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

Project on Compliance with Commitments

**Respect by Montenegro of the Anti-Doping Convention**

**Auto-Evaluation Report by Montenegro  
Report of the Evaluation Team  
Comments by the Montenegrin Authorities**

**FINAL**

**Adopted at the 43<sup>rd</sup> meeting of the Monitoring  
Group of the Anti-doping Convention**

**Contents**

<b>Preface</b>	<b>3</b>
<b>Part A: Auto-Evaluation report by Montenegro</b>	<b>4</b>
<b>Part B: Report of the Evaluation Team</b>	<b>5</b>
<b>Introduction</b>	<b>5</b>
<b>Article 1 - Aim of the Convention</b>	<b>5</b>
<b>Article 2 - Definition and scope of the Convention</b>	<b>6</b>
<b>Article 4 - Measures to restrict the availability and use of banned doping agents and methods</b>	<b>11</b>
<b>Article 5 - Laboratories</b>	<b>15</b>
<b>Article 6 - Education</b>	<b>16</b>
<b>Article 7 - Co-operation with sports organisations on measures to be taken by them</b>	<b>19</b>
<b>Article 8 - International co-operation</b>	<b>25</b>
<b>Article 9 - Provision of information</b>	<b>26</b>
<b>General conclusions</b>	<b>27</b>
<b>Summary of Recommendations (in order of priority)</b>	<b>28</b>
<b>Appendices</b>	<b>29</b>
<b>1. Programme of the Visit</b>	<b>29</b>
<b>2. Composition of the Evaluation Team</b>	<b>30</b>
<b>3. Acknowledgments</b>	<b>31</b>
<b>Part C. Comments by the Montenegrin authorities</b>	<b>32</b>

## Preface

The Compliance with Commitments project was developed in 1997 by the Steering Committee for the Development for Sport (CDDS) with the main aim to help participating countries to determine how *the European Sports Charter, the Anti-Doping Convention and the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches* are applied in their countries. The preferred working method involves interactions between a national team who prepare a detailed report on compliance with the commitments entered into under the Convention or Charter (Auto-evaluation Report) and an examining team (the Evaluation Team) appointed by the Council of Europe. Following a visit by the Evaluation Team, a second report is drawn up detailing their findings, suggestions, and possible recommendations for improved compliance with the commitments.

The Monitoring Group of the Anti-Doping Convention in 2013 identified Montenegro among the countries that might be benefited from the Compliance with Commitments project. In reply to a letter of the Council of Europe to the Montenegrin authorities informing them about the Compliance with Commitments project the President of the Montenegrin National Anti-Doping Commission, via the Permanent Representation of Montenegro to the Council of Europe invited the Monitoring Group of the Anti-Doping Convention to undertake an evaluation visit.

Even though, in accordance with the “Operating Procedure for the Evaluation”<sup>1</sup> that applies, the Party to the Convention provides the Monitoring Group of the Anti-Doping Convention with a national, auto-evaluation report on the way in which it applies the provisions of the Convention, the Montenegrin authorities failed to do so; Instead, they provided the Evaluation Team with a compilation of documents which gave the Evaluation Team limited information ahead of the visit.

An evaluation visit was held on 3-4 December, 2014. The Program of the visit and the composition of the Evaluation Team are attached in the appendices to the Part B of this document.

The Evaluation Team agreed on a number of recommendations and compiled them in an Evaluation Team report (see Part B of this document).

The Montenegrin authorities reviewed the recommendations and submitted their initial comments (see Part C of the document).

This document is prepared for review and approval at the 42<sup>nd</sup> meeting of the Monitoring Group of the Anti-Doping Convention which will take place on 5 May, 2015 in Strasbourg, France.

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<sup>1</sup>“Operating Procedure for the Evaluations” [T-DO (2004) 19]: Rules adopted by the Monitoring Group on 7 November 2003 in accordance with article 2.4 of the Additional Protocol.

**Part A: Auto-Evaluation report by Montenegro**

The Montenegrin authorities did not submit an auto-evaluation report on the implementation of the Convention. Instead, they provided the Evaluation Team with a compilation of documents which gave only limited information about the fight against doping in Montenegro.

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## **Part B: Report of the Evaluation Team**

### **Introduction**

The visit of the Evaluation Team (for the composition of the Team see Appendix 1) was organised by the National Anti-Doping Commission of Montenegro (herein after “NADC”). Dr. Mira Jovanovski Dasic, President of the NADC provided the Evaluation Team with a compilation of documents with some information about the anti-doping programme in place in Montenegro.

The visit of the Evaluation Team in Podgorica, Montenegro was held on the 3<sup>rd</sup> and 4<sup>th</sup> of December, 2014 and included meetings with Mr. Igor Vusurovic, Acting Director of the Directorate for Youth and Sport, Mr. Dusan Simonovic, President of the Montenegrin Olympic Committee and Dr. Mira Jovanovski Dasic, President of the NADC and Deputy Minister of Health. The Evaluation Team visited the Parliament and met with Mr. Andrija Popovic, an Olympian, and Member of Parliament. Dr. Dasic accompanied the Evaluation Team throughout the visit. The programme of the visit of the Evaluation Team is shown in Appendix 2.

The programme of the visit allowed for the Evaluation Team to meet representatives from the Government as well as the sports field and other relevant organisations, receive comprehensive information, and thus get a good understanding of the situation regarding anti-doping in Montenegro.

At this stage of the Report it is worth pointing out that even though the visit was supposed to be an Evaluation Visit, taking into account the circumstances in Montenegro, it was made clear that, in practice, it was of consultative nature. All the meetings were conducted in a friendly and open way and all of the governmental and sport representatives with whom the Evaluation Team met shared their concerns and showed great interest to hear how their anti-doping programme could be improved.

This Report describes the findings, as well as the suggestions and recommendations of the Evaluation Team for improved compliance with the commitments of Montenegro. The Evaluation Team’s findings on each of the articles of the Convention focus mainly on the existing network of partners responsible for the implementation of the Convention, the areas of weakness, and the progress that remains to be made to achieve full compliance. The Report includes also the Team’s general conclusions and a list of the most important recommendations.

### **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 Union of Serbia and Montenegro acceded to the Anti-Doping Convention of the Council of Europe (hereinafter “the Convention”) on 28 February 2001. Following Montenegro’s independence in 2006, the Convention entered into force on 6 June 2006 (see comments under Article 8). The Montenegrin Olympic Committee signed the World Anti-Doping Code of the World Anti-Doping Agency on 16 October 2007 and in 2008 Montenegro ratified the International Convention against Doping in Sport of UNESCO (Law No. 06/2008). Montenegro has not yet signed, ratified, or otherwise acceded to the Additional Protocol of the Anti-Doping Convention of the Council of Europe.

In 2011, the *Law on Sports* (Law № 36/11, dated 27.07.2011) was the first legal instrument to address anti-doping in Montenegro. The said Law established the “Committee for the Fight against Doping in

Sport”(NADC)with the aim to “(1) monitor and coordinate the action in the fight against doping in sport; (2) propose measures for the fight against doping in sport; and (3) for the fight against doping, the Committee shall apply conventions, the WADA Code and rules of international sport federations and the International Olympic Committee.”(Article 84).

Nowhere in the abovementioned Lawthe competences of the governmental bodies on the implementation of the Convention and the fight against doping are defined. The only exemption is the reference on the budget of the NADC. In particular, under article 84 of the *Law on Sports*it is clarified that “the funds for the Committee’s operation shall be provided from resources for financing the annual sport plan as well as other resources, in accordance with the law.”

With the Montenegrin Olympic Committee’s National Anti-Doping Rules that were adopted in 2011 based on the 2009 Code,the obligations of the NADC as the country’s national anti-doping organisation as well as the obligations of the national sports federations in the fight against doping in line with the Code were defined; however, nothing is mentioned about the obligations of the governmental bodieson implementing the provisions of the Convention.

### **Conclusions:**

The Evaluation Team concludes that the political commitment expected in Article 1 is only partially fulfilled.

### **Recommendations:**

- The Montenegrin authorities should consider either to modify the *Law on Sports*or adopt a comprehensive anti-doping law in which the obligations of the Montenegrin NADC, the country’s sports organisations and the governmental departments and public bodies towards the implementation of the Council of Europe’s Convention as well as the Code and the International (UNESCO) Convention against Doping in Sport will be defined.
- The Montenegrin authorities should ratify the Additional Protocol of the Anti-Doping Convention of the Council of Europe.

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

### **2.1 For the purposes of this Convention:**

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

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

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

Based on article 81 of the *Law on Sports* (Law No. 36/11, dated 27.07.2011), “*athletes must not use any banned substances or apply any procedures that is banned according to the rules of the World Anti-Doping Agency (WADA*” and this is defined as “*doping*”. Under the same article, it is further indicated, “*the coach, authorised physician and other persons in sport must not provide athletes with doping substances or request the athlete or encourage him to use doping agents or apply procedures that are against the rules of the WADA.*”The above definition does not “*expressis verbis*” adopts the

definition of doping found in the Convention; moreover, the reference to “*the rules of the WADA*” is broad and flexible and may create problems on its interpretation.

The Montenegrin Olympic Committee National Anti-Doping Rules, adopted in 2011, in line with the 2009 World Anti-Doping Code, under article 2 form a definition “doping in sport” based on the 2009 World Anti-Doping Code which is broader than the one found in the Convention. However, since the 1<sup>st</sup> of January 2015, the revised Code came into effect and includes a new definition of doping in sport which differs from the one found in the current version of the Montenegrin Olympic Committee National Anti-Doping Rules.

Article 81 of the *Law on Sports* makes reference to the WADA Prohibited List (“*Athletes must not use any banned substances or apply any method that is banned according to the rules of the World Anti-Doping Agency*”); however, nothing is mentioned about the adoption of the List in the Montenegrin legislation or how the List is enforced. Article 4.1 of the Montenegrin Olympic Committee National Anti-Doping Rules states that “*Anti-Doping Rules incorporate the Prohibited List which is published and revised by WADA*” and indicates that “*the Montenegrin Olympic Committee will make the current Prohibited List available to each national federation, and each national federation shall ensure that the current Prohibited List is available to its members and constituents.*”

The Evaluation Team noted that, in practice, the Prohibited List is not enforced by any legal means like for example a Ministerial Order and/or publication in the Official Gazette of the Government. In addition, by virtue of article 84 of the *Law on Sports*, the Montenegrin National Anti-Doping Committee (NADC) was established “*with the aim to monitor and implement the International Convention against Doping in Sport*” and as from 15 January 2014, with Formal Note/ Decision of the Ministry of Education (No 01 – 6381/2) the members of the Montenegrin NADC were appointed. Since the NADC is now established and active, it could be reasonable to undertake the responsibility of making the Prohibited List available to the sports organisations in the country (instead of the Montenegrin Olympic Committee) and this should be reflected in the Anti-Doping Rules. Moreover, the Evaluation Team notes that the role of the Monitoring Group of the Convention on approving the list of banned substances and methods is not mentioned in the *Law on Sports* or the Montenegrin Olympic Committee National Anti-Doping Rules. In this case, the issue of compatibility of lists should be raised. The WADA Prohibited List is beyond doubt compliant with the Convention. However, if the Monitoring Group of the Convention adopts a prohibited list that differs from the WADA Prohibited List, which is fairly improbable, then the Montenegrin authorities would have to deal with such a peculiar situation.

Article 20 of the *Law on Sports* provides the definition of “*athlete*” that is “*a person who, independently or in the framework of a sports club, prepares and competes in a specific sport*” and articles 21 and 22 provide further the definition of “*amateur athlete*” and “*professional athlete*”. The Convention defines “*sportsmen*” and “*sportswomen*” as the persons who “*participate regularly in organised sports activities.*” Comparing the definition found in the *Law on Sports* with the definition of the Convention it can be concluded that the definition found in the Convention is broader than the definition of the *Law on Sports* since the latter is limited to those persons who “*prepare and compete in a specific sport*”, only.

The Montenegrin Olympic Committee National Anti-Doping Rules include the definition of athlete found in the Code i.e. “*any person who participates in sport at the international level (as defined by each International Federation), the national level (as defined by each National Anti-Doping*

*Organisation), and any other competitor in sport who is otherwise subject to the jurisdiction of any Signatory or other sports organisation accepting the Code”* and under article 1.2 it is stated that the said Rules “*apply to all Persons who are members of a National Sports Federation of Montenegro.*” As with the definition of athlete found in the *Law on Sports*, the definition of athlete in the Montenegrin Olympic Committee National Anti-Doping Rules is not as broad as the definition of athlete found in the Convention.

However, the aim of the Convention is not to be applied by Member States indiscriminately to all sports and to all levels of sport. The use of the adverb "regularly" in Article 2.1.c is designed to bring these participants within the remit of the Convention where it is appropriate, while not prescribing an unduly heavy obligation to control purely casual participants. National authorities should decide their own priorities and make appropriate selections and decisions and the Convention should be applied realistically, concentrating firstly on the level of sportsmen and sportswomen where doping is known to exist. The Evaluation Team is of the opinion that the definition of “athlete” found in the *Law on Sports* and the Montenegrin Olympic Committee National Anti-Doping Rules is -at present- sufficiently broad and allows the Montenegrin authorities to allocate resources to competitive sports.

**2.2** *Until such time as a list of banned pharmacological classes of doping agents and doping methods is approved by the monitoring group under the terms of Article 11.1.b, the reference list in the appendix to this Convention shall apply.*

As mentioned under Article 2.1 above, neither the *Law on Sports* nor the Montenegrin Olympic Committee National Anti-Doping Rules refer to the role of the Monitoring Group of the Convention on approving the list of banned substances and methods is mentioned.

### **Conclusions:**

The Evaluation Team concludes that the definitions established under Article 2 of the Convention are partly covered by the relevant Montenegrin legislation. The most important non-conformity under this Article are: (a) the incomplete definition of “doping” in the *Law on Sports* compared to the definition found in the Convention; and (b) the absent of any reference to the list of banned substances and methods adopted by the Monitoring Group as an Appendix to the Convention.

### **Recommendations:**

- The Montenegrin authorities should consider amending the *Law on Sports* to ensure that the definition of “doping” cover the respective definitions of the Convention.
- The Montenegrin authorities should ensure that the List of banned pharmacological classes of doping agents and banned doping methods in force in Montenegro is the one adopted by the Monitoring Group; it does not mean, however, that it cannot be the WADA Prohibited List since the two Lists are identical.
- The Montenegrin authorities should consider translating the List of banned pharmacological classes of doping agents and doping methods to Montenegrin and publishing it the Official Gazette and/or otherwise enforce it whenever it is amended.

### Article 3 - Domestic co-ordination

**3.1** *The Parties shall co-ordinate the policies and actions of their government departments and other public agencies concerned with combating doping in sport.*

**3.2** *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 legal framework that regulates sport in Montenegro, including anti-doping, is based on the *Law on Sports* (Law Nr. 36/11, dated 27.07.2011) and its follow-up amendments (Law Nr. 36/13, dated 26.07.2013).

The *Law on Sports* under article 84 establishes the Montenegrin National Anti-Doping Commission (NADC) for “*the monitoring and implementation of the International Convention against Doping in Sport*”. In particular, based on the said Law, the Montenegrin NADC “*(...) shall 1) monitor and coordinate the action in the fight against doping in sport; 2) propose measures for the fight against doping in sport; and 3) in the fight against doping, the Committee shall apply conventions, the WADA Code and rules of international sport federations and the International Olympic Committee.*”

In accordance with article 84 of the *Law on Sports* the Montenegrin NADC has a chairperson and four members; the chairperson and two members are proposed by the Directorate for Youth and Sport and the other two members are proposed by the Montenegrin Olympic Committee. In its current composition, as determined by the Formal Note/Decision of the Ministry of Education No 01-6381/2 dated 15 January 2014, the Montenegrin NADC is chaired by Dr. Mira Jovanovski Dasic, medical doctor who is also the Deputy Minister of Health and includes four members: a lawyer, two medical doctors and a former athlete.

In accordance with article 84 of the *Law on Sports* the Montenegrin NADC’s “*Administrative-technical tasks*” are performed by the Directorate of Youth and Sport and “*the funds for the Committee’s operation shall be provided from resources for financing the annual sport plan as well as other sources, in accordance with the law.*” The Evaluation Team understood that the Montenegrin NADC has no administrative staff and no budget was allocated for 2014 and that the limited actions taken are either on a voluntary basis or from special grants received from EERADO/ WADA for testing or UNESCO for education and prevention (as described under articles 4.3.a and 6.1 of the Report, respectively).

As stressed in other parts of this Report, Government’s contribution to the budget of the Montenegrin NADC is of particular importance in order to assure that the NADC will be able to perform doping controls, education, doping prevention and the other core activities arising from the Convention, the Code, and the UNESCO Convention. In addition, the NADC should have financial and administrative autonomy to conduct testing and this should be reflected in, and secured by the Montenegrin legislation. Moreover, the NADC as the national anti-doping organisation of Montenegro shall be independent on its operations and decisions; however, the Evaluation Team is concerned whether the operational independence of the Montenegrin NADC is sufficiently safeguarded.

As mentioned above, based on the *Law on Sports* the Montenegrin NADC “*in the fight against doping, the Committee shall apply conventions, the WADA Code and rules of international sport federations and the International Olympic Committee*” that is what the Code define as National Anti-Doping

Organisation. However, the Montenegrin Olympic Committee National Anti-Doping Rules that are still in effect define the Montenegrin Olympic Committee –and not the Montenegrin NADC- as the National Anti-Doping Organisation of Montenegro; in addition, nowhere in the said Rules the role of the Montenegrin NADC is reflected which may give grounds for legal challenging of the Montenegrin NADC’s jurisdiction for testing and results management. Moreover, even though article 84 of the *Law on Sports* indicates that “*The organization and method of operation of the Committee shall be determined by the Rules of Procedure*” the Montenegrin NADC has not yet adopted any rules that could indicate its role as the National Anti-Doping Organisation of Montenegro which again may raise legal challenges. Finally, the Montenegrin NADC has not yet signed the *Code Acceptance Form* of WADA to reflect its responsibility to implement the provisions of the Code. (For further comments see under article 4.4 of this Report)

Article 3 of the Convention states that “(States) Parties shall co-ordinate the policies and actions of their government departments and other public agencies concerned with combating doping in sport.” The Evaluation Team understood that, apart from the Directorate for Youth and Sport and the Montenegrin NADC no other governmental bodies are currently dealing with anti-doping in Montenegro are required by the Convention.

The Evaluation Team discussed about the role of the Ministry of Health in the fight against doping with Dr. Mira Jovanovski Dasic, in her capacity as Deputy Minister of Health. The Team understood that apart from the inclusion of anti-doping in the education programmes of medical doctors (see under article 6.2 of the Report), the Ministry of Health is not actively involved in the fight against doping. Potential areas of work for the Ministry of Health that were identified in the discussion are the control of pharmaceutical drugs licensed in the country and the development of an online system for the provision of information regarding their status in relation to the Prohibited List, the control of nutritional supplements contaminated with doping substances, the use of the existing system for monitoring the use of drugs of abuse to collect information about the extent of the use of anabolic steroids in Montenegro etc. Dr Jovanovski Dasic could foresee a close collaboration between the Montenegrin NADC and the Ministry of Health in the future.

The Evaluation Team did not have the chance to meet and discuss with representatives from the Police and the Customs. The Team was advised that, apart from the control of narcotics and psychotropic substances, at present the Police and the Customs are not active in the fight against doping in Montenegro and have no official cooperation with the Montenegrin NADC.

### **Conclusions:**

The Evaluation Team concludes that Montenegro has established the Montenegrin NADC as the responsible authority for the practical implementation of the Convention and the country’s anti-doping programme, as required by the Convention. The most prominent non-conformities under this Article are: (a) the lack of comprehensive anti-doping legislation for the implementation of the Convention; (b) the limited activity of the Montenegrin NADC; (c) the absence of budget and other resources necessary for the operation of the Montenegrin NADC; (d) the involvement of the Police is limited to the control of manufacturing and trafficking of narcotics and psychotropic substances, only; and (e) the lack of Customs’ involvement in the fight against doping in Montenegro.

**Recommendations:**

- The Ministry of Education and the Directorate for Youth and Sports as well as the Montenegrin NADC shall proceed with all the necessary arrangements for the full functioning of the NADC. Such arrangements shall include, as a minimum, the allocation of sufficient and secured budget and administrative staff to allow the NADC to undertake testing missions and its other functions in line with the Convention and the World Anti-Doping Code.
- The Montenegrin NADC shall adopt national anti-doping rules in line with the 2015 Code and with clearly defined roles for the NADC, the Montenegrin Olympic Committee, the national sports federations, and all other organisations involved. The role of the Montenegrin NADC as the national anti-doping organisation shall be reflected in the said rules. Such rules should be enforced as deemed necessary to ensure their application on the national sports federations and the Montenegrin Olympic Committee.
- The Directorate for Youth and Sports and the Montenegrin NADC should take all the necessary administrative and legislative measures to safeguard that the NADC is independent from both the sports organisations and the government and free from conflicts of interests, especially at its operational level and its decisions (like doping controls and results management).
- The Montenegrin authorities should get other governmental departments (such as the Ministry of Health, the Ministry of Education, the Police, the Customs etc.) involved in the fight against doping which is currently lacking and proceed with all the necessary legislative and administrative arrangements in that respect.
- In view of the interinstitutional aspects of the anti-doping work (restrict the availability of doping substances, ensure high quality prevention and education programmes, tackle the public health issues etc.) the Montenegrin NADC with support from the Directorate of Youth and Sports should undertake a coordinating role to facilitate the cooperation with the law enforcement structures (e.g. Police and Customs), the Ministry of Health and any other interested bodies.
- Taking into account that the National Anti-Doping Rules envisages numerous procedures and structures that are currently lacking in Montenegro, the Montenegrin NADC and the Directorate for Youth and Sports should develop a strategy and plan of action for the timely implementation of the different requirements of the Rules (e.g. Disciplinary and Appeal Panels, Therapeutic Use Exemption Committee etc.). In this process, the Council of Europe and other States Parties to the Convention can be requested to assist the Montenegrin NADC.
- The Montenegrin NADC should cooperate with other well-established national anti-doping organisations. The Evaluation Team and the Monitoring Group of the Anti-Doping Convention of the Council of Europe could identify potential partners.

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

***4.1 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.***

Montenegro has no specific legislation, regulations or administrative measures adopted aiming to restrict the availability of doping agents and doping methods. However, the accessibility to certain groups of doping substances may be considered as restricted on the basis of different legislative and administrative measures adopted in Montenegro. In particular, Montenegro has adopted measures for

the prevention of drugs of abuse and psychoactive substances, and cooperates with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) for that purpose.

**4.2 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.**

National sports federations, as well as local sport federations, sport clubs and athletes in Montenegro receive funds from the Government. Based on the information provided by the Directorate for Youth and Sport, financing of sport programmes is regulated by the “*Bylaw on co-financing the sport subjects*” (Official Gazette no 16/2014) whereas, in accordance with the *Law on Sports*, sport subjects means the national sport federations, local sport federations, sports clubs and athletes. Article 8 of the said Bylaw states that all measures taken by sport subjects regarding the fight against doping must be in accordance with the *Law on Sports*. In addition, under article 5 of the agreement signed by sport subjects and the Directorate for Youth and Sport it is stated that “*any misuse (including doping, discrimination or any corruptive activities) means that the Directorate for Youth and Sport will correct the decision regarding granted funds and request immediate refund.*”

Moreover, Article 83 of the *Law on Sports* determines the obligations of the national sport federations with regard to anti-doping and states that, for those national sport federations that fail to meet these obligations “*the funds allocated from public revenues to national sport federation (...) may be denied or minimised.*” Finally, the Montenegrin Olympic Committee National Anti-Doping Rules under article 1.1.3 make it clear that “*as a condition of receiving financial and/or other assistance from the Government and/or the Montenegrin Olympic Committee, national sport federations shall accept and abide by the spirit and terms of the Montenegro Anti-Doping Programme and (these) Anti-Doping Rules.*”

**4.3 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;**

Article 5 of the Montenegrin Olympic Committee National Anti-Doping Rules that were adopted in 2011, states that “*All Athletes under the jurisdiction of a National Federation shall be subject to testing by the athlete’s national federation, the athlete’s international federation, the Montenegrin Olympic Committee and any other anti-doping organisation responsible for testing at a competition or event in which they participate.*” However, the Evaluation Team was advised that the abovementioned provision is not anymore valid and that the responsible local authority for testing is the Montenegrin NADC and not the Montenegrin Olympic Committee or the national federations. In addition, in accordance with article 84 of the *Law on Sports* “*the funds for the NADC’s operation shall be provided from resources for financing the annual sport plan as well as other resources, in accordance with (this) Law*”.

As described under Article 7.3.a of the Report, a small-scale testing programme is in place in Montenegro. In 2014, no testing was conducted by the Montenegrin NADC and the main reason for this is that no budget was allocated by the Government. For the testing conducted in the previous years, Montenegro received financial support from several International Federations and other National Anti-Doping organisations such as the Finish Anti-Doping Agency (FINADA) and the Russian Anti-Doping Agency (RUSADA) as well as a Testing Grant from the Eastern European Regional Anti-Doping Organisation (EERADO) which is provided by WADA to assist EERADO member countries conduct

testing. EERADO's Testing Grant covers all costs related to the tests (i.e. fees of the Doping Control Officers and Chaperones, equipment, courier, laboratory analysis, and supplies).

Karate FISU IC 12      Water polo IC 2 = Total 14

Handball OOC 3 Basketball OOC 3 Football OOC 7 = Total 13

Government's contribution to the budget of the Montenegrin NADC is of particular importance in order to assure that the NADC will be able to perform doping controls, doping prevention and the other core activities arising from the Convention, the Code, and the UNESCO Convention. Moreover, the NADC should have financial and administrative autonomy to conduct testing and this should be clearly reflected in the Montenegrin legislation.

***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;***

As mentioned under article 4.2 (above), athletes in Montenegro may receive funds from the Government, as regulated by the "Bylaw on co-financing the sport subjects" (Official Gazette no 16/2014). Article 8 of the said Bylaw states that all measures taken by sport subjects (including athletes) regarding the fight against doping must be in accordance with the *Law on Sports*. Moreover, under article 5 of the agreement that is signed by sport subjects and the Directorate for Youth and Sport in such cases, it is stated that "any misuse (including doping, discrimination or any corruptive activities) means that the Directorate for Youth and Sport will correct the decision regarding granted funds and request immediate refund."

In addition, the Montenegrin Olympic Committee National Anti-Doping Rules include clauses allowing to withhold the grant of subsidies from public funds for sanctioned athletes. Article 10.10.3 of the said Rules states that "for any anti-doping rule violation not involving a reduced sanction for specified substances (...), some or all sport-related financial support or other sport-related benefits received by such person will be withheld by signatories, signatories' member organisations, including national federations and governments."

***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***

The Montenegrin Olympic Committee National Anti-Doping Rules include provisions allowing international sports organisations to conduct testing of Montenegrin athletes. Article 5 of the said Rules states that "All Athletes under the jurisdiction of a National Federation shall be subject to testing by the athlete's national federation, the athlete's international federation, the Montenegrin Olympic Committee and any other anti-doping organisation responsible for testing at a competition or event in which they participate. All Athletes under the jurisdiction of a National Federation (...) shall be subject to testing at any time or place, with or without advance notice, In-Competition or Out-of-Competition by WADA, the Athlete's National Federation, the Athlete's International Federation, the Montenegrin Olympic Committee, the National Anti-Doping Organisation of any country where the Athlete is national, resident, license-holder or member of sport organisations, the IOC during the Olympic Games, and the IPC during the Paralympic Games."

***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.***

The Evaluation Team understood that there are no official agreements in place between the Montenegrin authorities or the sport organisations of Montenegro and other national anti-doping organisations or international federations for testing of athletes from Montenegro when training in other countries. Even though the Code and the Convention have provisions to allow this, both in- and out-of-competitions under certain circumstances, the Evaluation Team is of the opinion that the Montenegrin authorities should have proceeded with such agreements and requested testing of their athletes, especially when a comprehensive and extensive doping control programme is lacking, as it is currently the case in Montenegro.

***4.4 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.***

According to Article 84 of the *Law on Sports* which entered into force in 2011 and amended in 2013, “the monitoring and implementation of the International Convention against Doping in Sport shall be carried out by the Committee for Fight against Doping in Sports” (i.e. the Montenegrin NADC). Under the same article, it is stated that “In the fight against doping, the Committee shall apply conventions, the WADA Code and rules of international sport federations and the International Olympic Committee.”

In 2011, the Montenegrin Olympic Committee as a Signatory to the WADA Code prepared the National Anti-Doping Rules. The said Rules were developed based on the 2009 WADA Model Rules for National Anti-Doping Organisations and following review by WADA, they were deemed compliant with the 2009 WADA Code. The said Rules are comprehensive and cover among other topics the scope and application of the Rules, the definition of doping, the prohibited list, testing, analysis of samples, sanctions, hearings, and appeals.

In particular, about testing, the Montenegrin Olympic Committee National Anti-Doping Rules under article 5 indicate that “All athletes under the jurisdiction of a national Federation shall be subject to testing by the Athlete’s National Federation, the Athlete’s International Federation, the Montenegrin Olympic Committee and any Anti-Doping Organisation responsible for testing at a Competition or Event in which they participate.” In accordance with the said Rules, the Montenegrin Olympic Committee “acts as the National Anti-Doping Organisation of Montenegro” and thus has clear jurisdiction for planning and conducting testing.

By virtue of article 84 of the *Law on Sports*, the Montenegrin NADC was established in 2011 “with the aim to monitor and implement the International Convention against Doping in Sport” including organising and conducting doping controls; however, the role of the Montenegrin NADC is not reflected in the Montenegrin Olympic Committee National Anti-Doping Rules and neither is the role of the Montenegrin Olympic Committee as the National Anti-Doping Organisation of Montenegro reflected in the *Law on Sports*, which may give grounds for legal challenging of the jurisdiction for testing. Finally, regarding regulations about doping controls, the Montenegrin Olympic Committee National Anti-Doping Rules under article 5 give the National Federations the right to conduct testing. The Evaluation Team heard from both the Directorate for Youth and Sport and the Montenegrin NADC about the lack of budget for testing by the Montenegrin NADC and due to that the limited number of tests performed; it is therefore questionable whether the national sports

federations in Montenegro are in position to implement and run an effective testing programme. Moreover, the involvement of national sports federations in in-, and out-of-competition testing of their athletes has been well debated worldwide. Hence, the Evaluation Team is of the opinion that the national sports federations should not have the right to conduct testing and if, for any reasons, they wish to test certain athletes, they should do so through the Montenegrin NADC.

### **Conclusions:**

The Evaluation Team concludes that Montenegro has fulfilled only part of Article 4 and several key provisions of the Convention are not implemented, yet. The most prominent non-conformities under this Article are: (a) the lack of any control on the trafficking of doping substances (with the exception of narcotics and the other psychotropic substances which are covered by other legislation); and (b) the lack of budget for testing as well as the other operations of the Montenegrin NADC.

### **Recommendations:**

- The Montenegrin authorities shall adopt legislative measures to control the trafficking of doping substances;
- The Directorate for Youth and Sports shall ensure that sufficient funds for doping controls are allocated to the Montenegrin NADC to implement its testing plan; in addition, the NADC should be given financial and administrative autonomy to conduct testing and this should be clearly reflected in the Montenegrin legislation.
- The Montenegrin authorities should modify the existing legislation and regulations to make the Montenegrin NADC as the only national testing authority in the territory of Montenegro and safeguard doping controls from possible conflict of interests.
- The Montenegrin NADC should make all the necessary arrangements (i.e. develop the Registered Testing Pool, collect whereabouts from athletes included in the Registered Testing Pool as well as team whereabouts) and sign agreements with other anti-doping organisations in order to be able to test Montenegrin athletes out-of-competition, when training in other countries.

## **Article 5 - Laboratories**

### **5.1 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.**

### **5.2 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.**

Montenegro has no WADA-accredited doping control laboratory in its territory. For the analysis of samples collected under the country's anti-doping programme the Montenegrin authorities are using the

doping control laboratory in Seibersdorf, Austria which is well connected with Montenegro and therefore the samples can arrive in a timely manner for analysis, without any risks for their integrity. Moreover, the Doping Control Laboratory in Seibersdorf is a well-established and WADA-accredited Laboratory and beyond doubts can serve the country's doping control programme.

### **Conclusions:**

The Evaluation Team concludes that the obligation of Montenegro to assist their organisations to gain access to a WADA-accredited Laboratory as indicated in Article 5 of the Convention is fulfilled.

### **Recommendations:**

- The NADC of Montenegro should establish close collaboration with WADA-accredited doping control laboratories and gain advantage of the analytical capacities and expertise the laboratories offer to benefit the country's anti-doping programme.

## **Article 6 - Education**

**6.1** *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.*

In terms of legislation, the only reference about anti-doping education is found in the Introduction of the Montenegrin Olympic Committee National Anti-Doping Rules where it is stated that the Montenegrin Olympic Committee, acting as the Anti-Doping Organisation for Montenegro “*has the responsibility for planning, implementing, and monitoring anti-doping information and education programmes.*” The *Law on Sports* includes provisions about the requirements and the procedure for obtaining a license to work in sports as a coach, sports instructor or sport delegate; however, nothing is mentioned about mandatory education on anti-doping issues. The obligation of Parties to the Convention to “*(...) to devise and implement (...) educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport*” is missing from the Montenegrin legislation.

The Evaluation Team discussed about anti-doping information and education programmes as well as doping prevention with Dr. Mira Jovanovski Dasic, President of the Montenegrin NADC and Deputy Minister of Health and Mr. Dusan Simonovic, President of the Montenegrin Olympic Committee. The programme of the visit did not give the chance to the Evaluation Team to discuss this issue further, especially with representatives of national sport federations and -more importantly- with athletes.

Based on the information provided to the Evaluation Team, education activities in Montenegro targeted mainly athletes (especially high-level athletes in team sports and members of national teams taking part in international competitions), coaches (especially in water polo, handball and athletics), and sport doctors. The following education seminars were conducted by the Montenegrin NADC:

- Athletes of the national team to the 2014 European Youth Olympic Trials, Baku, Azerbaijan prior to their participation;

- Sports doctors at the “Winter School of Sports Medicine, 2014” received information about the Prohibited List, therapeutic use exemptions, anti-doping rule violations and consequences, doping control procedure, dietary supplements and risk of doping etc. The said seminar was included in the continuing medical education scheme of doctors in Montenegro.
- National sport federations received comprehensive education on updated information on anti-doping. This seminar was organised jointly with the Montenegrin Olympic Committee.

The Evaluation Team discussed about anti-doping education in schools and sport schools and was advised that currently anti-doping is not included in the curriculum at all; however, on the initiative of the Montenegrin NADC this will be discussed with the relevant institutions with the aim to introduce it in 2015 onwards.

The Evaluation Team understood that no anti-doping education material has been produced in Montenegro that could assist on anti-doping prevention. Moreover, the Prohibited List, which represents one of the core instruments in the fight against doping, is not translated in the Montenegrin language. In accordance with article 4.1 of the Montenegrin Olympic Committee National Anti-Doping Rules *“the Montenegrin Olympic Committee will make the current Prohibited List available to each National Federation, and each national Federation shall ensure that the current Prohibited List is available to its members and constituents”*. However, on Montenegrin Olympic Committee’s website only the english version of the 2014 Prohibited List that entered into force on 1 July 2014 was available and that the subsequent revisions were missing.

Finally, during the visit, the Evaluation Team witnessed the launching of a public awareness campaign funded by the “Fund for the Elimination of Doping in Sport” of UNESCO. Four billboards in the Podgorica were set up to raise awareness on healthy lifestyle and fair play. The campaign was expected to be complemented with the launching of a website and television spots about the campaign.

### **Conclusions:**

The Evaluation Team concludes that the Montenegro anti-doping information and education programmes are not well coordinated, not all of the target groups as indicated in the Convention are reached and not all of the topics of the educational programmes are covered. Moreover, the education and information programmes are not systematic and are lacking of the appropriate and/or updated educational material.

### **Recommendations:**

- The Montenegrin NADC should have the primary responsibility for preparing long-, and short-term anti-doping educational and information strategies.
- The Montenegrin NADC should develop their own education and information programmes.
- The anti-doping education programmes should be valued-based and focus on prevention.
- Doping prevention programmes could be based on, for example, the Information, Communication and Education (ICE) principle. More information can be found in the *“Model Guidelines for Core Information/Education Programs to Prevent Doping in Sport”* developed by the Monitoring Group of the Council of Europe.
- New information and education initiatives should focus on:
  - o using one or more platforms from which to deliver updated and available material - eg building a website or/and apps for smartphones.

- educating NADC's stakeholders such as employees from customs, police, etc. to recognize and seize illegal doping substances.
- educating physicians in anti-doping including recognizing doping abusers to be able to advise and possibly treat them.
- training its own DCO's.
- educating primary school teachers in how to teach fair play and ethics and developing anti-doping material that teachers could use in the classroom.
- The Montenegrin NADC should establish educational and information programmes for all level of athletes, especially for young athletes, athletes' parents, coaches, sports managers and officials, sports doctors, journalist etc. To succeed with this, it is recommended to start out by using already developed resources, such as the WADA Alpha program or equivalent and translates it into the Montenegrin language.
- The Montenegrin NADC should consider cooperating with other national anti-doping organisations in the region.
- The anti-doping educational and information programmes should be comprehensive and cover all aspects of anti-doping programmes, as listed in the Convention and the World Anti-Doping Code: *Substances and methods on the Prohibited List, anti-doping rule violations, consequences of doping, including sanctions, health and social consequences, doping control procedures, athletes' and athlete support personnel's rights and responsibilities, TUE s, Managing the risks of nutritional supplements, harm of doping to the spirit of sport, applicable whereabouts requirements.*
- The obligation of the Montenegrin NADC to design and co-ordinate the implementation of anti-doping education and information programmes should be reflected more directly in the relevant Law and/or the NADC Anti-Doping Rules.
- All other stakeholders (like, for example, the national sport federations, the Montenegrin Olympic Committee, academic institutions etc) should cooperate closely with the Montenegrin NADC towards the implementation of anti-doping educational and information programmes among their athletes.
- The Montenegrin NADC and the sports institutions involved in anti-doping educational and information programmes should use several ways to disseminate anti-doping information. Possible communication channels are, for example, building a website, the social networks (Facebook/Twitter), the outreach program, annual conferences on antidoping etc.
- Athletes and the athlete support personnel (e.g., trainers, coaches, sports doctors, physiotherapists etc.) should be encouraged to participate actively in anti-doping work of the Montenegrin NADC as well as the work of the national and international sports federations.
- Montenegrin famous athletes could be used as "doping-free sport ambassadors" to promote clean sport.
- The Directorate of Youth and Sports should provide the necessary funds to ensure that the educational and information programmes will be implemented as planned.

**6.2 *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 11 of the *Law on Sports*(No. 36/2011, dated 27.07.2011) acknowledge the importance and encourage scientific-research in the field of sport. Similarly, in the Introduction of the Montenegrin Olympic Committee National Anti-Doping Rules it is stated that the Montenegrin Olympic

Committee acting as the Anti-Doping Organisation for Montenegro has the responsibility for promoting anti-doping research. However, the Evaluation Team during the visit was not presented with any research projects and did not have the change to discuss about research in the area of sports sciences or anti-doping.

**Conclusions:**

The Evaluation Team concludes that Montenegro fulfils the requirements under Convention Article 6.2.

**Recommendations:**

- The Montenegrin authorities should encourage and fund research studies related to anti-doping by the academia and other interested institutions.
- The Montenegrin NADC should play a role on the coordination of the research activities on anti-doping in the country and sponsor such research programmes.

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

***7.1 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.***

Harmonisation of the fight against doping amongst the international sport organisations is achieved in the context of implementing the World Anti-Doping Code and the International Standards of the World Anti-Doping Agency. The anti-doping rules of international federations which are based on the Code and the International Standards are binding on their respective national member federations. This is also enforced by Article 59 of the *Law on Sports* where it is stated that “*national sport federation shall be liable to pass rules in the sport for which it is responsible, in accordance with the Law and international sport rules*” and lists “*anti-doping measures*” among those rules. In addition, the Montenegrin Olympic Committee National Anti-Doping Rules, which were deemed compliant with the 2009 Code, apply to Montenegrin national sports federations. Under article 1.1 of the said Rules, it is stated that “*National Sports federations shall accept these Anti-Doping Rules and incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules and thus as part of the rules of sport and the rights and obligations governing their members and Participants.*”

***7.2 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;***

The Montenegrin Olympic Committee National Anti-Doping Rules apply to national sports federations. As mentioned under 7.1 (above), in accordance with Article 1.1 of the said Rules, “*National Sports federations shall accept these Anti-Doping Rules and incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules and thus as part of the rules of sport and the rights and obligations governing their members and Participants.*” Additionally, the Montenegrin national sports federations apply the anti-doping rules of their respective international federation and this is enforced by Article 59 of the *Law on Sports*.

Both, the Montenegrin Olympic Committee National Anti-Doping Rules and the rules of international sports federations are Code-based tools for harmonizing the anti-doping regulations of the national sports organisations. However, since the 1<sup>st</sup> of January 2015 the revised Code entered into force. Montenegro has not yet prepared and adopted Anti-Doping Rules in line with the 2015 Code and instead the Anti-Doping Rules in line with the 2009 remain in effect. The Evaluation Team is concerned that this may create discrepancies between the anti-doping rules of the international federations and the Montenegrin Olympic Committee National Anti-Doping Rules and give ground for legal challenges when such discrepancies arise.

***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;***

Harmonisation on the list of banned substances and methods is achieved under the umbrella of the Code and WADA's Prohibited List International Standard which applies to all international federations signatories to the Code. Article 4.2.1 of the Montenegrin Olympic Committee National Anti-Doping Rules contains a standard clause on the Prohibited List stating that *"unless provided otherwise in the Prohibited List and/or a revision, the Prohibited List and revisions shall go into effect under these Anti-Doping Rules three months after publication of the Prohibited List by WADA without requiring any further action by the Montenegrin Olympic Committee."*

For more comments on the list of banned pharmacological classes of doping agents and banned doping methods, see comments under Article 2 of the Convention.

***c. doping control procedures;***

Similarly to the abovementioned issues, harmonization on doping control procedures is again achieved under the umbrella of the Code and the Montenegrin Olympic Committee National Anti-Doping Rules which are based on the Code. Article 5 of the said Rules establishes a detailed doping control procedure consistent with the standards set up in the Code and International Standard for Testing, including the authority to test, testing standards, coordination of testing, in and out-of-competition testing, athlete whereabouts requirements and selection of athletes to be tested. Furthermore, according to Article 5.1 of the said Rules, *"All Athletes under the jurisdiction of a National Federation shall be subject to testing by the Athlete's National Federation, the Athlete's International Federation, the Montenegrin Olympic Committee, and any Anti-Doping Organisation responsible for Testing at a Competition or Event in which they participate."*

For more comments on doping control procedures see section under Article 7.3.a of the Convention.

***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 judgment made;***

The disciplinary and appeals procedures for anti-doping matters are determined in Articles 8 and 13 (respectively) of the Montenegrin Olympic Committee National Anti-Doping Rules.

According to Article 8.2 of the said Rules, “*The Montenegro Olympic Committee Disciplinary Panel, the Montenegro Anti-Doping Disciplinary Panel has the power to hear and determine all issues arising from any matter which is referred to it pursuant to these Anti-Doping Rules. In particular, the Montenegrin Olympic Committee Disciplinary Panel, the Montenegro Anti-Doping Disciplinary Panel, has the power to determine the Consequences of Anti-Doping Rule Violations to be imposed pursuant to these Anti-Doping Rules.*” Article 8.3 further indicates that “*the National Olympic Committee shall appoint the independent Montenegrin Anti-Doping Disciplinary Panel*”, determines the composition of the Panel and clarifies that the members of the Panel “*will be appointed on the basis that they are in position to hear the cases fairly, impartially and independently.*”

Article 8.1 in conjunction with Articles 8.4 and 8.6 of the Montenegrin Olympic Committee Anti-Doping Rules determine the proceedings before the Montenegrin Anti-Doping Disciplinary Panel and set up the standards and principles for fair hearings including the right to a timely hearing, as well as fairness, impartiality and independence of the hearing panel, the right of a party to be represented and to present evidence.

The Appeals procedure is described under Article 13 of the Montenegrin Olympic Committee Anti-Doping Rules. In cases of anti-doping rule violations arising from participation in an international event or in cases involving international-level athletes, article 13.2.1 clearly determines that the decision may be appealed exclusively to the Court for Arbitration of Sport (CAS) in accordance with the provisions applicable before such court. However, for cases involving national-level athletes the appeals procedure is unclear; article 13.2.2 states that the decision may be appealed exclusively to CAS whereas the comment to article 13.1.1 refers to appeal “*to the next level of Montenegrin Olympic Committee’s process (e.g., the Managing Board)*” without providing any information about the “Managing Board” and its role on anti-doping appeals procedures. Article 13.4 determines that decisions denying a therapeutic use exemption which are not reversed by WADA may be appealed by both international-, and national-level athletes to CAS.

The concept of establishing the Montenegro Anti-Doping Disciplinary Panel as a disciplinary panel of the National Olympic Committee raises concerns about the independent character of the hearing panel. With the Montenegrin NADC acting as the reporting body and two -out of its five- members appointed and/or coming from the Montenegrin Olympic Committee, and the Montenegro Anti-Doping Disciplinary Panel operating under the Montenegrin Olympic Committee it is doubtful if the reporting and disciplinary bodies are distinct one from another as required by the Convention. In addition, the Evaluation Team is concerned about the lack of clear provisions about the appeals procedures for national-level athletes, the role of the Managing Board of the Montenegrin Olympic Committee and the absent of any provisions allowing the review of appeals on decisions denying a therapeutic use exemption nationally instead of the CAS.

Article 83 of the *Law on Sports* determines the obligations of national sport federations and includes the following clause about sanctioning of athletes for doping infringements: “*The national sport federations shall: 1) determine sanctions and the procedure for their pronouncing;*” As mentioned above, the disciplinary and appeals procedures for anti-doping matters are determined in the Montenegrin Olympic Committee National Anti-Doping Rules (Articles 8 and 13, respectively). Based on the said Rules, the responsible body to decide if an athlete has committed an anti-doping rule violation and impose the appropriate sanction is the Montenegro Anti-Doping Disciplinary Panel and not the national sport federations; therefore, the abovementioned Law provision contradicts the National Anti-Doping Rules and should be amended or deleted.

***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;***

The Code-based definition of “athlete support personnel” is introduced in the Montenegrin Olympic Committee National Anti-Doping Rules. It is broader than the one found in the Convention and includes coaches, trainers, managers, agents, team staff, officials, medical and paramedical personnel, parents or any other persons working with, treating or assisting an athlete participating in or preparing for sports competition. In addition, the disciplinary sanctions against the athlete support personnel introduced in the said Anti-Doping Rules are in line with the World Anti-Doping Code.

As far as other legal consequences for the athletes’ entourage are concerned, there are no specific penal or administrative sanctions. It is also not clear to the Evaluation Team if any exchange of information between anti-doping disciplinary panels and other disciplinary bodies (e.g. disciplinary panel for doctors) exists.

The Evaluation Team notes that the *Law on Sports* includes provisions about coaches (article 31) and sport instructors, and sports delegates (article 32) and determines the requirements for the license to work in sport. However, it is noted that there are no provisions prohibiting those professionals from working in sports when found with doping infringements. A relevant provision is found under article 81 of the *Law on Sports* where it is stated that “*An athlete who was sanctioned for doping may not perform any function or activity in sports organisations related to work with athletes (coach, instructor etc) during the period of the sanction.*” The status of an athlete or other person during the period of ineligibility is well defined in the Code and the Montenegrin Olympic Committee National Anti-Doping Rules and the issue of prohibited association is introduced in the 2015 Code. That particular clause under Article 81 is incomplete and may give ground for legal challenges.

***f. procedures for the mutual recognition of suspensions and other penalties imposed by other sports organisations in the same or other countries.***

The Montenegrin Olympic Committee has signed the Code that includes provisions on the mutual recognition of the authority to perform doping controls and the respect of the results of doping controls. In addition, Article 15 of the Montenegrin Olympic Committee National Anti-Doping Rules contains a standard Code-based clause on mutual recognition. In particular, Article 15.1 states that “*subject to the right to appeal (...) Testing, TUE’s and hearing results or other final adjudications of any National Federation or Signatory which are consistent with the Code and are within the National Federation or Signatory’s authority, shall be recognized and respected by the Montenegrin Olympic Committee and all National Federations.*” Moreover, Article 15.2 states that “*Montenegrin Olympic Committee and National Federations shall recognise the same actions of other bodies which have not accepted the Code if the rules of those bodies are otherwise consistent with the Code*” and Article 15.3 adds that “*any decision of the Montenegrin Olympic Committee regarding a violation of these Anti-Doping Rules shall be recognised by all National Federations, which shall take all necessary action to render such decision effective.*”

Article 82 of the *Law on Sports* introduced a clause addressing those cases where “*an athlete was pronounced sanctions with different periods of duration by the competent international and national sport federation*”; however, based on the Code and the Montenegrin Olympic Committee National Anti-Doping Rules, as well as the principles of natural justice which are well respected by the Convention, an athlete shall be sanctioned by one authority, only. Therefore, the abovementioned

clause is confusing and/or misleading and should be amended or deleted. (See also comments under Convention article 7.2.d regarding the right of national sports federations to impose sanctions on athletes)

**7.3 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;**

Following Montenegro's independence in 2006, a small-scale testing programme is in place in the country, as detailed below.

Year	Out-of-Competition	In-Competition
2009	4 (volleyball)	48 (water polo)
2010	0	11 (karate)
2011	10 (basketball:6; karate: 3; and judo: 1)	4 (waterpolo)
2012	5 (handball:3; water polo: 2)	5 (savate)
2013	0	10 (water polo: 2; karate: 8)
2014	13(handball3;basketball3;football7)	14 (Karate FISU 12; waterpolo2)
Total:	32	92

In 2014, no tests were conducted and the Evaluation Team was advised that, the reason was that no budget was allocated by the Directorate for Youth and Sports for the purpose of doping control.

The Evaluation Team understood that the testing programme in place in Montenegro is neither effective nor efficient and from the discussions the Team had during the visit, it was concluded that there are many reasons for that, including the small number of tests conducted (only 19 out-of-competition samples collected since 2009), the predictability of the tests (in practice no in-competition tests were performed since almost all of the in-competition samples were collected in international events and on the request of the international federation concerned), many people getting informed of the planned doping controls, some of them with possible conflict of interests etc.

**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;**

Montenegro has signed the Code and adopted rules in line with the Code which allow for testing of athletes in other countries. However, the Evaluation Team understood that in practice the Montenegrin authorities have never requested from other anti-doping organisations for testing of their athletes when training abroad (for example, in training camps).

**c. to clarify and harmonise regulations on eligibility to take part in sports events which will include anti-doping criteria;**

Under article 5.1 of the Montenegrin Olympic Committee National Anti-Doping Rules it is clarified that "All Athletes must comply with any request for testing by any Anti-Doping Organisation with testing

*jurisdiction” and that “All athletes under the jurisdiction of a National Federation shall be subject to Testing by the Athlete’s National Federation, the Athlete’s International Federation, the Montenegrin Olympic Committee and any Anti-Doping Organization responsible for Testing at a Competition or Event in which they participate.*

***d. to promote active participation by sportsmen and sportswomen themselves in the anti-doping work of international sports organisations;***

During the visit, the Evaluation Team was informed about a conference on anti-doping, conducted on an annual basis with the participation of national sports federations and to which their members (athletes, coaches, etc.) are invited. Moreover, the Team was advised that similar meetings, with the participation of athletes and other members of national teams competing in international events under the jurisdiction of the Montenegrin Olympic Committee, take place prior to the team’s departure to such events. However, it was not clear to the Evaluation Team if and how athletes in Montenegro are encouraged to take part in the abovementioned conferences or meetings, or the anti-doping work of their national or international sport federations in general.

***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;***

The Doping Control Laboratory in Seibersdorf, Austria is used for the analysis of samples collected from testing in Montenegro. The Laboratory in Seibersdorf is well developed and accredited by the WADA and has the capacity to accept and analyse a great number of samples to cover the full testing programme of Montenegro.

As mentioned elsewhere in the Report, the number of samples collected in Montenegro in 2014 and in previous years is minimal and the samples were analysed for the standard menu of analyses, only without taking advantage of the capacities of the Doping Control Laboratory Seibersdorf, Austria.

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

The Law of Sports encourages scientific research in the field of sports. However, the Evaluation Team was not aware of any research sponsored or funded by the Montenegrin sport organisations or any guidelines developed by sport organisations in Montenegro related to the protection of the health of athletes.

**Conclusions:**

The Evaluation Team concludes that Montenegro fulfils only part of the requirements under Convention Article 7 and further improvement is expected with the start of the operations of the NADC. The most prominent non-conformity under this Article is the very limited number of doping controls and the lack of testing in 2014.

**Recommendations:**

- The Montenegrin NADC should introduce doping controls, on an effective scale, in-, and out-of-competition, based on intelligence, and free from any conflict of interests.
- The Montenegrin NADC shall adopt national anti-doping rules in line with the 2015 Code in replacement of the Montenegrin Olympic Committee National Anti-Doping Rules adopted in 2011 based on the 2009 Code.

- The Montenegrin authorities should establish independent and impartial national anti-doping disciplinary and appeals panels, distinct from the Montenegrin NADC. The establishment of these bodies and their jurisdiction should be reflected in the law. Moreover, since national anti-doping disciplinary and appeals panels are established, the Montenegrin authorities should consider invalidating the provision of the *Law on Sports* which gives the right to the national sport federations to impose sanctions on their members following an anti-doping rule violation. In addition, national anti-doping rules should include provisions allowing national-level athletes to appeal nationally for all matters arising from the anti-doping rules.
- The Montenegrin authorities should consider introducing legal measures to impose sanctions (other than the sport sanctions under the Code) on athletes' entourage (medical doctors, coaches, trainers, physiotherapists, veterinary doctors etc.) on the basis of their involvement in doping cases.

### **Article 8 - International co-operation**

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

**8.2** *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.*

**8.3** *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 Union of Serbia and Montenegro acceded to the Anti-Doping Convention of the Council of Europe on 28 February 2001. Following Montenegro's independence in 2006, the Convention entered into force on 6 June 2006 based on the Decision on Proclamation of Independence of the Republic of Montenegro which reads "*The Republic of Montenegro shall apply and adhere to International treaties and agreements that the state union of Serbia and Montenegro was party to and that relate to the Republic of Montenegro and are in conformity with its legal order*" (Official Gazette No 36/2006). Montenegro has not yet signed, ratified, or otherwise acceded to the Additional Protocol of the Anti-Doping Convention of the Council of Europe. On 15 October 2008, Montenegro ratified the International Convention against Doping in Sport of UNESCO (Law No. 06/2008).

The Montenegrin Olympic Committee accepted the World Anti-Doping Code on 16 October 2007 as the national anti-doping organisation of Montenegro. In addition, Montenegro has been a part of the Eastern European Regional Anti-Doping Organisation (EERADO) since its inception in 2007, currently represented by Dr Mira Jovanovski Jovanovski Dašić, President of the Montenegrin NADC.

Based on the information available from the Council of Europe, delegates from Montenegro rarely attended the meetings of the Monitoring Group of the Anti-Doping Convention of the Council of

Europe or any of its four Advisory Groups (Legal, Science, Education, and Compliance) or the meetings of the Ad hoc European Committee for the World Anti-Doping Agency (CAHAMA). However, Montenegro is playing active role in the Enlarged Partial Agreement on Sport (EPAS). Montenegro is a member of the EPAS Governing Board Bureau since 2012 and the representative of Montenegro (Mr M. Begovic) is currently the Rapporteur to EPAS on Gender Equality.

The Evaluation Team understood that apart from EERADO which is based on a multilateral agreement under the auspices of WADA, Montenegro has no any (formal) bilateral or multilateral agreements with other national anti-doping organisations.

**Conclusions:**

The Evaluation Team concludes that Montenegro has established cooperation on the area of anti-doping within the framework of EERADO and WADA and sees a great potential for the Directorate for Youth and Sport and the Montenegrin NADC for cooperation within the structures of the Council of Europe (Monitoring Group, Advisory Groups and CAHAMA) as well as directly with other States Parties to the Convention.

**Recommendations:**

- The representatives of the Montenegrin NADC are invited to participate at the meetings of the Monitoring Group of the Anti-Doping Convention of the Council of Europe as well as the meetings of its Advisory Groups (on Education, Science, Legal, and Compliance) as necessary. This will benefit the country's anti-doping programme, especially at this very early stage.
- The Montenegrin NADC and/or the Directorate for Youth and Sport should consider participating at the meetings of CAHAMA within the framework of the Council of Europe.
- The Montenegrin NADC should establish cooperation with other, well-developed national anti-doping organisations in Europe; such cooperation will help on many aspects of the country's anti-doping programme (like, for example, education, prevention, testing, etc.) especially at this transitional stage.

**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.**

Since the entry into force of the Convention in 2006, Montenegro provided the Monitoring Group of the Convention with information on the measures taken for the purpose of complying with the terms of the Convention only in the course of the evaluation visit.

**Conclusions:**

The Evaluation Team concludes that Montenegro, with the information provided during the evaluation visit fulfils the requirements under Convention article 9 and expects this to continue for the future.

**Recommendations:**

- The Montenegrin authorities should have a mechanism in place for providing the Council of Europe with all the legislative and other measures taken by for the purpose of complying with the Convention as well as for replying to its annual online questionnaire.

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**General conclusions**

The programme of the visit allowed for the Evaluation Team to meet representatives from the Government, the Parliament and the sports field and receive comprehensive information and thus get a good understanding of the situation regarding anti-doping in Montenegro.

In the opinion of the Evaluation Team, Montenegro has not yet satisfactorily fulfilled the obligations under the Anti-Doping Convention even though the political commitment has been met. Montenegro has no comprehensive legislative framework for the implementation of the Convention in place and regardless of the establishment of the Montenegrin NADC, its operations have barely begun. Domestic cooperation and coordination for the fight against doping needs improvements – a role that could be undertaken by the NADC and the Directorate for Youth and Sports – and the Police and Customs should take responsibility for the control of trafficking of doping substances which is currently lacking. Finally, the Montenegrin NADC should adopt anti-doping rules in line with the 2015 Code and implement an efficient doping control programme.

The evaluation visit took place at a transitional stage and the Directorate for Youth and Sports as the responsible governmental authority for the implementation of the Convention, as well as the Montenegrin NADC expressed their political will and determination to take action in the field of anti-doping and implement the Recommendations of the Evaluation Team.

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### **Summary of Recommendations (in order of priority)**

- The Directorate for Youth and Sports and the Montenegrin NADC should proceed with all the necessary arrangements for the full functioning of the NADC. Such arrangements should include the allocation of sufficient and secured budget, administrative staff and trained doping control officers under its exclusive authority to allow the NADC to undertake testing missions and its other functions in line with the Convention and the World Anti-Doping Code.
- The Montenegrin NADC should introduce doping controls, on an effective scale, in-, and out-of-competitions, based on intelligence, and free from any conflict of interests.
- The Directorate for Youth and Sports and the Montenegrin NADC should take all the necessary administrative and legislative measures to safeguard that the NADC is independent from both the sports organisations and the government and free from conflicts of interests, especially at its operational level and its decisions (like doping controls and results management).
- The Montenegrin authorities should consider either to amend the *Law on Sports* or adopt a comprehensive anti-doping law in which the obligations of the NADC as well as the obligations of the sports organisations and the governmental departments and public bodies towards the implementation of the Council of Europe's Convention, the UNESCO Convention against doping in sport and the Code will be described.
- The Montenegrin authorities should adopt legislative measures to control the trafficking of doping substances;
- With a view of the interinstitutional aspects of the anti-doping work (restrict availability of doping substances, ensure high quality prevention and education, tackle the public health issues etc.) the Montenegrin NADC with support from the Directorate for Youth and Sports should undertake a coordinating role for facilitating the cooperation with law enforcement structures (e.g. Police and Customs), the Ministry of Health and any other interested bodies.
- The Montenegrin NADC shall adopt national anti-doping rules in line with the 2015 Code.
- The Montenegrin authorities should establish independent and impartial national anti-doping disciplinary and appeals panels, distinct from the Montenegrin NADC. The establishment of these bodies and their jurisdiction should be reflected in the law.
- The Montenegrin NADC should develop their own education and information programmes.
- The anti-doping education programmes should be valued-based and focus on prevention.
- The Montenegrin NADC should establish educational and information programmes for all level of athletes, especially for young athletes, athletes' parents, coaches, sports managers and officials, sports doctors, journalist etc.
- The Montenegrin authorities should ratify the Additional Protocol of the Anti-Doping Convention of the Council of Europe.

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## Appendices

### 1. Programme of the Visit

<b>Tuesday, 2 December 2014</b>	
Arrival of Experts	
Preparatory meeting	
Welcome dinner	
<b>Wednesday, 3 December 2014</b>	
10:00 - 11:00	Visit to the Parliament of Montenegro <i>[Meeting with Mr. Andrija Popovic (Member of Parliament and member of the Parliamentary Committee for Education, Science, Culture and Sport); and Dr. Mira Jovanovski Dasic (President of the Montenegrin NADC).</i>
11:30 - 12:30	Visit to the Ministry of Health <i>[Meeting with Dr. Mira Jovanovski Dasic (President of the Montenegrin NADC and Deputy Minister for Health)</i>
12:30 - 13:30	Visit to the Ministry of Health <i>[Meeting with Dr. Mira Jovanovski Dasic (President of the Montenegrin NADC and Deputy Minister for Health); Ms Yasna SEKULIC – Division of Drugs of the Ministry of Health].</i>
14:00 – 15:00	Visit to the Directorate for Youth and Sport <i>[Meeting with Mr. Igor Vusurovic (Acting Director of the Directorate for Youth and Sport; Mr. Marko Begović (Advisor, Directorate for Youth and Sport); and Dr. Mira Jovanovski Dasic (President of the Montenegrin NADC)]</i>
15:30–17:00	Working Lunch <i>[Meeting with Mr. Igor Vusurovic (Acting Director of the Directorate for Youth and Sport; Mr. Marko Begović (Advisor, Directorate for Youth and Sport); Dr. Mira Jovanovski Dasic (President of the Montenegrin NADC); and Mr. Dusan Simonovic (President of the Montenegrin Olympic Committee)]</i>
<b>Thursday, 4 December 2014</b>	
12:00 – 17:00	Meeting and Working Lunch <i>[Dr. Mira Jovanovski Dasic, (President of the Montenegrin NADC); Dr. Aleksandar Vujicic (Member of the Montenegrin NADC); and Mr. Marko Begović (Advisor, Directorate for Youth and Sport).</i>
<b>Friday, 5 December 2014</b>	
Departure of Experts	

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## **2. Composition of the Evaluation Team**

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### **3. Acknowledgments**

The Evaluation Team would like to thank all those who contributed to the preparation of the visit and the visit itself. In particular, it would like to thank Mr. Igor Vusurovic, Acting Director of the Directorate for Youth and Sport, Mr. Dusan Simonovic, President of the Montenegrin Olympic Committee, Mr. Andrija Popovic Member of Parliament for the hearing, Dr. Mira Jovanovski Dasic, President of the Montenegrin NADC and Deputy Minister of Health for the coordination of the visit and her support, and Mr Marko Begović, Advisor at the Directorate for Youth and Sport for his support and readiness to provide the Evaluation Team with the best information.

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## Part C. Comments by the Montenegrin authorities



Montenegrin Anti Doping Commission

### Part C. Comments by the Montenegrin authorities

To whom it may concern.

I would like to use this opportunity to extend my thanks to the expert group of the Council of Europe for the consultative visit on the implementation of the Anti-Doping Convention of the Council of Europe.

The recommendations and suggestions presented by the experts in the report are of great value for the function of the Montenegrin Anti Doping Commission/NADO and the report will be used to jointly fight against doping in sport.

Montenegro in the next period will constantly work to improve the fight against doping in sport in order to provide an environment of a sport without doping.

Thanking Council of Europe for the support, I remain,

Sincerely,

Dr Mira Jovanovski - Dasic

President of Montenegrin Anti Doping Commission