. All this material is now available in digital form, as all the tests, including what type of test, place and date have been registered and co-ordinated in a database. (Tjørnholm, 1997)

As we can see from figure 3.3, there has been a steady growth in the number of tests conducted in the period 1977–1995. It is also clear that some athletes have been tested several times.

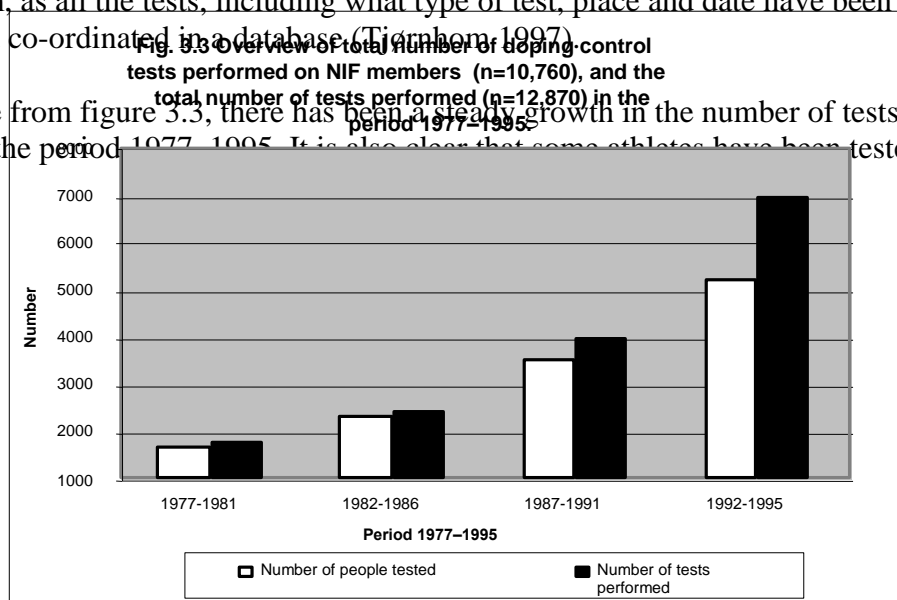
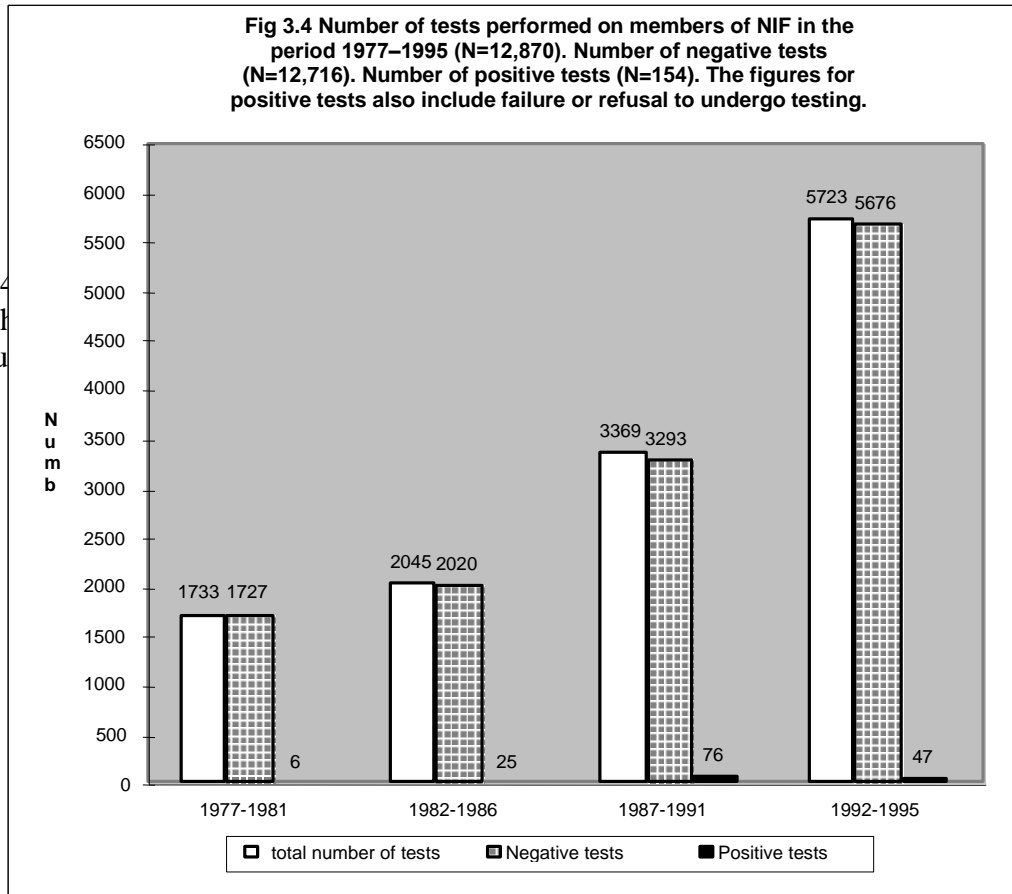


Figure 3.4  
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There has been a total of 154 positive tests, of which 24 were failure or refusal to be tested. All of these have been reported and have resulted in judgment. Of the 130 positive samples, 81 (63%) have been heard by the Judicial Committee.

In total, 105 cases of positive test results or failure/refusal to undergoing testing have been heard. Of these 105 cases, 62 (59%) were power-lifters, 16 (15%) were weight-lifters and 13 (12%) were track athletes. Power sports are clearly over-represented here, as are also anabolic steroids and testosterone, which together make up 62% of the types of dopthat have been found in positive samples.

Figure 3.5 shows the types of control tests. In Norway it is officially approved strategy to conduct doping control tests without advance warning both at and outside of competitions. The obvious trend in fig 3.5 is that there has been a marked increase in the number of tests carried out without advance warning outside of competitions.

**3.5 Number of tests broken down according to criteria: at competition, outside competition, with advance warning, without advance warning in the period 1977–1995**

Figure 3.6 shows the 10 most tested sports. As it is apparent from this chart, doping control tests have consciously been performed in sports where one might expect to find a high occurrence of the use of doping.

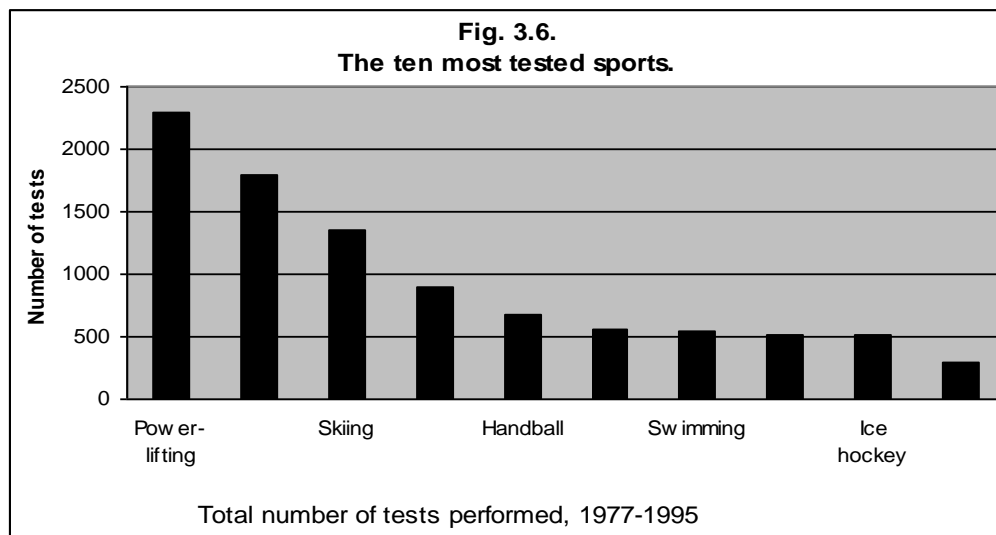
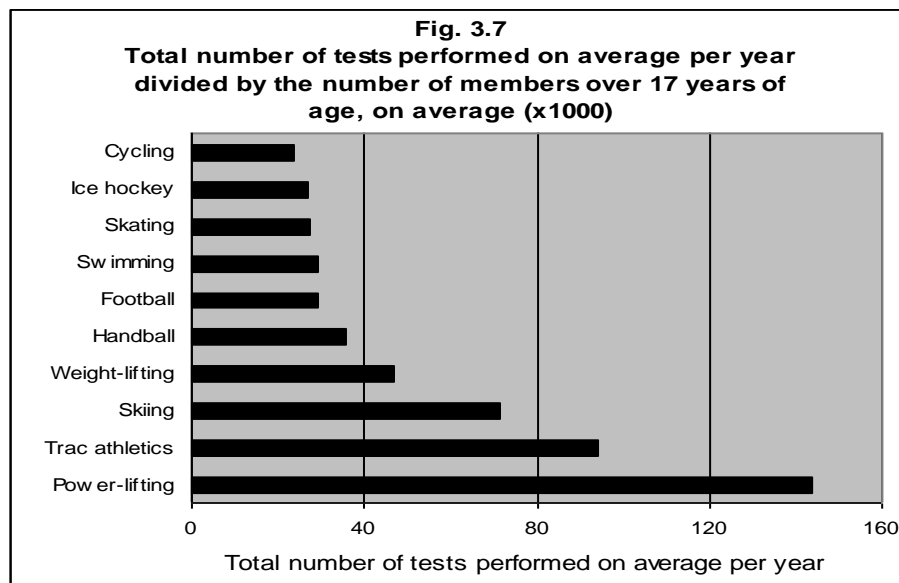


Figure 3.7 shows the average number of tests performed per year. The figures are the total number of samples taken per sport divided by the number of years. Figure 3.7 also demonstrates how certain individual sports are more frequently tested, and thus over-represented in the test statistics, when the number of controls is compared with the number of participants.



An important point that is not obvious from fig. 3.7 is the correspondence between the number of tests performed and the distribution of positive and negative results. What we know is that despite frequent testing within sports such as skiing, handball and football none of the samples have tested positive. This database can thus be used as a useful instrument for making the control work more effective.

## Summary

The legal aspects of the anti-doping work have been administered within the bounds of the principles of due process of law. There is of course always the risk that a self-governing organisation might violate such principles. Such a critique must always be based on concrete evidence from real cases, proving that the judicial practices have not been in accordance with the applicable judicial principles. An issue that merits discussion in this respect is whether the Norwegian Confederation of Sports (NIF) ought to expand its reporting body or at least establish a larger Working Committee in those cases where it is to decide whether an instance of doping is to be reported or not.

Norwegian anti-doping efforts have always been concentrated on information campaigns and control work. As is apparent from figure 3.5, also testing without advance warning,

both in connection with and outside of competitions has been a high-priority control strategy. Control work can thus be regarded as a natural consequence of the anti-doping ideology that was established in Norway as early as in 1976.

Information material for campaigns and research reports have, like the control work, developed parallel to an ever greater activity within anti-doping work in general. What remains to be seen is the degree to which the Norwegian Confederation of Sports manages to employ all the information and competence yielded by these efforts.

### **3.8 Compliance with Article 8**

At the Sports Assembly in 1984, anti-doping work was again raised as an issue in itself. It was clear from the support for the proposal to instigate international co-operation that the battle against doping was being stepped up. Initially, the Norwegian sports community would attempt to initiate a co-operation with the other Nordic countries with a view to harmonising the individual nations' efforts in the battle against doping (The Norwegian Confederation of Sports (NIF)a 1984:22–25). This Nordic co-operation was ratified and came into force in 1984 (The Norwegian Confederation of Sports (NIF)b1986:18). This agreement is based on four basic ideas:

- *all athletes affiliated to a sports federation must submit to doping controls in all the Nordic countries*
- *doping controls will be conducted pursuant to the regulations and customary practice that applies in the country in which the control is performed*
- *there must always be reserve a sample that can be analysed by a different laboratory, if the first sample tests positive*
- *all information connected to the controls is to be forwarded to the respective national sports confederations.*

(Minutes from the meeting of the Executive Committee, 9–10 September 1983, meeting no. 15)

The first instance of international co-operation was agreed upon at a joint Nordic meeting held in 1983, and came into effect from 1 July 1984. The joint Nordic Doping Treaty represented a wish to co-ordinate doping control tests in the respective countries (Minutes from the meeting of the Executive Committee, 14–15 December 1984, meeting no. 4).

At the Malta Conference in 1984, a proposal was put forward to harmonise the European anti-doping work. Norway hoped by means of this initiative to extend the co-operation, or get the other countries to agree to harmonisation and co-operation, on the basis of the model that was in use in the Nordic countries, if appropriate. In this period, Norway was also actively involved in the formulation of a charter on anti-doping work for the Council of Europe. This Charter was later to form the foundation on which the Anti-Doping Convention was based. Norway was also entrusted with the task of sitting on the final planing committee for the Council of Europe's Convention. This invitation was extended on the political level, and on this committee Norway was acting on behalf of all the Nordic countries. This committee was charged to develop a final proposition for a convention. For further details about this work, please see the account in connection with



my discussion of Article 1. The Council of Europe's Anti-Doping Convention's passage on international co-operation reads as follows:

**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; and**

**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 aspect of these commitments that is interesting for Norwegian anti-doping work is the division and the distribution of responsibility between the state and the sports organisations. On behalf of the sports community in Norway, the government has signed co-operation agreements with other countries, before they have been formally approved by the sports organisations. One example of this is the agreement in connection with the MOU group.

In 1990, Australia, Canada and Great Britain formed a group and signed an agreement known as the “Memorandum of understanding on anti-doping” (MOU). This group has subsequently changed its name to the “International Anti-Doping Arrangement” (IADA). This international group was formed on the basis of a Canadian initiative, after the discovery that Ben Johnson used doping in 1988 and the subsequent doping hearing. Norway was invited to join and acceded to this group relatively early on, in 1992. The agreement was signed for Norway by the Minister of Cultural Affairs, i. e. on a high political level. Norway was entrusted with the chairmanship and the secretariat of the group for the period 1995–1996 (2 years). This group currently consists of Australia, Canada, New Zealand, the United Kingdom and Norway.

The co-operation in IADA is rooted in two concrete objectives:

*-The IADA mission is to ensure the development and harmonisation of the domestic doping control programmes of the five signatories and through this concrete example of good practice, positively influence the broader international sports community.*

*-The IADA vision is to have an ethical sports environment which provides for mutual trust based on the fundamental premise that athletes compete without the use performance-enhancing drugs (Quality Manual 1997:4).*

In order to fulfil the objectives set out, IADA has decided to give priority in the period 1995–1998 to working out quality-assured procedures for anti-doping work on the national level. The aim is that by means of revision and the development of quality assurance procedures of the individual nations' anti-doping efforts, it will be able to devise mutually acceptable ways of revising this work, which is a crucial element of harmonisation:

*The objective of the IADA Qualitative Project is to develop and implement national quality systems for the participating countries' domestic doping control programmes, certified by an internationally recognised and accredited certifying agency (ibid.).*

It was decided that this work would be based on the *International Organization for Standardization* (ISO) 9000-Series, to ensure a basic standard. In connection with anti-doping work, standard no. 9002 was employed as an instrument or template for the development of a quality system for anti-doping efforts.

*-The Quality Manual including the International Standard for Doping Control (ISDC) has been designed and developed at an international level with the support and joint commitment of the IADA countries. It represents world best practices for doping control in sport and will be an effective tool in developing and harmonising doping control procedures and practices in the international sport community.*

*-The national quality systems will be developed in accordance to ISO 9002 standard. By applying the requirements in the ISO 9002 standard to the Doping Control Process, an instrument will be developed that will ensure the effective implementation of the ISDC at the national level.*

*-The auditing and certification of the ISDC and the national quality system are central components of the ISO quality system for doping control. The national quality systems will be certified by an internationally recognised and accredited certifying agency. Accredited certification will ensure mutual recognition of all certified doping control programmes, and contribute substantially to international harmonisation of doping control policies and procedures.*

(Quality Manual 1997:5)

In connection with this evaluation, I have not been able to get hold of figures for the resources that have been spent on the various phases of this project. I should however point out that resources that have been used have been made available by both the Ministry of Cultural Affairs and the Norwegian Confederation of Sports (NIF).

The final aspect of international co-operation that I would like to look at is the bilateral co-operation on anti-doping between the Norwegian Olympic Committee and Confederation of Sports (NIF/NOK) and China's Olympic Committee. This agreement came about as a result of an official visit by a Chinese delegation from *The Commission for Physical Culture and Sports*. One of the topics of various conversations during this visit was anti-doping. In connection with the official return visit to China, the Norwegian Confederation of Sports was invited to send a delegate along with those from the Ministry of Cultural Affairs, in order to continue these discussions, and the Ministry of Cultural Affairs requested that this delegate be given authority to participate in negotiations about a Norwegian contribution to the anti-doping work (Letter from the Ministry of Cultural Affairs, 1 November 1996). The head of the Ethics Department of NIF, Mr Rune Andersen, was chosen to represent NIF, and received all the necessary authorisations.

This meeting resulted in a bilateral agreement on co-operation between Norway and China on anti-doping schemes, and the agreement was formally ratified by the Chinese Olympic Committee and the Norwegian Olympic Committee and Confederation of Sports (NIF). Agreement has the following explicit intentions:

*- The Norwegian Confederation of Sports (NIF) and Chinese sports departments/authorities will develop a mutual testing agreement allowing China to test Norwegian athletes in China and vice versa. Testing may be performed on request or on the initiative of one of the Parties. For 1997, the agreement will cover the following elements:*

*-Exchange of annual reports at the end of February.*

*-Staff exchanges. A Chinese delegation is invited to Norway to study the work that is being done in Norway, in May or November*

*-Mutual support with regard to test programmes. Mutual testing of each other's athletes. Testing will be conducted pursuant to the procedures of the country in which it is performed*

*-Exchange of information. For example on factors that affect the various areas in which research is being performed.*

## **Summary**

In this report I have chosen to look at various aspects of the international harmonisation and the international co-operation together. On both the political and the organisational level, Norway has fulfilled the commitments set out the Anti-Doping Convention.

The most interesting aspect of this international co-operation is the confirmation of the close co-operation that exists between the state and the sports community in Norway. The various international agreements are regarded as beneficial to both parties: the state recognises that by means of commitment to co-operation across national boundaries the Confederation of Sports must maintain a doping policy that reflects the basic values that NIF professes. The Norwegian Confederation of Sports (NIF), for its part, actively uses the central government and the Ministry of Cultural Affairs to bring about agreements

that are binding for other nations, which in turn rationalises NIF's international anti-doping work.

In an international context, IADA must be recognised as the most concrete and binding co-operation arrangement. This co-operation is also the one that most resembles the ideology that Norway has consistently called for as an international anti-doping standard. So, once again we find that Norway is involved in binding and concrete work in an international body, the knowledge gained from which is brought back to Norway and employed to reinforce the already strong national anti-doping work.

### **3.9 Compliance with Article 9**

I will only touch upon this Article very briefly in this report. All the information that has been submitted to the Council of Europe is stored in the Council of Europe's archives.

#### **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.**

#### **Summary**

Prior to the establishment of the database co-ordinated and maintained by the Council of Europe, Norway submitted a report each year in keeping with the provisions laid down here. Since the establishment of the database, reporting has been accomplished by means of filling out a questionnaire distributed by the British Sports Council.

### **Discussion**

#### **4.1 General**

This report has been focused on the Articles in the Convention that explicitly refer to the commitments, i. e. Articles 1, 3, 4, 5, 6, 7, 8 and 9. I have given a summary at the end of my discussion of each of these Articles, which I will not repeat here. In this report I can then confirm that Norway fulfils or realises the intentions laid down in these Articles.<sup>8</sup> The forthcoming hearing under the direction of the Council of Europe will play an important role in adjusting this claim, if necessary.

I have also hoped to demonstrate in this report that even though for Norway it was

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<sup>8</sup> As early as during the so-called "Toronto-hearing" (Dubin 1990;422–424) in Canada after the discovery that Ben Johnson used doping in 1988, the Nordic anti-doping work was held up as an example of how some countries had joined forces in order to combat doping in sport.

completely unproblematic, and indeed perhaps also unnecessary, to pledge allegiance to the Convention in 1989, there are elements of the Convention that have yielded, and can be recognised in, concrete political actions. The degree to which these actions are the direct result of the Convention could probably be discussed at great length. However, in the Sports Report from 1991–92, special attention was drawn to agreements between IADA and the Council of Europe as important co-operation bodies, affiliation to which was deemed important in the battle against doping. This co-operation is thus manifested in Norway's ratification of these agreements, which in turn has defined the premises for the national anti-doping work.

There may also be unequivocal political reasons for adherence that have nothing to do with commitments of the type “establishment of laboratories” or “introduction of tests without advance warning”. This is most obvious in connection with Article 4.2, and in Norway resulted in a concrete change in practice with regard to financing, as the introduction of earmarking of funds for anti-doping work in 1992. This intervention by the central government in the integrity of the sports community can be regarded as the first sign of a change in roles in the relationship between the state and the sports federations in Norway. A discussion of the consequences that this kind of practice might entail however, goes beyond the scope of this report.

If we compare the commitments provided for by the Convention with the domestic Norwegian anti-doping ideology, as I have chosen to do in this report, then we may find grounds to claim that in many ways it is the Anti-Doping Convention that has endorsed the Norwegian anti-doping ideology, rather vice versa. From certain angles, it appears that Norway has implanted her anti-doping ideology in an internationally binding convention, in order then to use this convention in Norway to reinforce this same ideology on domestic soil. If this is indeed the case, then it must be pointed out that it has taken place with a slightly uneven distribution of roles between the state and the sports organisations. I would now like to look at this relationship in a little more detail.

## **4.2 The Norwegian Confederation of Sports (NIF) and the Ministry of Cultural Affairs – distribution of roles in anti-doping work**

In this report I have aimed to shed light on the essence of Norwegian anti-doping work in relation to the Council of Europe's Anti-Doping Convention, which can be summarised as follows. From 1970 until 1989, the Norwegian Confederation of Sports (NIF) was the protagonist or active party in anti-doping efforts in Norway. This organisation was in the forefront with regard to the political, the technical and the academic developments within anti-doping work. During this period, the state acted as an important supportive partner, but it was consistently the Confederation of Sports that decided what issues were to be put on the agenda and focused on in this work. Since 1989, however, the central government has assumed a much more active role both the formulation of and participation in anti-doping strategies, both within NIF and in society at large. Throughout the whole of this period, there have been unusually close links between the state and the sports community. Assuming these observation or assumptions are correct, I have attempted in this report to discern the reasons for this development.

If this trend does indeed exist, then it is interesting to attempt to ascertain *why* it has occurred. In this context I have chosen to attempt to answer this question on three levels. Historically the state and the sports organisations have always enjoyed a close co-operative relationship in Norway. This has in turn resulted in the development of a unique organisational relationship between the central government and organised sports. Per Selle (1995) proposes that we can liken this intimate relationship between the state and the sports community to those we find in an extended family. Since the Second World War, the Norwegian sports community has also been dominated by some highly influential and memorable personalities, people who have actively raised issues and influenced the developments within the sporting world and within the central government. Many of these people have been cast in a number of different roles, moving from the sports community to the state and back again. This is a development that might be a contributing factor in the chain of events that I have depicted. First of all, let us take a brief look at the history of the intimate ties between state and sport.

## **History**

Historically, the state and the organised sports community in Norway have always enjoyed a close relationship. In fact, the ties between the state and sport in Norway have a structure that we do not find in any other country. From the point of view of history, the links have grown out of the pursuit of common goals within the Armed Forces, public health care and the promotion of physical activity (Goksøy 1991). During the 1970s, sport was included as a part of the government's cultural policy, and emphasis was placed on the inherent value of sport in itself, and its value as a positive socialising factor in society. During the course of the 1980s, organised sports were gradually subjected to more and more pressure, on both the national and the international fronts.

There may be many reasons for these intimate ties between the government and the sports community in Norway, but an investigation of the causes is unfortunately beyond the scope of this evaluation report. I would nevertheless like to mention one important reason – the comprehensive perception of the central role of sport from the perspective of public health that is shared by both the state and the sports community. In 1946, the National Office for Sport and Youth (STUI) was established. In its capacity as a political body, STUI had the overall responsibility for all issues related to sport (Goksøy 1992:48). This was then one of many factors that contributed to the fact that promotion of physical activity among children and young people enjoyed such a central role in the government sports policy. The policies related to the construction of arenas and recreation centres in particular, which were one of the responsibilities of STUI, were particularly characterised by the general feeling of co-operation and community with regard to building up the nation that marked Norway in the years immediately after the War. STUI was charged to encourage a broad general and collective participation in sports among the whole of the population, and make all the physical arrangements necessary to this end (Goksøy 1992:52). Needless to say this kind of co-operation did not occur without any hiccoughs. The conflicts that arose from time to time between STUI and the sports associations (NIF) were at times fought out in the public arena, and the differences between them

seemed irreconcilable. Such conflicts were often rooted in differences in ideology, and neither party was willing to compromise its stand; but the situation was kept under control, in that both still shared the higher common objectives with regard to sports policy. The state's control over the financial side of sport can also be regarded as an explanation as to why this conflict did not wreak more havoc than it did. Historically, the state and the sports organisations have shared the same general goals and have regarded each other as allies. The state has regarded sport as a useful accessory in the promotion of a strategy for collective health policy, at the same time as the sports community, by playing this role, has won access to considerable resources for its organisation.

Against this historical background, we can perhaps then explain the change in roles in connection with anti-doping work as a result of the fact that the state is taking an active interest in affairs that were traditionally the concern of the sports community alone, in order to ensure that sport maintains its ideological foundation, which is an important premise for the state being able to use the example of sport in a campaign to promote health and moral values in society at large. The Sports Report from 1991–92 focused on the fact that the sports community is under such a great amount of pressure, that it is now necessary for the state to intervene and assist the organisation in some areas, for example, the battle against doping. Given that this explanation is correct, then the shift in the roles played by the state and the sports organisations in anti-doping work in connection with Norway's ratification of the Convention becomes a historical extension of a domestic power struggle between the state and the sports associations.

This leads us over to the next level. How has this historical interaction resulted in the organisational links that have been established?

## **Organisation**

Per Selle (1995) draws attention to the following *facts*:

*The general view in Norway – regardless of whether it is voiced by the sports community or the public authorities – is that sport shall occupy a free and independent position, at the same time as there is consensus that sport-related issues concern the government, and thus are an integral part of government policy (:337).*

The greatest problems facing the sports associations is not keeping the organisation united; it is rather continuing in the same direction with regard to values that has historically united the Norwegian Confederation of Sports (NIF) and created the intimate links between it and the state.

In the 1980s, the sports community developed in a direction that allowed the central government a stronger influence in sports-related issues, at the same time as the sports associations now also began to deem it more important than previously to assert their independence in some areas. An organisation that is supposed to be a popular movement, but also commercial and market-oriented, act in the interests of children and young people, and promote top-level sports all at once will of course have a slight identity problem (Selle 1995:341). If we now return to issues of sports policy as government

policy, state intervention in the area of anti-doping policy, which had previously been the responsibility of the sports community alone, may be interpreted as an attempt to correct the lack of clear profile in this area demonstrated by the sports organisations. The state recognises the dangers that are posing a threat to the values of sport (cf. the Report to the Storting on Sport), and takes active steps to steer clear of the problems it spies on the horizon. The government can do this because the sports associations condone the political instruments that the government employs in relations to matters concerning sports in Norway. This argument may sound a little heavy and construed. In black and white terms, I am suggesting that this development can be interpreted as the state stepping in and taking over or assisting the sports community in some central issues, while the sports community sorts out its identity crisis. There are signs to indicate that the sports movement may be about to split, because it currently accommodates two divergent tendencies which are pulling it apart, both with regard to fundamental values and culture. Again, if we oversimplify the situation for the sake of clarity, this is a conflict between top-level sports, oriented towards performance and achievement, and recreational sport, promoting the traditional ideology of protection of public health. The state can thus be seen as intervening in order to ensure that sport preserves an ideological and value-oriented basis in the latter, by earmarking funds and thus placing political constraints on ethical issues and anti-doping work.

This is not and is not intended to be a complete and definitive explanation of the situation. The last aspect I want to draw attention to is the significance of the individual people who have held various central roles at various times. The change in direction that occurred in 1989 can perhaps be better understood in the light of these factors.

## **People**

The central government and the Norwegian Confederation of Sports (NIF) have each in their own way incubated influential personalities. It is impossible to read the history of the sports movement up until 1970 without noticing that the ideological conflicts and differences both within the movement, and between the state and the sports community, are closely related to certain central characters (Olstad and Tønnesen 1986: chap 5; Goksøy 1992,1996).

It is difficult to speak of anti-doping measures from the 1970s onwards without mentioning Mr Hans B. Skaset, although other people have of course exerted a strong influence too. My point here, however, is that Mr Skaset has held positions of power and influence, and by means of these has had the opportunity to decide what issues were given priority, which has had a huge effect with regard to anti-doping. Ever since the early 1970s, and not least during his term as the head of the Norwegian Confederation of Sports (NIF), Mr Skaset has clearly exerted a strong influence on which issues of sports policy have been raised (Olstad and Tønnesen 1986:278; Goksøy 1996:268). In the 1970s, Mr Skaset was the chairman of the Norwegian Amateur Athletic Federation, and a prolific provider of material on sports policy for reports to the Storting on culture. If we read the minutes from the Sports Assemblies about the discussions around the issue of doping, Mr Skaset's name turns up again and again right up until the end of the 1980s. In



1984, Mr Skaset was elected president of the Norwegian Confederation of Sports (NIF), and by means of this office he had an indisputable influence on the sports-political agenda. The debates about the distribution of the profits from the football pools is a prime example of the way in which issues of sports policy were now drawn into mainstream political debates (Olstad and Tønnesen 1986: 288–291).

Selle (1995), whom I have quoted above, attaches particular importance to these kinds of familial relationships in what he describes as the extended-family relationship that exists between the state and the sports community in Norway. During the years of reconstruction after the Second World War, we can point to the relationship between Mr Hoffmo and central people within the labour movement as decisive in the inclusion of issues of sports policy in the public health policy. Per Selle (1995) describes the circumstances surrounding Mr Skaset's constant changes of role thus:

*If we concentrate on the latter (Skaset), it appears that it is was not considered problematic for a person to go from holding office as the head of the Norwegian Confederation of Sports (NIF) to becoming Director General of the Ministry of Cultural Affairs, responsible for the formulation of the reports to the parliament on sport. The fact that he was first the head of the Norwegian sports movement, and then became the most influential sports bureaucrat in Norway, does not seem have been seen as creating a legitimacy problem. This tells us something very important about the intimacy of the relationship between the sports community and the central government, although there were also similar transitions in other sectors too (:349).*

Perhaps the unequivocal and relatively sudden change in position demonstrated by the Ministry of Cultural Affairs with regard to its desire to administer and decide the course of the anti-doping policy is rooted in factors that act on this kind of personal level. One thing that is clear, however, is that Mr Skaset's change of role from president of the sports community to Director General occurred at the same time as a major change in the government's sports policy with regard to the issue of anti-doping. Mr Skaset was also the architect behind the Report to the Storting on sports, which was the first such report that dealt with sport alone, and thus indisputably introduced sports policy as a legitimate government affair. As has already been mentioned, the battle against doping is one of the areas to which particular importance is attached, and which must be regarded as fundamental in relation to the state's faith in the ability of the Confederation of Sports to run its organisation.

Mr Skaset's long involvement in international sport might also contribute to an explanation for the high profile that Norway has managed to establish with regard to the multitude of agreements it keeps signing with other countries on the harmonisation of anti-doping work. The co-operation within the IADA group and the most recent bilateral agreement with the Chinese sports authorities are examples of this. One strategy that has remained constant in relation to this work has been the consistent efforts to introduce these kinds of agreements at a high political level in Norway. Norway's accession to the IADA group was endorsed by a minister of state. This kind of legitimisation means that these of international agreements also function as effective tools in the domestic anti-doping work.

I have attempted here to explain on three different levels a general tendency we can recognise in the ways in which the Anti-Doping Convention has affected the Norwegian anti-doping work. This report does not draw on enough data for me to be able to draw any definitive conclusions on any of these points, but there should be sufficient data to justify my raising these issues for discussion

### 4.3 Concluding comments

By way of an introduction to this report, I said that I would not attempt to draw any conclusions. There may of course be other points raised in this report that will not be covered by this kind of debate, but that ought nevertheless to be central in a hearing. My choice of these topics has been based on a number of factors. One obvious reason for this is that I was able to conclude at a relatively early stage in my work on this report that the commitments provided for in the Convention to a great extent have been met, and indeed were in practice in Norway *before* the Convention became a reality. In order to discuss Norwegian anti-doping efforts, it is therefore important to study the ideological foundation on which the Convention has been based from a broader perspective, and in the Norwegian context this will mean studying it from the angle of the position, status and function of sport in a rapidly changing society.

I have focused this report on an investigation of how Norway has implemented earmarking of funds in order to ensure a continued high level of activity within the national anti-doping campaign. In concrete terms, this represented a new way of organising the co-operation between the state and the sports organisations. The debate concerning this has so far concentrated on whether this increases or undermines the total commitment to anti-doping efforts, both within the Ministry of Cultural Affairs and in the sports community as a whole. An aspect that might however raise some controversy is the degree to which earmarking of funds as an instrument in this work is perceived as a good thing by the Norwegian Confederation of Sports, or whether it is rather seen as an unnecessary interference in the integrity and independence of an organisation? In Report to the Storting, *St. meld. no. 41 on sport*, clear warnings are issued in relation to a potential unwillingness or inability in the sports community to protect and promote the ethical values that it professes: *the sports community must never show signs of having a greater interest in winning and money, than in respect for rules and principles* (:123). Are there grounds to believe that this suspicion that was thus voiced in a public document is in fact more than just a suspicion? Was the introduction of the principle of earmarking funds a concrete political measure to quell a development that the sports community itself had not quite managed to decide whether it was ready or equipped to confront? This is related to another common claim.

*Earmarking of funds for anti-doping work provides the Norwegian Confederation of Sports (NIF) with a pretext for doing nothing.* This claim cannot be verified without reservation. In its internal distribution of funds in the period 1992–1995, NIF reduced its allocations to anti-doping schemes, and this therefore paves the way for a number of other questions. If the Norwegian Confederation of Sports itself does not believe that doping poses such a major problem – so much so that it does not even meet its own

budgets in this area – then why should the state invest resources in it? Is there not a wish within this voluntary organisation to defend its own fundamental values? The internal disposition of funds in connection with this work, as illustrated in this report, is not empirical enough to form the foundation for the drawing of any justifiable conclusions. This question ought therefore to be made the topic of other reports.

Other issues have come to light in this report which certainly also demand further discussion. However, due to the limited resources available and the time limit, I am unable to go into these other issues in further detail. An area that is probably central to the issue at stake, but which I have not touched upon here, is the actual political situation that formed the background to the resolutions that have been passed from the early 1970s and up until the present day. Was there really such general political consensus in the Confederation of Sports and in the government agencies as this report might lead its readers to believe? Was anti-doping work a truly internalised part of the Confederation of Sports and the Ministry of Cultural Affairs, or was it dependent on the individual people involved? Where does it stand today? These questions are difficult to answer, and are also outside the bounds of what I understand to be the given research question for this report. They may, however, soon assume a more central position. If the sports community hopes to be able to stand its ground against interests that are threatening the values at its very foundations, then the anti-doping work must be able to draw on a central core of intrinsic values within the organisation that can survive any conflict of interests. People will come and go, but the organisation probably wishes to continue to exist.

I have discussed the methodological approaches used in this report in the chapter on methodology. As an extension of this, this report can be criticised for its total lack of data collected from the active participants in sports themselves. Within the limits of the time allocated to this evaluation project, it was not possible to gather the opinions from perhaps the most important party in the anti-doping work, namely, the athletes. What opinions do they have about the work that is being done on this front? Do they feel that the commitments agreed to in the Anti-Doping Convention are an internalised aspect of the overall efforts of the Confederation of Sports at various different levels? Or, do they perceive them as political decisions that do not take account of the needs and interests of active sportsmen and sportswomen, and that have no real anchoring or support within the organisation?

These are questions and issues that it might be interesting to discuss at the forthcoming public hearing.

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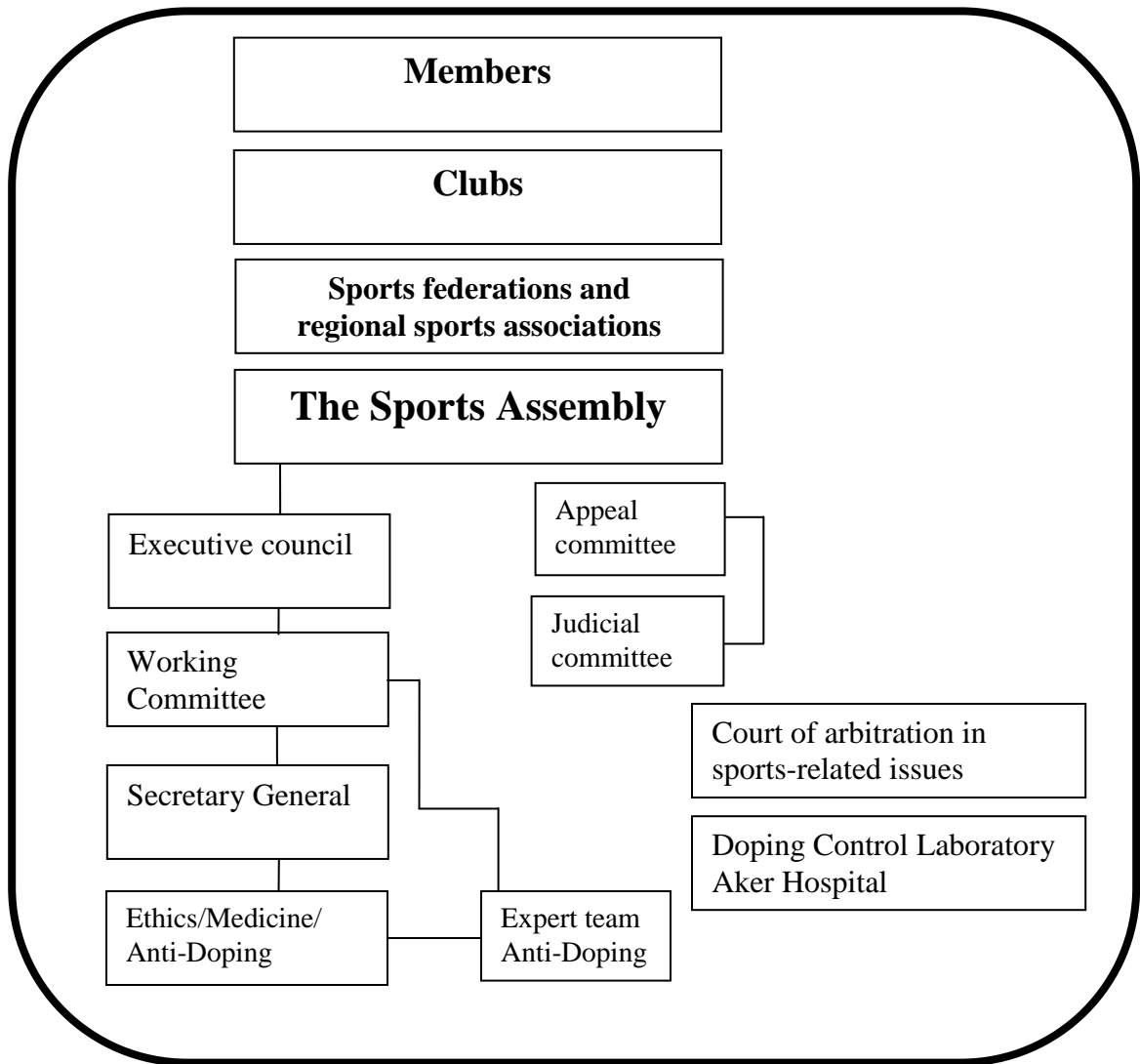
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## **Appendix 1**

# ANTI-DOPING NORWAY







# Report by the Examining Group on the fulfilment by Norway of the Anti-Doping Convention

## A. Introductory remarks

1. The Examining Group, composed jointly by the Bureau of the CDDS (with the responsibility for designating the leader) and the Monitoring Group, consisted of:

Professor Peter **RADFORD**, (Chairman of the Drug Abuse Advisory Group, United Kingdom), Chair of the Monitoring Group, Leader;  
Mme Katie **COLLOMP**, representing Dr Alain Garnier, (Medical Director, Ministry of Youth and Sport, France, Vice-Chair of the Monitoring Group, who was prevented from attending at the last moment);  
Dr Emile **VRIJMAN**, (Managing Director, NeCeDo, Netherlands);  
Mr George **WALKER**, (Head of the Sports Division, Council of Europe), Secretary.

*Note:* Mr Alexandru Lazarescu, nominated by the CDDS Bureau, was also prevented at the last moment from attending.

In accordance with their respective experiences, each member of the Examining Group was assigned a particular area of responsibility:

Professor Radford: General and policy questions  
Ms Collomp: Laboratory and scientific questions  
Mr Vrijman: Legal and technical questions  
Mr Walker: Educational and related questions

2. The arrangements for this visit were made by the Royal Norwegian Ministry of Cultural Affairs: Sports Department, and notably by Professor H. B. Skaset, Director General, and Ms Tove Indgjerd.

The Examining Group extends its cordial thanks to the Ministry, and to these two persons in particular, for the excellent arrangements that were made on its behalf; and, through the Ministry, to all the organisations and numerous persons – and in particular those working, in many capacities, within the Norwegian Olympic Committee and Confederation of Sport<sup>9</sup> - who willingly made time available for discussion. Amongst the latter, the group's especial thanks go to Mr Rune Andersen.

The Examining Group is also extremely grateful to Mrs Lahnstein, Minister for Cultural Affairs, for the time she made available to the Group and for the very interesting discussions with her. (cf p 75)

3. The timetable for the visit was as follows:

Monday 20 April

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<sup>9</sup> Henceforth referred to as NIF.

9.00 Meeting with the Project Manager for the Norwegian report: Dr Bjørn Barland  
Meeting with the Legal Committee of NIF: Mr Harald Tronvik (Vice-Chair)  
Meeting with the Judicial and Appeal Committees of the NIF:  
Mrs Ebba Lund Hansen (Vice-Chair AC), MM Tore Rasch (Vice-Chair JC), Øystein  
Grotmol (Chair AC). Mr Lars Erik Frisvold, Chair of JC, was absent.

Meeting with the Expert Group of NIF:  
Mrs Brit Volden, Mr Rune Andersen, Dr Inggard Lereim  
Meeting with the President of NIF: Mr Arne Myhrvold

Dinner with the NIF Doping Department

Tuesday 21 April

9.00 Meeting with lawyers working on doping questions:  
MM Aasmund Sandland, Nils Kjør (attorneys at law)  
Meeting with the Minister of Cultural Affairs: Mrs Anne Enger Lahnstein  
Meeting with the Ethics, Sports Medicine and Anti-Doping Department of NIF:  
Mmes Linbjørg Stølan (doping control manager), Trine Thoresen (education officer), Mr  
Rune Andersen (Head of Department)  
(meeting continued till 1530)

Meeting with coaches:  
Mrs Marit Breivik (national women's handball team), MM Johan Kaggstad (long-  
distance athletics), Dag Kaas (cross-country ski)

Meeting with sports leaders:  
MM Trond Pedersen (Sec. Gen., Athletics Fed.), Arne Lier (Dir. of Research, Top Sport  
training centre), Dr Ola Rønsen (national cross-country ski team doctor)

Informal dinner with representatives of the sporting press (*Vårt Land, Aftenposten, VG*)

Wednesday 22 April

9.00 Aker Hospital, Hormone Laboratory  
Meeting at the Anti-Doping Laboratory:  
Prof Dr Egil Haug (Director), Dr Kåre Birkeland, Mrs Berit Bjerke

11.00 Meeting with Dr Roald Bahr, Professor of Sports Medicine at the Norwegian  
University of Sport and President of the Norwegian Society of Sports Medicine  
Meeting with Prof. H. B. Skaset, Director General, Ministry of Cultural Affairs

Meetings with athletes:  
15.00-15.45 Ms Trude Dybendahl Hartz (world champion, cross-country ski, 1991)  
15.45-16.30 Mr Rolf Thorsen (rowing world champion, 1982, 1989, 1994; Vice-

President, Norwegian Rowing Federation)  
16.30-17.15 Ms Ingrid Kristiansen (world champion, 10,000m athletics, 1991)

Dinner in the company of the Minister for Cultural Affairs

Thursday 23 April

Departure

*Note:* Mr Vrijman left on Wednesday morning and Ms Collomp in the afternoon.

#### 4. Reference documents

The *Anti-Doping Convention* (ETS 135) of 16<sup>th</sup> November 1989

The *Report on the fulfilment of the Anti-Doping Convention in Norway*, prepared by Dr. Bjørn Barland (Norwegian University of Sport and Physical Education) and published by the Ministry of Cultural Affairs in January 1998 (hereinafter referred to as the Report). This comprehensive report, reproduced in Part I of this publication, represents the personal view of an expert commissioned by the Ministry. However, the consultations necessary for its realisation confer on it a representative character. The Ministry commented that “it sums up in an excellent way the Norwegian Anti-Doping Organisation and its activities in relation to the Anti-Doping Convention”. Certainly the report was most useful to the members of the Examining Group, providing details, information and insights into the subject. The Group congratulates the report’s author. The approach was both analytical and, at times, self-critical. Its sections on history and people provided a helpful perspective, and human faces to the story. Its explanations of the various agencies and bodies that are active in this field were also of great practical help to the Group, enabling it better to understand the backgrounds and contexts of anti-doping work. As Dr Barland’s report is so thorough, our report can be briefer, as it will be unnecessary merely to repeat what he has already set out in the Report. As will be clear in our report, the culture of this work in Norway is unusually homogeneous: and our task was made both more easy and more difficult by the question posed by Dr Barland: did Norway have to adapt to ratify the Convention, or was the Convention based on what Norway was already doing?

The *Data Base on Anti-Doping Initiatives*, (data referring to 1996): T-DO (97) 20. Data compiled by the Doping Control Unit of the UK Sports Council on behalf of the Monitoring Group.

There were also discussions with the bodies and persons referred to in section 3. This timetable of visits and meetings provided the opportunity for gathering a wide range of supplementary written and spoken material.

The members of the Examining Group, in the course of their observations, also bore in mind their national and international experience in their sphere of competence.

## **B) The Commitments Project**

(Note: as with the Report on the Visit to Spain, doc CDDS (98) 5 final/T-RV (98) 1 final, the architecture of this Report is based on the structure proposed in ISO 10011-1:1990 on Audits)

### **Objective and Scope of the Report**

#### *The Council of Europe and Monitoring*

The Committee of Ministers and the Parliamentary Assembly of the Council of Europe began their respective activities on Monitoring in 1996. At the Council of Europe's Second Summit (October 1997), the Heads of State and Government solemnly reaffirmed the importance they attached "to ensur[ing] that the commitments accepted by member States are effectively honoured..."

#### *The CDDS and the Compliance with Commitments Project*

The Bureau of the CDDS first proposed that the CDDS should embark on a similar monitoring in the sports sector in December 1996. In March 1997, the CDDS decided to include an activity on Commitments in its work programme, described as follows:

"This project, inspired by the Committee of Ministers' decision to monitor members States' fulfilment of their obligations to the Organisation, made a promising start in 1997 with the response of six countries volunteering to participate in the initial stages. The commitments derive from three texts:

the *European Sports Charter* (Rec (92) 13);  
the *European Convention on Spectator Violence and Misbehaviour*;  
the *Anti-Doping Convention*.

The project is designed to concentrate on areas of crucial importance... It is not the intention to undertake systematic reviews of a country's entire sports policy..." (CDDS (97) 42, page 10).

In the summer of 1997, the two Conventional Committees (the Standing Committee and the Monitoring Group respectively) agreed to work with the Bureau of the CDDS in the implementation of this project as far as each was concerned.

The CDDS has identified four principal objectives in the Compliance with Commitments Project:

To enhance the effectiveness of the text in question (here, the Anti-Doping Convention), both at the level of the State being examined and also amongst member countries generally.

To renew political interest in the text, both within the Council of Europe and in the State being examined.

To provide political and technical support to Parties and observers who so wish, both on

general matters and on particular questions.

To exchange information amongst all involved on current best practice and on outstanding problems.

### *The Anti-Doping Convention*

The Convention entered into force in March 1990. 34 States have ratified it and a further 6 have signed it (situation at 23 April 1998). Two non-European States are amongst the Contracting Parties and several others are observers either on a regular or ad hoc basis. International sports organisations, including the International Olympic Committee, are actively involved in the work of the Monitoring Group. The scope of its work is therefore truly international. The commitments derive from the text of the Convention itself which are obligatory for Parties. In addition, the Monitoring Group has adopted several Recommendations giving operational guidance on specific articles.

### **Strategic Approach**

The plan for the project was agreed at meetings of the Compliance with Commitments project group set up by the CDDS, which includes representatives of the three committees concerned and of the six countries involved. This group has met in June 1997 and in January 1998. At the latter meeting, the representatives of Norway presented the national report referred to above.

This first phase of the project inevitably has an experimental character. This was the first visit concerning anti-doping matters. The methodology for this visit was similar to that agreed to for the project's first visit, to Spain in December 1997 in connection with the European Convention on Spectator Violence. Like that visit, the programme in Norway was intensive, concentrated and comprehensive. There was little time available even for the members of the Examining Group to discuss questions amongst themselves.

### **C) Report by the Examining Group**

The Examining Group met all the institutions and representatives of different categories of experts and authorities that it had asked to meet at the January project group meeting. These included the responsible Minister, the Ministry, the Norwegian Olympic Committee and Sports Confederation (the NIF), the Doping Unit of the NIF, doctors, athletes, coaches, the anti-doping laboratory, and journalists.

### **General Introductory Remarks**

Over the nine-year period that the Anti-Doping Convention has been in existence, the use of drugs by sportsmen has proved to be one of the central issues of late 20<sup>th</sup> century sport. This is not the place to debate the reasons why competitors and their advisors have, either carelessly or deliberately, used substances and methods that contravene the rules and the spirit of sport, but it is, nevertheless a fact that drug use over this period has become widespread, high profile, and big business. How the sporting community has responded to the challenge of drugs in its midst is, in a sense, one measure of the value that our

modern societies have given to sport. The continuing response to its presence will also help determine the nature, value and public support for sport in the future.

In response to this challenge a large and complex anti-doping movement has grown up of which the Council of Europe's Anti-Doping Convention is part. Many issues have had to be faced including those of definitions, legal authority, co-ordination and co-operation and escalating costs. The anti-doping movement over this period has forced a re-examination of the relationships between Governments and their agencies, and between the International Federations and their National Governing Bodies. Pressure has been felt within sport between those who have framed the rules, those who implement them, and those who provide the major funding. Relationships between all sections of sport and the news media have also come under new pressure, as decisions and actions have been intensely scrutinised and publicly debated. Above all, the most uncomfortable aspect of the last decade has been the way in which those in the anti-doping movement have come into direct, public conflict with individual competitors. For those who love sport this is like being forced into a public show of opposition with a much loved member of the family, and the pain of this has been felt by all.

One of the issues that has had to be faced by all concerned is that the use of drugs in sport is quite different now from when the convention was first drafted. Those in the anti-doping movement have had to make major adjustments. The substances in common-use have changed, but of even more fundamental importance is the fact that the use of drugs in society as a whole has greatly changed, and with it so has attitudes.

The Anti-Doping Convention is, therefore, not only about describing a series of agreed positions and actions, it is also about agreeing that sport has some essential *values* that may not be violated without great damage to sport itself. Deciding whether a member nation has complied with the Anti-Doping Convention is not merely a matter of looking to see whether programmes and systems were set up to comply with each of the articles, it is also about determining what *values* lie at the heart of the organisation and about the *stability* of these values.

In the 1970s, when certain sections of elite international sport were in danger of losing its way through greed and commercialism, the emergence of a strong moral stance which re-asserted the traditional values of sport, was historically very important. The sporting world is fortunate that at just this time that voices within Norway were making themselves heard, and that Norway was able to take on some of the moral leadership, of which the Council of Europe's Anti-Doping Convention was a later expression.

As Dr Barland says in his report (cf. §4.b), the question may be asked whether Norway needed the Anti-Doping Convention for internal, national purposes, or for international reasons. With regard to the former, the Examining Group considers that the level of implementation attained by Norway in anti-doping work by the late 1980s was such that the requirements of the Convention were already largely achieved. However, the importance of having a public and political affirmation and commitment to certain

standards should not be underestimated. Even if the Norwegian government had and has confidence in the will and the capacity of what is now the Norwegian Olympic Committee and Sports Confederation (NIF) to carry out its tasks in this field effectively, the former has laid down markers by which the latter is judged and the NIF knows that the public authorities have done so and monitor its work. The transfer of the financing of the costs of the anti-doping laboratory from the general NIF subsidy to a direct financing from the government is an indication of the greater willingness of the public authorities to be involved and concerned. As regards the international reasons, there can be no doubt that the willingness of the Norwegian government, whose attitude was traditionally one of letting the non-governmental body get on with its responsibilities, to subscribe to a convention under international public law was of great significance: both in encouraging other countries with similar traditions to subscribe to the convention, and in indicating the standards to which public authorities in other countries should strive. Norway had, in addition, always been amongst those member States which played a leading role in the Council of Europe's work on Doping in Sport in the late 70s and 80s: the Convention provided an opportunity to make that work the norm. Thus the Convention satisfied the requirements of the Norwegian government at both national and international levels.

This public and political commitment was also demonstrated, much to the appreciation of the members of the Examining Group, by the time that Mrs A E Lahnstein, Minister for Cultural Affairs, was able to devote to them. The Minister's clear commitment to anti-doping work in Norway was illustrated in her remark: "Norway has no choice".

## **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 anti-doping campaign in Norway started as early as 1971, when the Norwegian Confederation of Sport first discussed this question, leading to the adoption of a clear policy in 1976. The Norwegian report demonstrates (chapters 3.0 – 3.2 and 4) the progress of ideas and solutions since 1971.

Since 1976, Norway has remained in the forefront of those countries actively combating this menace, which, as many of our interlocutors said, is "destroying modern sport from the inside".

No one particular case seems to have hastened or accelerated consideration of anti-doping work. There were one or two high profile cases towards the end of the 1980s and beginning of the 1990s, but not many Norwegian sports participants have been penalised for doping infractions. Between 1977 and 1995, NIF has taken 12,870 controls from Norwegian athletes: of these, 130 (1%) have contained one or more banned substances, and another 24 (0.2%) have been refusals. The total of positives (147 men and 7 women) is less than in many other countries and half of that total comes from one sport only

(powerlifting). Approximately one quarter is from weightlifting and athletics together, the remaining quarter being from all other sports combined.

On this evidence, Norwegian sport would seem to be relatively “clean”. If this is so, it is possible that this could be attributed to one of the characteristics of Norwegian society pointed out in the report and stressed to us in many of our discussions: the concern with values generally, and the existence of a remarkable consensus on the importance of moral values. This consensus exists amongst political parties, transcending party politics, sports organisations and the media, and of course amongst the persons involved: politicians, leaders and athletes, and journalists. There is a ready willingness to fight the doping problem and to make resources available to do this. National and international success must not be bought at any price. The situation in Norway is thus not altogether typical of other European countries and undoubtedly gives it an immense advantage in mobilising effort and in focusing action. Indeed, if all countries could demonstrate such national solidarity, it might not be necessary to have the Convention at all.

***The Examining Group concludes that Norway has effectively implemented Article 1 of the Convention since ratification and continues to do so.***

#### *Comment*

The Examining Group wishes to underline the consistent and committed way that Norway has worked to reduce doping in sport over the past decade and more. Norway’s record is a credit to the leadership of its politicians and administrators, who together have created and maintained a background of unwavering ethical and practical support for the anti-doping movement, both within Norway and outside. This also acts as a strong, positive example to other nations.

## **Article 2 Definition and Scope of the Convention**

is not subject to evaluation by the Examining Group

## **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.”***



The report indicates the extensive co-ordination measures and structures that exist at national level. Because of the traditional importance attached to social values and non-governmental organisations based on them, the main responsibility for anti-doping questions (Article 3.2) is given to the Norwegian Confederation of Sport (and National Olympic Committee since 1996). A number of governmental responsibilities have accrued to the state over the course of the years (see Report, page 12 and §3.3 – 3.5, & 3.8). These include the creation of a national co-ordinating committee (Article 3.1 and report § 3.3) in 1994. However, the Examining Group was informed that this “Grand Committee” does not meet very often. This may be due in part to the fact that between them, the Ministry of Cultural Affairs and the NIF have the anti-doping problem very much in hand. However, the “awareness-raising” function of a body such as the Grand Committee should not be underestimated. The exemplary co-operation between the Ministry and the NIF on the one side, and the police and the customs services on the other should be pointed out. This co-operation is particularly necessary for the control of illegal or illicit trafficking in forbidden substances (especially anabolic steroids and peptide hormones) and the measures described under Article 4 would have little practical effect without such co-ordination.

*The Examining Group considers that Norway implements Article 3.1 mainly through a network of more or less formal contracts. Article 3.2 of the Convention is appropriate to the Norwegian situation and responsibility for Article 7 has been given to the Norwegian Olympic Committee and Sports Confederation.*

#### **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.”***

#### Article 4.1

Many contracting Parties have indicated that it is legally extremely difficult to make the use of banned sports drugs illegal. (Indeed, the penalty for use, proven after an analytical test in a laboratory, is invariably a sporting sanction.) However, many States have been able to legislate against the importation, sale, trafficking or illegal possession of these drugs. Norway is one such country, with an Act entering into force in mid-1993. A number of customs and police seizures have shown the act to be well founded.

#### Article 4.2

The report (pp 27-30) shows in some detail how the financial aspects of this article and Article 4.3 a and b have been translated into action in Norway. Financial awards, grant aid and subsidies to the NIF have formed one of the key areas for governmental involvement in the anti-doping struggle. It should, however, be pointed out that the NIF had a somewhat similar policy previously internally, when awarding subsidies to individual sports federations. Since 1995, the government has taken over the financing of the anti-doping laboratory at Aker Hospital: previously, its costs had been included in the subsidy given to NIF for anti-doping work in general. This allocation has increased from NOK 1,850,000 in 1995 to NOK 2,503,000 in 1997. This substantial increase is an indication of a firm commitment to high laboratory standards, capacity and research. It also avoids any conflict of interest within the NIF, which does not have to arbitrate between funding of the different aspects of anti-doping work. Such decisions are now made at political level.

The large sums of money involved (c. 9.5m NOK pa) are in themselves a witness and a tribute to the Norwegian government's commitment to anti-doping. For a country the size of France, Italy or the United Kingdom, this is the equivalent of an annual anti-doping budget of c 13.5m euros pa.

The size of this budget also requires that the NIF exercises a high degree of professional skill in managing it. From what we saw, this is the case.

#### Article 4.3. c

The NIF has always co-operated with the international sports federations testing in Norway. In addition, NIF also tests Norwegian athletes on behalf of international federations. During the Lillehammer Winter Olympic Games in 1994, a major programme was put into operation on behalf of the International Olympic Committee. 57 blood samples were taken on that occasion (together with 529 urine samples). Of 1,874 samples taken between 1977 and 1995 on “foreign athletes”, there were 40 positives or refusals, a higher percentage (2.1%) than from domestic athletes.

#### Article 4.3. d

The Examining Group was on several occasions given information on the “Nordic Convention”, by which athletes from any of the five parties can be tested by the anti-doping organisation of another party when the athlete is on that party’s territory. This convention is still almost unique, despite its relative age (1984). It is to be regretted that the entry into force of the Anti-Doping Convention has only seen the extension of the principles underlying the Nordic Convention (which was, indeed, a source of inspiration for the drafters of article 4.3.d.) to the countries belonging to the International Anti-Doping Agreement (Australia, Canada, New Zealand, Norway, United Kingdom).

#### Conclusion

##### *The Examining Group concludes that Norway:*

- . by means inter alia of financial awards and grants, consistently implements Article 4.1 and Article 4.2 and has used them as instruments of policy;*
- . financial and grant policies have consistently recognised the needs of article 4.3. a;*
- . has fully supported NIF in implementing articles 4.3. b, c, and d;*
- . has no need to have recourse to article 4.4 of the Convention (see conclusion under Article 3.2).*

#### 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.”*

#### Article 5.1

The Norwegian anti-doping laboratory is situated within the ISO-certified Hormone Laboratory at Akers Hospital on the north-eastern edge of the city of Oslo. The Hormone Laboratory carries out more than 320,000 clinical enzyme tests each year. Its staff of 70 - including those in the doping section - have produced 12 theses and more than 600 scientific reports/articles.

The doping control section has enjoyed IOC accreditation since 1988.

#### Article 5.2.a

12 people work (and have worked for some time, conferring stability) in it, with 10 doing the routine analyses and 2 full-time researchers (though all the scientific staff is involved in research work). In 1997, 2,300 analyses were completed, of which 14 revealed positive traces. Though this section of the laboratory is small compared to the hospital as a whole, its status and credibility is enhanced by this attachment.

*See also under Article 4.2*

#### Article 5.2.b

Current research is focused on ways of detecting, either directly or indirectly, exogenous doses of erythropoietin in blood and urine. This work is carried out in association with the Oslo Sports University under Professor Dr Bahr and the research is largely funded by specific grants from the Ministry, for a total of NOK c 2m. This is an indication of the government's desire to tackle the problem of EPO, widely considered to be the main problem in modern doping. Despite the relatively small sums involved, there is hope of some useful results emerging in due course.

Research into means of detecting new doping substances is of vital importance. Virtually all our interlocutors strongly regretted the absence of an analytical test for detecting EPO. Many of them believed that the abuse of EPO was very widespread, particularly in endurance sports<sup>10</sup> (cycling, cross-country skiing, long-distance athletics) and at many levels (including amateur cycling). There is no doubt that the lapse of time between rumours of a new substance being abused in sport (hormones, human growth hormone,

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<sup>10</sup> A view which the events later in the summer of 1998 amply confirmed.

EPO being the most recent examples) and the analytical tool or tools to prove or disprove it is a major hindrance to effective anti-doping work.

Some research is also carried out on anabolic and androgenic steroids.

#### Article 5.2.c

Results are published in international journals.

There is a widespread feeling of confidence in the work and standards achieved by the Laboratory, the quality of the advice and support it provides, but, at the same time, equally widespread concern that there are large sums of money available to challenge its findings, even on the smallest technical ground.

One further element is worthy of mention: one of the reasons given to the Examining Group for the setting up of a national accredited laboratory in a country whose size does not necessarily warrant it was that such a laboratory would provide insights into patterns of doping not available from other sources. We were informed that this reasoning had turned out to be justified. One example is the existence of data from analyses tending to illustrate the prevalence of epo and other abuse.

***The Examining Group considers that Norway fulfils its obligations under Article 5.1 a, and 5.2. a, b & c of the Convention. Article 5.1.b is not relevant as Norway has its own accredited laboratory.***

#### 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.”***

#### Article 6.1

The anti-doping information and education activities of the NIF are described at pages 34 to 38 of the report. They are extensive and comprehensive. In the 1980s, many of these initiatives were almost unique, at least in Europe, and formed the basis for the educational work of the then Council of Europe's Expert Group on Doping, and later the

Monitoring Group's working party on Education and Information. The *Clean Sports Guide* is inspired by this experience. The NIF has also taken care to evaluate the impact of these activities and to adapt them to the results of such research, and to new priorities or new targets. Such evaluation also helps to inform new angles of anti-doping work and controls. NIF estimates that about one-third of the anti-doping budget/effort goes towards preventative work: a high proportion, but one which seems to be justified by its results. However, the elite sports network in Norway is fairly small, and it is therefore easier to reach young elite athletes, as well as the trainers, coaches and doctors involved with them. The consensus on values mentioned earlier is also a help: the starting point for NIF's work is largely shared. Efforts are directed towards ever younger target groups (with ever blunter messages) and co-ordinated with other ethical campaigns in sport (e.g., values, or anti-alcohol work). The network of sports doctors is also extremely homogeneous and much time is spent providing them with information packs and advise for dealing with different situations and requests from athletes. The President of the Association of Sports Medicine told us that 20% of sports doctors had been approached by athletes seeking information related to doping: such educational work is therefore clearly necessary.

Sports journalists also have an important educational role in modern society. The informal meeting with some of them demonstrated this: they are very supportive of anti-doping work in Norway, and wish for greater efforts internationally. There was less coverage now than in the past, but if there was a need to expose abuse they would so, particularly where Norway's traditional 'opponents' were concerned. The journalists made a clear distinction between serious, purposeful abuse and what they called "accidental positives".

## Article 6.2

The Report does not refer to, nor was the Examining Group's attention drawn to, any research into scientific training programmes, though it is to be deduced that the Top Sport Training Centre may work along these lines, and the Report refers to this at page 50. (The expertise in fahring Norwegian skis is well known.) The Examining Group therefore abstains from expressing an opinion on this article.

***The Examining Group concludes that Norway fulfils its obligations under Article 6.1 of the Convention, and is not in a position to evaluate Article 6.2.***

## Article 7

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

#### Article 7.1

***"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."***

The Norwegian Confederation of Sport (NIF) is, by its very structure and constitution, particularly well placed to ensure that all of the Norwegian sports associations adhere to a common set of anti-doping policies. This provides, among other things, a strong and consistent national stance for Norwegian Governing Bodies of Sport to use when interfacing with their International Federations. The catalogue of Norway's international co-operation is most impressive, (see summary in the Report pp. 38). These include the co-operation between Nordic countries, the International Anti-Doping Arrangement (IADA), which, over this period, has included the United Kingdom, Australia, France and New Zealand, and a more recent bilateral agreement, dating from 1996, with the Chinese sports authorities. Added to this must be Norway's involvement with the Council of Europe's Anti Doping Convention, and the role that Norway took prior to the Convention coming into force of helping in its drafting (see Report p.16 onwards). Indeed it may not be an exaggeration to say that the Convention, as it stands today, owes much to Norway's early commitment and leadership.

#### Article 7.2

***“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.”***

The issues that the sporting world, internationally, has been forced to face when considering doping cases have been many and varied. None, however, have been more challenging than that of ensuring that the principles of natural justice are followed. This

is partly because the traditional concept of a National Governing Body of Sport or an International Sports Federation was that they controlled all aspects of the sport's management, from the framing of the rules, to their enforcement. And from laying down criteria by which a person may compete, to deciding from time to time that someone should be disciplined and perhaps not permitted to compete. The safeguards that Norway has created with a clear separation of powers within NIF in its Judicial and Appeal Committees has been described to us (see Report, pp 41 onwards). The expertise in legal questions and affairs is in part the consequence of a number of high profile – and costly – cases, fought in the late 1980s/early 1990s, some of which went as far as the Court of Appeal. These experiences have certainly contributed to the concept of the present structure, into which much time, thought and effort has gone and its intention is clear. Nevertheless, there still remains a doubt that a glass wall can ever be set up within an organisation that is completely satisfactory. The Norwegian authorities may wish to consider whether another mechanism may be employed to ensure true independence of the prosecutory, judicial and appeal processes.

The success of the Norwegian sports authorities in bringing fitness centres and gyms within the orbit of anti-doping work and controls (p. 49 of the Report) is to be particularly commended.

Article 7.3

***“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;***

***to study scientific training methods and to devise guidelines to protect sportsmen and sportswomen of all ages appropriate for each sport.”***

The Report ( see pages 50/54) gives details of the doping controls employed in Norway



since 1977, and we have also had access to the annual reports submitted by Norway to the Council of Europe since the Convention came into force. The Ethics Department of NIF maintains a very comprehensive database on doping controls and carefully targets, each year, specific groups for intensive controls (either new groups of athletes or athletes for further controls). The Examining Group did not have the time to study the operational implications and use of this database in depth, but formed the impression that it played a key role in deciding new priorities and in maintaining a detailed overview of the effectiveness of NIF's anti-doping work. In addition we have considered Dr Bahr's paper "Prevalence of Doping in Sports: Doping Control in Norway, 1977-1995". These various sources give ample evidence of Norway's commitment to an extensive programme of doping controls. The testing of Norwegian athletes in other countries has been covered elsewhere, and so has the effective use of laboratory facilities. What is less clear is the promotion of international sportsmen and sportswomen in the anti-doping work of the international sports organisations (7.3d), over which, of course, the Norwegian sports organisations are not the only deciders; and (as we have seen at Article 6.2) the study of scientific training methods (7.3f). These topics were not covered in the Report and were not touched on during our visit.

*The Examining Group considers:*

*that the Norwegian government has fully complied with Article 7.1;*

*that the government and NIF have fully complied with Articles 7.2a, 7.2b, 7.2c, 7.2d, 7.2e, 7.2f,*

*that the government and NIF have fully complied with articles 7.3a, 7.3b, 7.3c and 7.3e. abstains from expressing an opinion on articles 7.3d and f.*

## **Article 8**

### **International Co-operation**

#### **Article 8.1**

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

The ways in which Norway has complied with this article have already been discussed (see the Introduction, and our comments on Articles 1, 4.3.c, 6.1 and 7).

#### **Article 8.2**

***"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.”*

This too has been discussed under other headings ( see Article 5 and Article 7)

Article 8.2.b: Professor Haug and other members of the doping section of the Akers Hormone Laboratory are active members of international working groups, including that on Science set up by the Monitoring Group. (See also comments under Article 5.)

Article 8.2.c: In addition to the measures described in the Report and in our report under Article 4.1, there is effective Nordic police and customs cooperation on these matters.

Article 8.3

*“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 assistance that Norway has provided to other countries to help them with the setting up of laboratories, is largely reported under Article 8 (see Report p. 55-57). In particular, the work being done under the auspices of the International Anti-Doping Agreement and led by Norway on the working out of and attainment of standards to comply with ISO 9002 quality standards in anti-doping work in general and laboratories in particular is worthy of remark and support. This work should provide in due course an indispensable complement to the IOC's own accreditation system.

*The Examining Group considers that Norway has complied and complies with the commitments of Article 8.1, 8.2 and 8.3.*

## **CONCLUDING REMARKS**

**The Examining Group can only repeat what is said in the section "Introductory Remarks" (pp. 74 - 75). The Norwegian experiences and policies for anti-doping work confer several advantages - consensus, coherence, effectiveness - which are the result of clear political will and leadership from successive governments and great competence on the part of NIF. The Norwegian one is a model for countries with similar traditions and structures to follow, and a source of inspiration for other countries. The will has found a way.**

## **SUMMARY OF RECOMMENDATIONS**

## **to Norway**

The Examining Group considers that it might be useful to reactivate the “Grand Committee” as a means of bringing anti-doping questions to the attention of all departments with an interest in them.

The Examining Group recommends to the NIF to study means of making a clearer separation of its disciplinary and judicial bodies (article 7.2). The apparent overlap between the “doping expert team”, the Executive Committee” (in fact, the “Working Committee”) and the Judicial Committee (page 42 of the Report), notably with regard to the persons involved, does not seem to fulfil the requirement for “distinctness” necessary under Article 7.2. The Group is conscious that to some extent the lack of distinctness is more apparent than real (and certainly the Judicial Committee and Appeal Committee are properly distinct from each other): but the lack of transparent distinctness could be a problem when, as we saw, suspected athletes seek to exploit the most minor technical irregularity. (page 83)

(Note: When the Examining Group submitted the draft of its report, the NIF reacted to this recommendation with the comments contained in the Appendix.)

The work carried out by Norway in the framework of the International Anti-Doping Agreement (Article 8.3, page 85) is of importance. Ways of bringing the results of this work to the attention of the Monitoring Group, with a view to its wider application by all parties, should be studied.

## **to the Monitoring Group**

The Examining Group proposes that parties:

Review national legislation on restricting the availability and use of doping agents (Article 4.1) (page 78)

Study the Norwegian example of implementing Articles 4.2 and 4.3 of the Convention and in particular the sections on relating financial aspects of subsidies to anti-doping work. (page 78)

Develop bilateral and multilateral agreements, along the lines of the Nordic Convention, with a view to facilitating doping controls on national athletes in other countries. (Article 4.3.d) (page 79)

Consider ways of copying the Norwegian experience with bringing gyms and fitness centres within the purview of anti-doping work (Article 7.2; page 89)

Engage a process of encouraging national debates on values in sport, with a view to obtaining a strong national consensus on defending the ethical values of sport, thus intensifying national anti-doping work (pages 75,76 and 82).

Note. This Report was formally handed over to the Norwegian Minister for Cultural Affairs, Mrs A E Lahnstein, by the Head of the Sports Division in Oslo on 17 June 1999.

Also present were: Prof H B Skaset, Director General; Mr K O Kran, President of the Norwegian Olympic Committee and Confederation of Sports; Mr I Egeberg, Secretary General of NOC/NIF; Mr Paul Glomsaker, Deputy Director General; Mr Anders Solheim, Sports Department; Dr Egil Haug, Director of the Anti-Doping Laboratory and Dr B Barland, author of the report by Norway.

## **Appendix 1**

### **Comments received from the Norwegian Olympic Committee and Confederation of Sports**

Letter to the Sports Division dated 9 June 1999

“I refer to the comments re Article 7.2 and Summary of Recommendations on page [91]

1. Sport in Norway is organised as a self-governing body through the NOC/CS with common anti-doping and penalty regulations. All National Sports Federations must adhere to these regulations.
2. The Sports Assembly consists of representatives from the National Sports Federations, the District Federations and of the members of the Board of Directors.
3. The Sports Assembly elects among other committees the Judging Committee, the Appeal Committee and the Board of Directors. These Committees are answerable to the Sports Assembly only.
4. The Judging and Appeal Committees are independent of the Board of Directors.
5. The “Doping Expert Team” is not independent of the Board of Directors (Reporting Body) or the administration, which are responsible for reporting doping cases to the the judging committees. The “Doping Expert Team” is not meant to be independent either. It is a team of experts advising the administration and the Board in general doping questions and in concrete doping cases.
6. It is irrelevant to go into this when referring to article 7.2.d: the reporting and disciplinary bodies to be distinct from one another.
7. The questions that has been raised from time to time is whether there should be another body to report doping cases to the judging committees (prosecution). But that is not the question in article

The distinction of the various bodies within our system was specifically explained

[to]...your group.

The organisation and the follow up to doping cases is presented diagrammatically overleaf.

Yours sincerely,

Rune Andersen”