

MONITORING GROUP (T-DO)

ANTI-DOPING CONVENTION



Strasbourg, 12 May 2011

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Anti-Doping Convention (T-DO)

Project on Compliance with Commitments

Respect by Spain of the Anti-Doping Convention

**Auto-Evaluation Report by Spain
Report by the evaluation team
Comments by Spain**

FINAL

**As adopted at the 33rd meeting of
the Monitoring Group**

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PRESIDENCIA
DEL GOBIERNO



SPAIN AND ITS COMPLIANCE WITH THE COUNCIL OF EUROPE ANTI-DOPING CONVENTION



FEBRUARY 2011

JUAN CARLOS I KING OF SPAIN

Whereas in Strasbourg on November 16th, 1989, Spain's duly appointed Plenipotentiary signed the Anti-Doping Convention "ad referendum" (Convention number 135 of the Council of Europe), executed in Strasbourg on November 16th, 1989.

The nineteen articles of the said Convention having been seen and examined, the Authorization provided for in article 94.1 of the Constitution having been granted by Parliament, We now approve and ratify all of the provisions contained in the same, which is hereby approved and ratified, promising to comply with it, observe it and have it complied with and observed on each point in each of its parts, to which end, for greater validation and definitiveness, We have ordered the present Ratification Instrument to be issued under Our hand, duly sealed and confirmed by the undersigned Minister for Foreign Affairs.

Signed in Madrid on April 29th, 1992.

JUAN CARLOS KING

The Minister of Foreign Affairs.

FRANCISCO FERNÁNDEZ ORDOÑEZ

Pour un sport sain et propre
La Convention contre le dopage



La Convention contre le dopage met en évidence la volonté politique des Etats parties de lutter contre le dopage dans le sport de manière active et coordonnée.

- En 1966 le refus de se soumettre à un contrôle antidopage et le décès d'un coureur cycliste professionnel lors du Tour de France, avaient suscité vives préoccupations quant à l'abus des drogues dans le sport.
- En 1967 s'adopte la première Résolution relative au dopage des athlètes.
- Le Conseil de l'Europe a élaboré 11 recommandations, 6 résolutions et 2 déclarations dans le domaine du dopage dans le sport.

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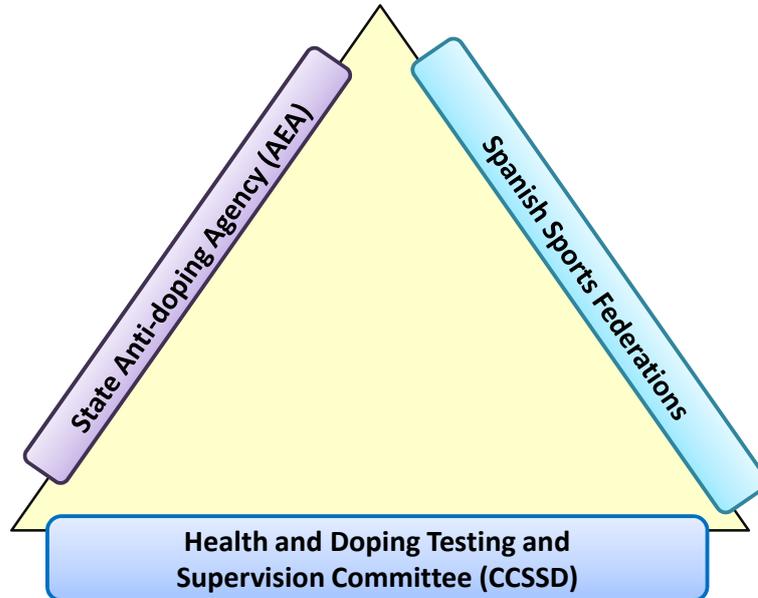
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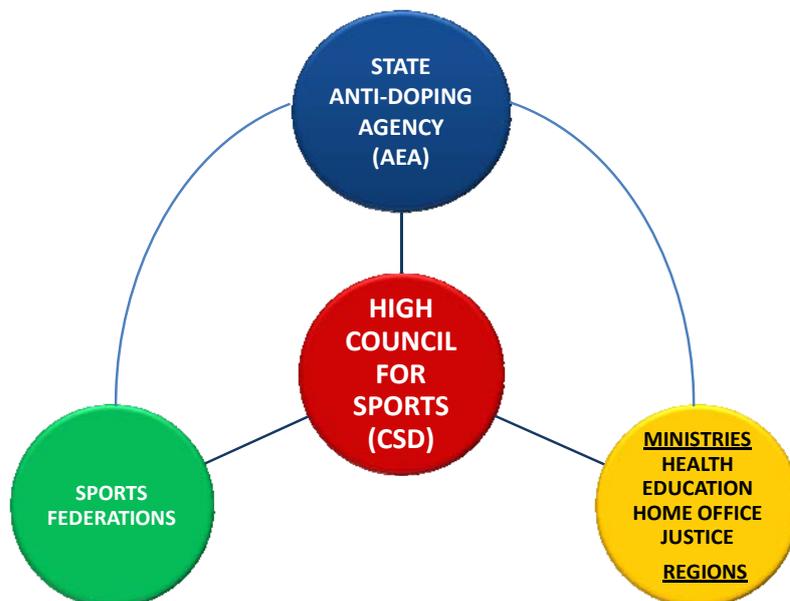
PART ONE

1. MODEL AND BACKGROUND.

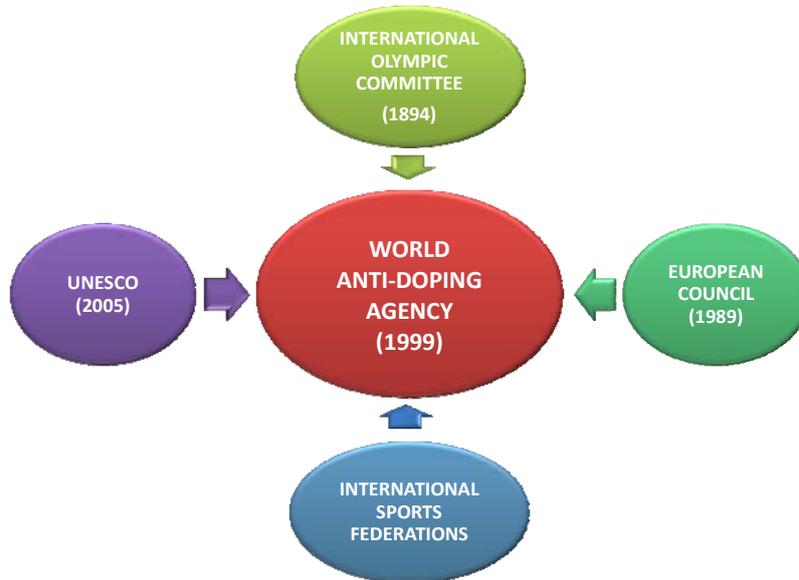
1.1. INSTITUTIONAL ORGANIZATION FOR PREVENTING AND FIGHTING DOPING IN SPORTS IN SPAIN



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2. SPANISH LEGISLATION ON PREVENTING AND FIGHTING DOPING

2.1.LEGISLATIVE BACKGROUND UNTIL 2006

In 2006, the **Health Protection and Anti-Doping in Sports Act** (Organic Law 7/2006 of 21st November) was enacted in Spain and it is now considered as the “**gold standard**” in the fight against doping in sports, as it represents a **qualitative leap forward**, a **radical change** from the preceding regulations, and a **higher-ranking statutory instrument in the form of an Act of Parliament**.

Its publication was a consequence of a **gradual evolution and involvement of the Spanish State**, Spanish society and parliamentary groups with the sports sector, a progression that was embodied in our country through the following **most relevant legislative milestones**:

- **1978 Spanish Constitution.**

- **Article 43.**

1. *The right to health protection is acknowledged.*

2. *It is the responsibility of the public authorities to organize and protect public health through preventive measures and the necessary provisions and services. The Act shall establish the rights and duties of all stakeholders in this regard.*

3. *The public authorities shall foster health education, physical exercise and sports. In addition, they shall facilitate the proper use of leisure time.*

- **Articles 148 and 149.**

These list the powers falling to the State that may be assumed by the Regional Governments and those that remain in the exclusive remit of the State.

• **The Physical Education Act (Law 77/1961, of 23rd December).**

This does not reflect any direct or indirect measures to fight doping in sport, but rather measures to foster physical activity.

• **General Physical Culture and Sports Act (Law 13/1980, of 31st March).**

In its article 23, it stipulates that the High Council for Sports shall be solely and exclusively responsible, among other functions, for collaborating with the Federations in the monitoring of illegal practices in the performance of athletes.

• **The Sports Act (Law 10/1990, of 15th October).**

It devotes four articles to the struggle against doping, one of which set up the "National Anti-Doping Commission".

• **The Citizens' Security (Protection) Act (Organic Law 1/1992, of 21st February).**

Article 23 of this Act classifies the following as a serious violation: *"The deposit, marketing or distribution, in any form whatsoever, at establishments devoted to sports activities, of products containing substances prohibited in that sport as capable of producing doping, as declared in accordance with their specific legislation"*, as well as *"Inciting people to consume, at establishments devoted to sports activities, products containing substances prohibited in that sport as capable of producing doping, as declared in accordance with their specific legislation"*. This article will subsequently be referred to in Organic Law 7/2006.

• **The Information Society and Electronic Commerce Act (Law 34/2002, of 11 July).**

This establishes checks on the sale of unauthorized medicines.

• **The Fiscal, Administrative and Social Measures Act (Law 53/2002, of 30th December).**

This amends the wording of section 1 of article 58 of the Sports Act (Law 10/1995, of 15th October) to read as follows: *"All athletes licensed to take part in official state-level competitions will be under an obligation to submit to the tests provided for in the preceding article, both during competitions and out of competitions, at the request of the High Council for Sports, the Spanish Sports Federations, the Professional Leagues or the National Anti-Doping Commission."*

For these purposes, the said athletes will be obliged to furnish information on their whereabouts so that they can be located at all times, including their training schedule".

• **The National Health System (Cohesion and Quality) Act (Law 16/2003, of 28th May).**

This establishes the legal framework for the co-ordination and co-operation actions of the Public Administrations in the exercise of their respective powers, so as to guarantee equity, quality and social participation in the National Health System, as well as the active collaboration of the latter in the reduction of health-related inequalities.

• **Concordance with Law 29/2006, of 26th July, on Guarantees and Rational Use of Medicines and Health Products.**

This prohibits sale by correspondence or remote electronic processes for medicines and health products requiring a doctor's prescription. The sale of medicines not requiring a prescription will take place at an authorized outlet, with the involvement of a pharmacist.

2.2.PUBLIC GENERAL ACT 7/2006, OF 21ST NOVEMBER, ON HEALTH PROTECTION AND THE FIGHT AGAINST DOPING IN SPORT.

The Act highlights the **sensitivity of the National Government and of society as a whole** in the struggle against doping and has full legal backing in the **widest possible parliamentary support**; it attempts to **harmonize** the State-level anti-doping regulations with the **principles of the World Anti-Doping Code to render its efficacy and capacity to respond more agile**.

Characteristics:

1. "Qualitative leap forward, radical change, higher-ranking statutory instrument"
2. Strengthens the growing involvement of the Spanish State in this matter.
3. Structures the phenomenon of doping and establishes tools for its correction.
4. **Imposes criminal sanctions on those gaining a financial benefit from doping, facilitating social isolation and rejection of this scourge.**
5. Favours international co-ordination.
6. Considers the political and administrative reality of the Spanish State in the tasks of fighting doping
7. Following the entry into force of this Act, several regulations have been published to develop various aspects dealt with in it.

Spain's Secretary of State for Sport has announced a partial, technical modification of the Organic Law so as to **adapt it fully to the principles of the World Anti-Doping Code**, basically revolving around the amendment of the catalogue of violations and sanctions, the treatment of the circumstances altering liability, the handling of reiteration and re-incidence, the regime for doping control performed by International Organizations in national territory, as well as the regime for punishing refusals to submit to doping control.

This amendment will be a change of major scope and effectiveness to guarantee the efficiency of the fight against doping, in terms of both the exercise of the powers to impose sanctions, and the scope of legal protection in criminal law.

2.3.ROYAL DECREES

- **Royal Decree 811/2007, of 22nd June**, determining the structure, composition, functions and operational regime of the Health and Doping Control and Supervision Committee.
- **Royal Decree 63/2008, of 25th January**, regulating the procedure for imposing and reviewing doping-related disciplinary sanctions.
- **Royal Decree 185/2008, of 8th February, approving the Statutes of the State Anti-Doping Agency.**
- **Royal Decree 641/2009, of 17th April**, regulating the processes for doping control and authorized analytical laboratories and establishing complementary measures for the prevention of doping and the protection of health in sport, **amended by Royal Decree 1462/2009, of 18th September**, for greater precision in the time interval during which out-of-competition tests may be performed.

2.4. MINISTERIAL ORDERS AND RESOLUTIONS

At a lower level and also in accordance with legal requirements, two Ministerial Orders have been drafted and, as of the date of the present report, are pending publication in the Official State Gazette (BOE), with the participation of the Ministry of Health and Social Policy, the Office of the Cabinet Secretary, and the High Council for Sports, with the technical support and the pertinent report by the State Anti-Doping Agency: a **Ministerial Order regulating doping control matters, the material for taking samples and the protocol for handling and transporting blood samples, and the Ministerial Order regulating the acceptable contents of the medicine cabinets of sports teams.**

On the other hand, three resolutions have already been published; the **Resolution of 8th July, 2009, by the Office of the President of the High Council for Sports (CSD)**, approving the curriculum for the courses for the qualifying tests to become Doping Control Agents; the **Resolution of 19th September, 2009, by the Office of the President of the CSD**, approving the form to be used for athletes' whereabouts (Correction of errors in the BOE dated September 29th) and the **Resolution of 14th July, 2010**, by the Office of the President of the CSD, approving the forms to be used for doping control (Permitted time interval: from 6 in the morning until 11 at night).

3. THE STATE ANTI-DOPING AGENCY (AEA). POWERS AND FUNCTIONS

3.1. REGULATION OF THE STATE ANTI-DOPING AGENCY IN ORGANIC LAW 7/2006, OF 21ST NOVEMBER, ON THE PROTECTION OF HEALTH AND THE FIGHT AGAINST DOPING IN SPORT.

The State Anti-Doping Agency is a public body entrusted with the execution of the activities of preventing, protecting health and fighting against doping in sport, as well as the implementation and fostering of a research policy on doping control matters and the protection of athletes' health.

In order to carry out its functions, the State Anti-Doping Agency must act in accordance with the goals, plans, forecasts and procedures set out in the **Management Contract** approved by a Joint Ministerial Order from the Office of the Cabinet Secretary a the Ministry of the Economy and the Exchequer at the proposal of the Agency's Governing Council.

Article 4 of Law 7/2006 regulates the State Anti-Doping Agency in the following terms:

1. The State Anti-Doping Agency is the body through which the material activities are carried out for preventing, testing and researching health and doping with regard to federated sports at the State level.
2. Within the framework of the provisions contained in the present Act, the functions of the State Anti-Doping Agency shall be those determined in the Statutes governing the same in accordance with the present Act.

In any case, it shall be up to the State Anti-Doping Agency to lodge petitions for review before the Spanish Sports Disciplinary Committee, on the terms foreseen in this Act, whenever it considers that the resolutions adopted by the Health and Doping Control and Supervision Committee do not conform to legal requirements.

3. The organic structure and functions of the State Anti-Doping Agency will be determined in accordance with the provisions in this regard in the legislation regulating State Agencies.

In any case, the State Anti-Doping Agency will have a body for participation, co-ordination and monitoring with representation of all the competent bodies and institutions dealing with sport and health and from the Regions of Spain.

4. For the execution of the functions attributed to it by its Statutes, the State Anti-Doping Agency may enter into agreements with any other public or private bodies, in accordance with the provisions stipulated in the Legislation on Contracts with the Public Administrations.

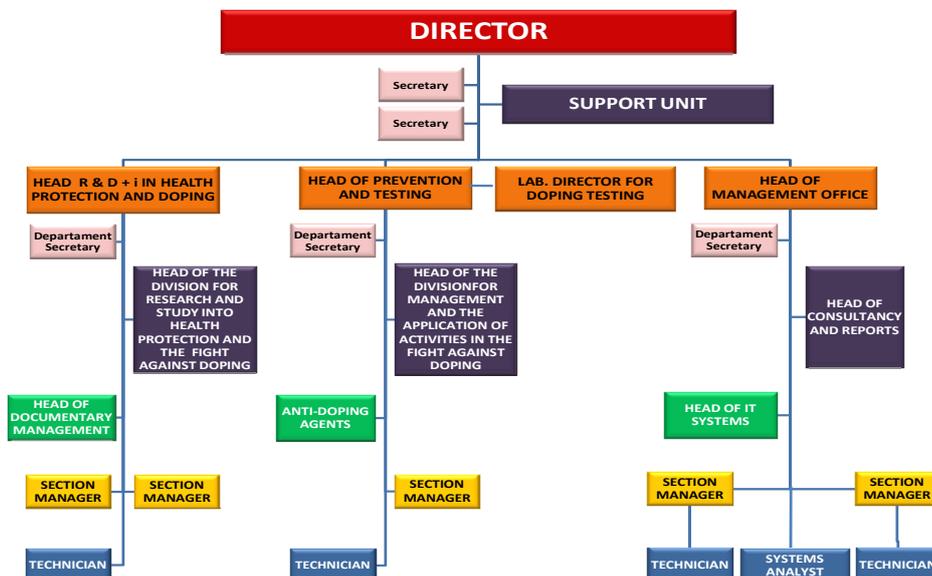
5. Without prejudice to the specifications contained in this precept, the State Anti-Doping Agency is subject to the legal regime for organization and operation foreseen in the legislation regulating State Agencies.

6. Should there be Anti-Doping Agencies within the Regions, an organ will be established within the State Anti-Doping Agency for their participation in order to exchange information, discuss and co-operate with respect to the State's public policies on doping-related matters.

3.1.1. MAIN GOALS OF THE STATE ANTI-DOPING AGENCY

1. To take on a notable prominence in the fulfilment of aspects relating to the comprehensive action of the public authorities and the sports organizations in favour of doping-free sport.
2. To act as a body for co-operation and shared framework for the various public administrations with powers in the field in order to deal adequately with the phenomenon.
3. To consolidate and extend policies already under way in favour of a sporting and social culture leading to "clean sport" in Spain.
4. To make the world of sport aware of the importance of prevention and testing in terms of health protection and the fight against doping.
5. To advance in deterrent aspects for an adequate treatment of the phenomenon.
6. To implement quality systems in the activities for collecting and transporting samples.
7. To apply permanent monitoring and diagnostic tools to detect the sectors at greatest risk.

3.1.2 GENERAL STRUCTURE OF THE STATE ANTI-DOPING AGENCY



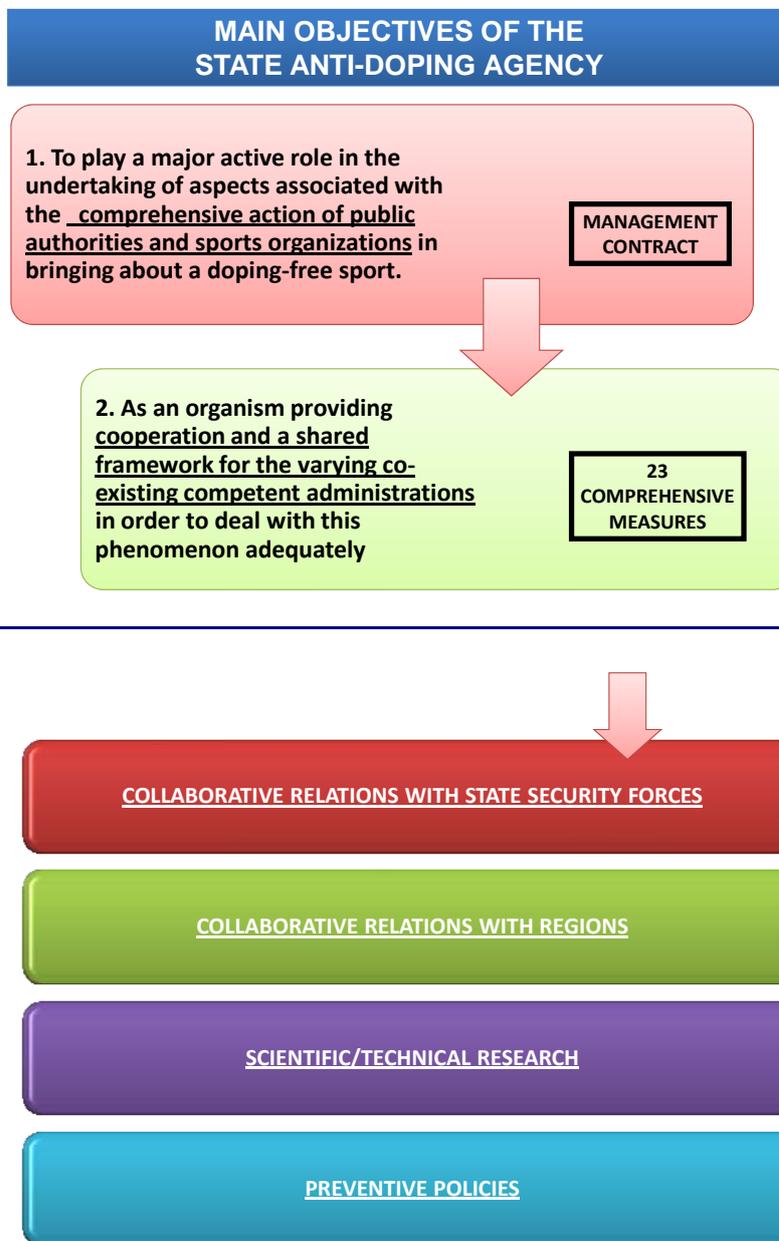
3.1.3 ROYAL DECREE 185/2008, OF 8TH FEBRUARY, APPROVING THE STATUTES OF THE STATE ANTI-DOPING AGENCY

Article 5 lists the **functions** of the State Anti-Doping Agency:

- a) To undertake educational, training and awareness-raising activities regarding the commitment of all parties to clean doping-free sports as well as the protection of athletes' health.
- b) To promote training, sharing of expertise and the production of publications with respect to the protection of athletes' health and the fight against doping in sport.
- c) To represent the Spanish Administration at international meetings, fora and institutions directly related to the purposes of the Agency and the functions entrusted to it.
- d) To represent the Spanish Administration, to establish relations and collaborate with the institutions of other States that have been attributed functions similar to those entrusted to the State Anti-Doping Agency. For both the exercise of this function and that provided for in the preceding paragraph co-ordination will be established with the competent bodies of the High Council for Sports.
- e) To issue the mandatory report with respect to any regulatory draft bills processed by the General State Administration affecting the protection of athletes' health and the fight against doping, as well as with respect to proposed international agreements or conventions on doping-related matters that are to be signed by Spain. Furthermore, it may issue a report on regulatory initiatives within the scope of the Regions, at the request of the latter.
- f) To undertake the functions of collecting and transporting samples in doping control entrusted to the Health and Doping Control and Supervision Committee or in those requested under the corresponding collaboration agreements with the Spanish Sports Federations.
- g) To co-ordinate with the World Anti-Doping Agency the information regarding Authorizations for Therapeutic Use.
- h) To lodge petitions for review before the Spanish Sports Disciplinary Committee, in the terms provided for in Organic Law 7/2006, of 21st November, whenever it is felt that the resolutions adopted by the Health and Doping Control and Supervision Committee do not conform to legal requirements.
- i) To carry out the collaboration relations that may be necessary with the State Security Forces in the fight against doping in sport.
- j) To promote scientific and technical research into doping-related matters and the protection of athletes' health by furthering specific research projects, either directly or in collaboration with universities, publicly-funded research bodies and institutions promoting research.
- k) To participate in strategic actions by the Government in research, development and innovation matters relating to the fight against doping and the protection of athletes' health.
- l) The materialization of any and all material activities as may facilitate the exercise of the powers given by Organic Law 7/2006, of 21st November, and its development provisions to the Health and Doping Control and Supervision Committee.

Point 2 of this same article indicates that, pursuant to the provisions established in section 4 of article 4 of Organic Law 7/2006, in order to execute its functions the State Anti-Doping Agency may **enter into agreements with public or private bodies**, in accordance with the provisions established in the legislation on contracts with the public administrations.

3.2.MEASURES IN THE MANAGEMENT CONTRACT OF THE AEA



COMPREHENSIVE APPROACH TO PREVENTION AND THE FIGHT AGAINST DOPING IN SPORT

3.2.1 OVER-ARCHING COLLABORATION WITH THE CENTRAL ADMINISTRATION

- With the **MINISTRY OF JUSTICE**
Collaboration with the Centre for Legal Studies on matters relating to the Training and specialization of Medical Examiners, and the Action Plan for 2009 and 2010 regarding the technical experts of the Toxicology Institute. This is updated each year.

- Involvement of the Spanish Anti-Doping Agency (AEA) with the **MINISTRY OF SCIENCE AND INNOVATION** through a signed agreement. **Two projects in the National R&D+I Plan have been awarded to the Doping Control Laboratory of the AEA**, with participation of two Universities:
 - Development of a method for analyzing steroids in urine through direct coupling of LC-GC-MS and LC-GC-C-IRMS. (Faculty of Chemistry at the University of Castile La Mancha) **135,520 euros**.
 - Steroid profiles in athletes and their relation with physiological and genetic parameters. Development of mathematical models for the determination of threshold steroid levels in doping control (Complutense University in Madrid and "San Carlos" Teaching Hospital) **149,790 euros**.
 - Project with the European University in Madrid: (Evaluation of the ergogenic effect of energy drinks with a high caffeine content and development of a selective methodology for doping control) **6,000 euros**.

3.2.2 THE AEA AND THE STATE SECURITY FORCES.

- Effective pro-active engagement through the agreement signed with the **MINISTRY FOR HOME AFFAIRS** (Secretary of State for Security – AEA – CSD) that has enabled the establishment of a Mixed AEA Monitoring and Co-operation Committee and the start of co-ordinated activities as part of possible Police Operations.

**TOTAL POLICE OPERATIONS CARRIED OUT BY STATE SECURITY FORCES
(2004 – 2009 and 2010)¹**
(including those carried out in collaboration with Mossos d'Esquadra and Ertzaintza)

| Investigation Prosecution Trial | | | |
|----------------------------------------|--------------------------------|-------------------------------|------------------------------|
| YEAR | TOTAL POLICE OPERATIONS | TOTAL PERSONS ARRESTED | TOTAL PERSONS CHARGED |
| 2004 - 2009 | 27 | 388 | 21 |
| 2010 | 13 | 109 | - |
| TOTAL | 40 | 497 | 21 |

^[1] Source: Home Office (State Security Forces)
(Data correct as of November, 2010)

INTERPOL congratulates the Civil Guard on Operación Puerto

The fact that the traffic and use of illegal substances can result in **financial profit** leads us to believe in the existence of "**organized crime**" and calls for **police collaboration** with the **Anti-Doping Agencies** and the **Public Authorities** as a whole.

At the request of the AEA and CSD, the committee includes a representative of the Office of the General State Prosecutor (1 Prosecutor) and 2 representatives of the Judiciary.

3.2.3 PROCEDURAL AND GOOD PRACTICE HANDBOOK FOR POSSIBLE POLICE OPERATIONS RELATED TO THE PROTECTION OF HEALTH AND THE FIGHT AGAINST DOPING IN SPORT

The purpose of this Handbook is to **establish with the greatest possible precision when, how, why and by whom action can be taken** in the face of **possible crimes relating to article 361 bis** and related articles of the **Criminal Code** due to the supply of substances prohibited in sport.

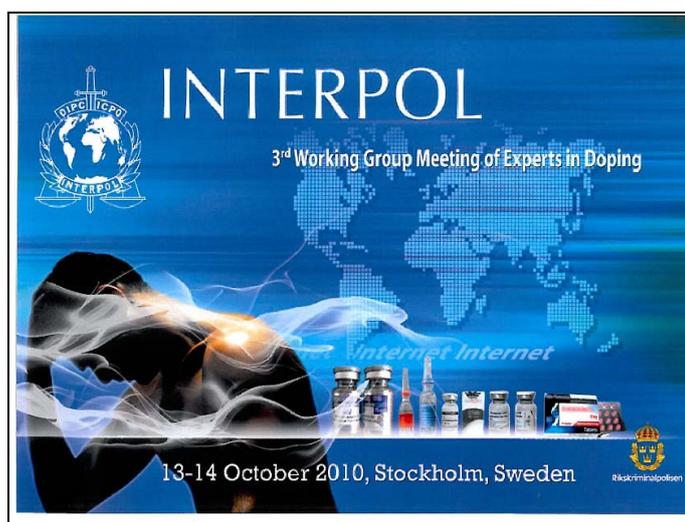
The contents of the Handbook, currently being drafted, comprise the following sections: Introduction, Concept, Background, rationale and legal authority, Forensic aspects, Most frequent forms of doping, Criminal treatment, Police investigation, Judicial processing, International co-operation, Responsibilities and functions of the different Administrations.

Subsequently, it would be necessary to request a **“Specific Investigation”** by the **General State Prosecutor** of a crime under article 361 bis of the Organic Law.

- Prosecutors act under the “principle of hierarchy” and with “Unified Action”.
- Prosecutors play a decisive role in the bringing of charges and the presentation of appeals as the representatives of the public interest and, therefore, of legality.

The **AEA has been exercising as an irrenounceable duty that contemplated in the Criminal Justice Act (article 262) and reports to the Office of the General State Prosecutor** any and all information obtained in the course of its own investigations or accusations received about **alleged crimes against public health in doping-related matters**. (e.g. Xacobeo Team and the Traineras Case (Urdaibai)).

In this line for investigation and collaboration with Police Operations, the **AEA** has requested its inclusion as part of the **INTERPOL** working group. Fruit of this petition, the **Director of the AEA attended the Third Working Group Meeting of INTERPOL experts in doping held in Stockholm on October 13th and 14th, 2010**, together with representatives from the Secretary of State for Security (Ministry of Home Affairs), Civil Guard and National Police.



This meeting highlighted the need to foster the interchange of information in connection with the trafficking of doping substances among the various countries and INTERPOL in order to encourage the execution of joint investigations and the suitability of establishing a permanent network of police experts in the matter.

Spain has applied to host the next meeting of the INTERPOL working group.

3.2.4 THE AEA AND THE REGIONS

In Spain, there is a high degree of **administrative decentralization**, giving us a **quasi-federal** model of territorial organization.

Organic Law 7/2006 and Royal Decree 185/2008 determine the constitution of the **Inter-Territorial Commission for Health and the Fight against Doping**, with members from the **Regions**, through their **senior representatives for Health and Sport**, with two working sessions held so far, thus highlighting the importance of an active presence and participation by those responsible for both Public Health and Sport from the Central Administration and the Regions.

In total, **8 Regions** have already incorporated their efforts in the fight against doping in sport through agreements:

- Extremadura
- Navarre
- Castile-La Mancha
- Madrid
- Melilla
- Cantabria
- Aragon
- Murcia

The remaining regions will do so shortly, namely:

- Andalusia
- Canary Islands
- Asturias
- Galicia
- Basque Country
- Rioja
- Ceuta
- Castile & Leon

Through these **Collaboration Agreements**, the Regions have initiated prevention and awareness policies aimed at school populations, the sports sector, and other groups involved. In addition, they have undertaken to convey information about alleged crimes (art. 361 bis of the Criminal Code) whenever they become aware of the possible existence of the sale, marketing or distribution of prohibited substances in their territories.

The significance of this co-operation between the **AEA** and the **Regions** deserves special mention as the authorities in the Regions **are responsible for the promotion of sports and the handling of educational and health matters**.

Within their respective territories, and preferably in competitions with a local and regional scope organized by them, the Regions may plan to hold doping control, under Organic Law 7/2006, according to the respective legislation on sports in the region or initiatives such as that announced by the Basque Government in an attempt to regulate the fight against doping in its territory with a Regional Act.

3.3 TRAINING OF DOPING CONTROL AGENTS

In Spain, there is a high degree of training required of **Doping Control Agents: graduates in Medicine or Nursing**. This requirement does not exist in other countries and the agents are called Inspectors.

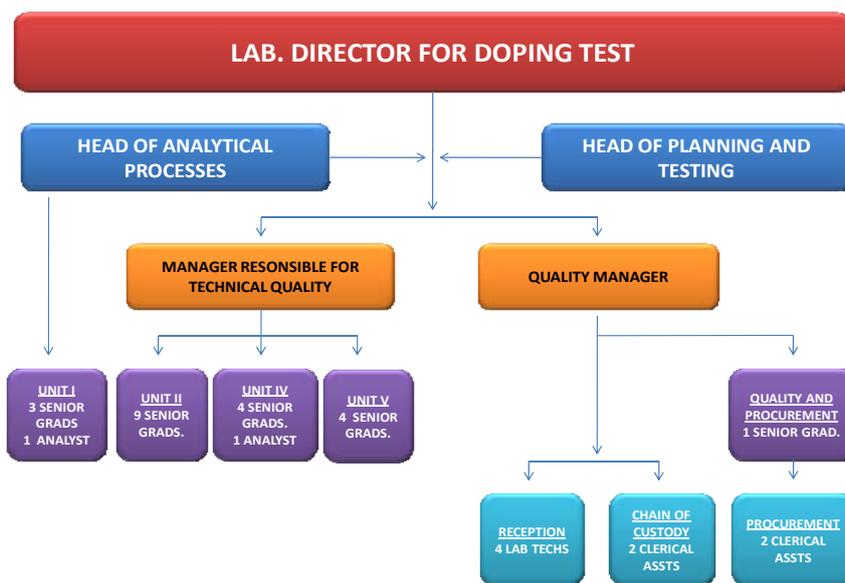
As of this date, **427 medical professionals** have been accredited as **Doping Control Agents**, distributed throughout Spain.

4. THE AEA DOPING CONTROL LABORATORY

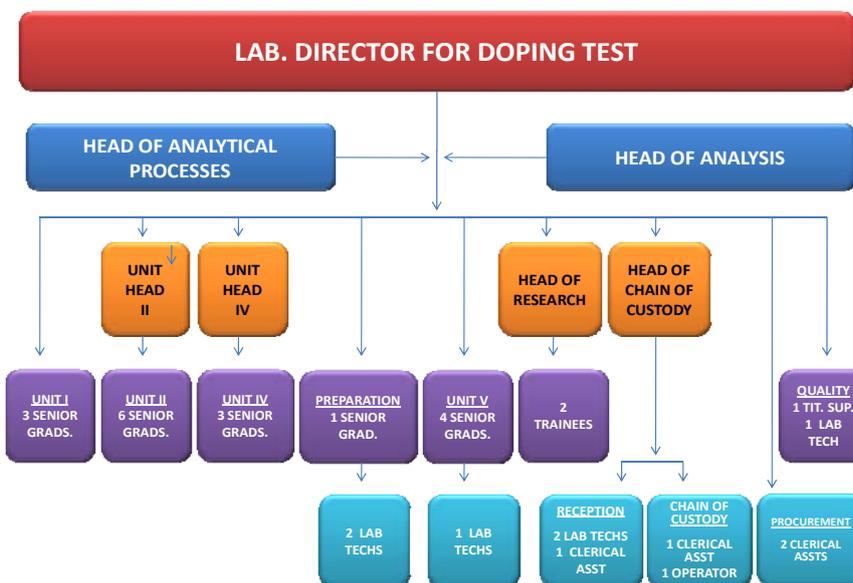
4.1 STRUCTURE OF THE AEA DOPING CONTROL LABORATORY

This organizational structure has been altered through a resolution in November, 2010, in the light of new needs and goals to **achieve scientific and technical excellence**.

PREVIOUS ORGANIZATIONAL STRUCTURE



NEW ORGANIZATIONAL STRUCTURE



Rigour and international renown of the Doping Control Laboratory in Madrid (AEA): Some of the unambiguous evidence backing up this prestige includes the most important International Federations which commission analyses as regular “clients” of the Laboratory. In 2009 and 2010, these have included the **UCI, IAAF, FIFA/UEFA, FINA**, among others.

We fully conform to ISO/ENAC standards.

- The AEA's Doping Control Laboratory has passed **6 unannounced annual evaluations/inspections by the WADA, all with favourable outcomes**, for its accreditation as an international laboratory since it is a reference laboratory.
- In 2009, the Doping Control Laboratory in Madrid analyzed a total of **7,132 samples. The percentage of adverse analytical results was 1.12% (national and international total)**. This is similar to the mean for the 35 international laboratories.
 - Complementarily, the Doping Control Laboratory in Madrid conducts tests on candidates for public positions (police force, fire brigade ...) and as an expert witness in court cases, with as many as **100** in 2009, and it has performed **833 tests on haematological profiles**.

4.1.1 NEW ORGANIC AND FUNCTIONAL STRUCTURE OF THE AEA LABORATORY

The involvement of analytical chemistry in sport began in the 1950s in response to the International Federations and the Olympic Movement in order to deter athletes from consuming medicines for non-therapeutic purposes with a view to increasing artificially their sporting performance. In line with Spain's engagement with this task:

- The AEA Madrid Laboratory was created in 1969 and has been accredited since 1982 by the IOC and currently by the WADA.
- Spain is one of only three countries in the world (alongside Germany and USA) to have two doping control laboratories: Madrid and Barcelona, both internationally accredited. As of December, 2009, both Spanish laboratories had analyzed a total of **10,837 samples** (7,132 by the Laboratory in Madrid and 3,705 by the Laboratory in Barcelona).

4.1.2 UNITS AND DEPARTMENTS OF THE AEA LABORATORY

- Reception: **Two technical experts and a clerical assistant**. Tasks: Collection of aliquot samples and temporary storage until the analysis is complete.
- Chain of custody: **a clerical assistant and an operator** for relations with the federations and the issue of analytical certificates.
- Unit I: **Three senior graduates**. With four GC-MS machines, these specialists work on the analysis of freely excreted stimulants.
- Unit II: **Six senior graduates**. These work with all the other gas chromatography analysis systems. They specialize in the analysis of steroids and narcotics in urine samples. All types of quantifications related with steroids are carried out. In addition, analysis using GC-C-IRMS allows determination of the origin of the steroids.
- Unit IV: **Three senior graduates**. Liquid chromatography analysis systems. These analyze for corticosteroids, diuretics, some steroids, stimulants, etc.
- Unit V: **Four senior graduates and one laboratory technician**. These conduct the analysis of biosimilar versions of EPO and Hormones, including growth hormone.
- Preparation: **One senior graduate and two laboratory technicians**.
- Quality/Procurement Department: comprising a **quality manager** co-ordinating an **analyst** in charge of quality assurance (with the mission of monitoring open non-conformities and distributing control samples to assess technical competence), **two procurement specialists**, an **analyst** in charge of the operation and monitoring of the Laboratory's Computerized Management System.

This distribution of tasks **completely covers**, except for genetics (not implemented at any laboratory), **all of the scope of the World Anti-Doping Agency (WADA)**. In all the procedures the levels of detection achieved are those ordered by the WADA.

4.1.3 LABORATORY EQUIPMENT

The Madrid laboratory has:

- 11 quadrupole gas chromatography and mass spectrometry systems. MSD Agilent, model 5973.
- 2 gas chromatography and mass spectrometry systems with magnetic sector detectors, allowing high resolution work. Waters, model AutoSpec Ultima.
- 3 liquid chromatography and mass spectrometry systems, with triple quadrupole detector. Applied BioSystems, model API 3000.
- 2 gas chromatography combustion and isotope ratio mass spectrometry systems GC-C-IRMS. These allow determination of the origin of provision of steroids.
- 1 liquid chromatography and mass spectrometry system, with triple quadrupole detector; the last quadrupole is a linear ion trap. Applied BioSystems, model API 4000.
- 2 gas chromatography systems with an ion trap detector. Varian.
- 2 gas chromatography systems with an NPD detector. Agilent.
- 7 systems for solid-phase extraction. Gilson.
- 2 electrophoretic plates equipped with power sources, refrigerator. EPO analysis.
- 4 transfer units. EPO analysis.
- Autolumat luminometer. Growth hormone analysis.
- Immulite immune assay, analysis of Erythropoietin, quantification.
- Elecsys immune assay from ROCHE. Detection of gonadotropin hormone.
- Sundry auxiliary material such as: 4 centrifuges, 3 concentrators, 20 fridges/freezers, 2 freezing chambers at -20° with capacity for 4,500 samples in total, etc.

4.1.4 NEW INSTRUMENTATION FOR THE DOPING CONTROL LABORATORY

In the near future, the **Laboratory is expecting the supply and acquisition** of:

1. In 2011. Triple quadrupole gas chromatography mass spectrometry system. This will allow the detection limit to be reduced by a factor of 4. € 156,000.
2. In 2011. Liquid phase extraction system with capacity for 96 samples. This will allow productivity to increase in the evenings and overnight. € 130,000.
3. In 2011. Software to operate the LIMS application, Business Intelligence software. € 20,000. This will allow operation of the application to monitor the laboratory's productivity and generate robust statistics from the database.
4. In 2011. Applied quantification software. € 20,000. This will allow an increase in productivity.
5. In 2012. Q-TOF gc-ms system. This will allow exact confirmation by masses and open-mode capture. Compounds currently undetectable could be re-analyzed retrospectively. € 250,000.

4.1.5 ANALYSIS OF DOPING CONTROL SAMPLES

After the samples are collected or extracted, they will be sent to the certified anti-doping laboratory that has previously agreed to analyze them.

In the manner and within the deadlines stipulated in the regulations, this laboratory will take custody of the samples, analyze them, assess their analyses and issue the corresponding certificates for remission to the appropriate bodies.

- Analyses of doping control samples intended for the detection of substance and methods prohibited in sport must be performed at laboratories accredited by the World Anti-Doping Agency and duly approved or certified by the State.
- The Spanish Sports Federations, or the Health and Doping Control and Supervision Committee in those cases where this body is conducting the test, must address the anti-doping laboratory to order to request the said analyses, which the laboratory will accept having regard for its work schedule.
- The anti-doping laboratory will carry out the analyses according to the established standards approved for its accreditation and will send the results (analytical certificates) to the disciplinary body of the corresponding Spanish Sports Federation, the President of the Committee and, in the case of adverse results, to the remaining national and international bodies stipulated in the said standard (World Anti-Doping Agency, International Federation and the State Anti-Doping Agency).
- The laboratory will retain custody of the samples on the conditions and for the periods specified and, if so requested by the athlete in question, will perform the corresponding counter-analysis.

4.1.6 OFFICIAL STATUS AND ACCREDITATIONS. RECOGNITIONS.

The **Doping Control Laboratory in Madrid**, previously ascribed to the High Council for Sports (in February-September, **2008, it began to report to the AEA**), achieved accreditation as per the requirements of the standard EN 45,001-ISO Guidelines 25 in April, 2001, and according to the standard UNE-EN-ISO/IEC 17,025:2000 (CGA-ENAC-LEC), complemented by the ISL-WADA:2004 document.

The **Anti-Doping Control Laboratory in Barcelona**, accredited by the IOC in 1985 and currently by the WADA, belongs to the Neuropsychopharmacology Research Programme of the Municipal Medical Research Institute in Barcelona (IMIM), part of the Research Area of Barcelona's Municipal Health-Care Provision Institute (IMAS).

5. THE HEALTH AND DOPING CONTROL AND SUPERVISION COMMITTEE.

The Health and Doping Control and Supervision Committee was created by the Organic Law 7/2006, of 21st November, on the protection of health and the fight against doping in sport as the body of Higher Sports Council that safeguards this area and exercises these anti doping powers. This body assumes most of the powers that, to date, had been distributed between the National Anti-Doping Committee and the National Committee to Protect the Health of Sports People. The Committee also assumes functions of great relevance in the area of protecting the health of sports people, both in terms of world class professional sport as well as the practice of grassroots sport that, of a recreational and health-related nature, is carried out by millions of people in our country.

The Health and Doping Control and Supervision Committee is made up of representatives from the State Administration, from the Autonomous Communities, Spanish sports federations, professional leagues, sports people and by persons of renowned prestige in the scientific-technical, sports, medical and legal area.

It is the responsibility of the Health and Doping Control and Supervision Committee to promote the health protection of sports people, as well as to develop a total policy of prevention, control and sanctions for the use of products, substances and methods which are against the rules or are banned in sport, according to the international undertakings entered into by Spain. The linking of both functions brings to our sports system a substantial change in orientation with regard to the model established in Sports Organic Law 10/1990, of 15th October, as the internationally confirmed principles of rejection and zero tolerance on doping in sport have a fundamental component of protection of the health of the individual and of public health, as well as an unequivocal ethical dimension of championing the values of fair play and free competition among equals, considered as the foundations of present day sport, as stated in the preamble of the Public General Act.

The attributes of the Committee are regulated by Organic Law 7/2006, as well by Royal Decree 811/2007 of 22nd June, determining the structure, composition, functions and operational system of the Health and Doping Control and Supervision Committee.

5.1 ATTRIBUTES IN THE MATTER OF HEALTH PROTECTION

The Health and Doping Control and Supervision Committee have, among others, the following attributes in the matter of health protection:

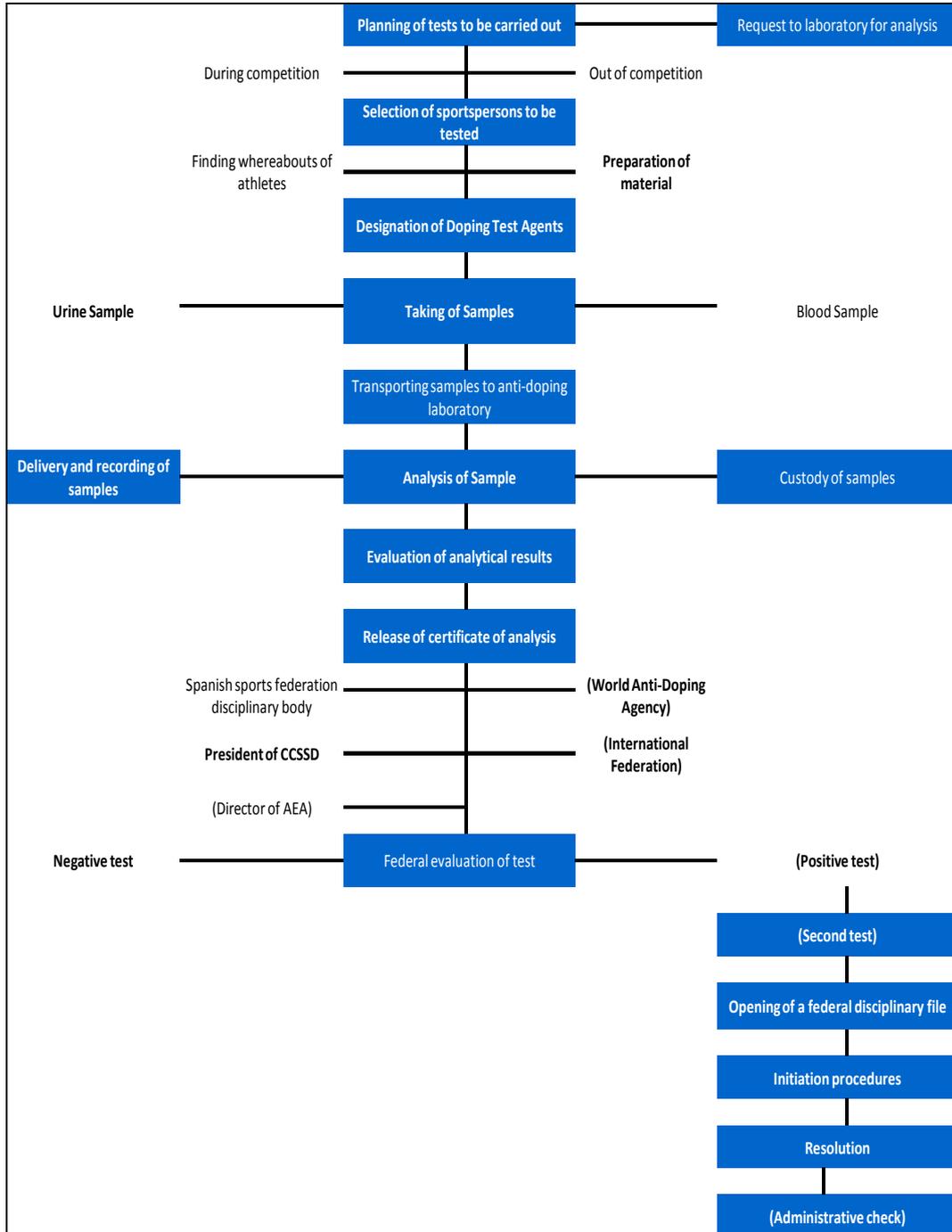
- Propose preventative actions to the competent administrative bodies in the area of health education and information and sports practice, both in official competitions as well as in those of a popular or recreational nature.
- Develop and implement the medical fitness examinations for sports practice.
- Periodically inform on the procedures to control the health of sports people taking part in official competitions at a state level of Spanish sports federations.
- Propose the adoption of measures and rules that ensure the best possible conditions for medical assistance for sports people within the framework of carrying out their activity, be this of a professional or recreational nature.
- Carry out proposals on the minimum health care resources in official sports competitions
- Coordinate the actions regarding health protection measures for sports people participating in official competitions with the regulations against doping, proposing measures for the complete medical control and supervision of the participants.

- Develop and implement health controls.

5.2 ATTRIBUTES IN THE AREA OF FIGHTING AGAINST DOPING IN SPORT

The Health and Doping Control and Supervision Committee have, among others, the following functions in the area of anti doping:

- Plan and programme the distribution of doping controls
- Determine the official sports competitions, at a state level, in which doping controls must be carried out, the number of controls to be performed during competitions and outside these in each type of sport, the type and nature or extent thereof and, if applicable, the individualised plans deemed suitable due to the peculiarities of each competition or sports activity.
- Monitor the actions of Spanish sports federations in the area of controlling and curtailing doping.
- Examine and decide in disciplinary proceedings on sports people and other holders of sports licences
- Apply for a review before the Spanish Sports Disciplinary Committee when it is deemed that the decisions adopted in the area of doping by the disciplinary bodies of Spanish sports federations are not according to the Law.
- Be informed of the out of competition controls that the World Anti-Doping Agency or any international federations wishes to carry out in Spain, for the purposes of coordinating these and avoiding the duplication thereof.
- Granting the therapeutic use exemptions, through the TUE's
- Establish, manage and administrate the centralized data base on doping control;
- Validate the material necessary for carrying out the doping controls;
- Authorize the individualized plans of control and to determine the objective parameters to establish the groups at risk to be tested, keeping them up to date and exchanging data with the Spanish federations and corresponding international sports entities, monitoring the controls and avoiding their duplication;
- Issue authorizations to the Doping Controls Officers
- Establish the protocol for action necessary to implement a system for locating the athletes, for the purpose of performing out of competition controls
- Agree to submit to doping controls the sports people who have had their licence suspended because of having committed a doping violation, as well as those sports people who have not renewed their licence and are assumed not to have given up practising sports.
- Agree to submit to OOC to athletes



DEVELOPMENT SCHEME ANTI-DOPING CONTROL

6. THE SPANISH SPORTS FEDERATIONS

6.1 PERFORMANCE OF DOPING CONTROL

It is up to the **Spanish Sports Federations to carry out** the necessary actions to perform the **tests** determined by the Health and Doping Control and Supervision Committee and to designate the Doping Control Agents to conduct these tests.

Once the number and timing of the tests has been planned, the **Spanish Sports Federations (where appropriate also the CCSSD), either by themselves or through the AEA, will perform the tests**, providing the means and designating the corresponding Doping Control Agents.

In order to perform these tests, the processes for notifying athletes, taking their samples (collecting urine or drawing blood), taking custody of the samples and transporting them to the anti-doping laboratory.

- Doping control may not be performed during a particular time period (Royal Decree 641/2009, of 17th April, as amended by Royal Decree 1462/2009, of 18th September, from 23:00 h to 6:00 h, except on doctor's orders).
- This function may be carried out completely by the State Anti-Doping Agency after the signing of the corresponding collaboration agreement between the Agency and a Federation showing an insufficiency of resources or structure. In addition, the execution of tests may be requested from the AEA, when this is considered more suitable.
- The Health and Doping Control and Supervision Committee may subject athletes to out-of-competition tests that will be considered as **additional** with respect to those that may be stipulated by the Sports Federations (**ex.: athletes forming part of the Spanish national sides or Olympic teams**).
- The tests (collecting urine samples or drawing blood samples) will be performed by suitably qualified Doping Control Agents accredited by the High Council for Sports, formed by the AEA in collaboration with the University Centres designated by the body responsible for the test (Federation, CCSSD or State Anti-Doping Agency).
- The collection and handling of doping control samples until their arrival at the anti-doping laboratory will be effected in accordance with the official regulations duly established (Chain of Custody).

6.2 CHAIN OF CUSTODY FOR SAMPLES

CHAIN OF CUSTODY FOR SAMPLES

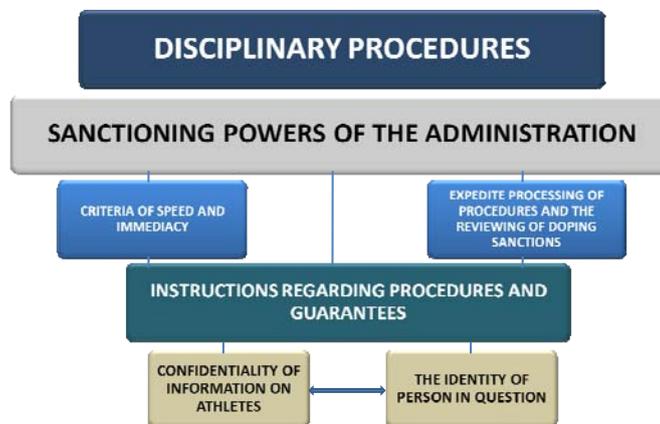
1. Request for analysis is sent to the Laboratory the Testing Body. (*N° of samples to be sent, when they are to be collected and the details identifying the test*)
2. The samples, in sealed bags, are delivered to the Laboratory by the physician who has collected them, or by personnel of the corresponding Federation, or they are sent by courier delivery.
3. A note is recorded of the person delivering the samples, time and date of arrival, code on the seal of the bag and whether or not they are chilled. (*In the case of non-chilled blood, the samples will be rejected.*)
4. The bag is opened and the accompanying samples and documentation extracted. Verification.
 - **If there is any doubt about whether the samples have been tampered with, the test will be cancelled** (article 33 of Ministerial Order of 11th January, 1996).
5. Allocation of an internal code number to each of the samples.
6. The stopper and seal on sub-sample "A" are removed and the pH and density of the urine are measured.
 - Allocation of the different methods to be carried out and preparation of aliquot fractions of the urine so as to proceed with their analysis using each of the methods.
 - The unused remainder of sub-sample "A" and sub-sample "B" are frozen and stored.
7. Substances are grouped together by the various analytical methods.
 - This stage comprises two phases: *sample preparation and analysis*.
8. **If any prohibited substance is detected, a confirmation/quantification analysis is performed with a further aliquot of sub-sample "A".**
 - All the methods have been developed and **validated** in the lab, as per the requirements of ISO standard 17,025 and the World Anti-Doping Agency.
9. Notification of the outcome to the Test Body (Certificate of analysis).
10. If the **results are adverse**, the Laboratory will inform the WADA and the corresponding International Federation. If the **results are considered anomalous**, only the WADA will be informed.
 - Negative samples not considered adverse will be deep-frozen and stored for at least three months.
11. If there is an **adverse analytical result** in a sub-sample "A", the Laboratory may receive a request to conduct a **counter-analysis** of the corresponding sub-sample "B". The same procedure will be performed.
 - Samples with an adverse analytical result will be stored:
 - For at least three months, in the case of international samples.
 - Until the sanction becomes time-barred in the case of domestic samples.
12. Once the counter-analysis has been completed, the Test Body is notified (Certificate of Analysis) and the WADA and the corresponding International Federation are informed.

NOTE: With the entry into force of the new World Anti-Doping Code, certain samples must be stored for up to 8 years.

6.3 DISCIPLINARY POWERS BY DELEGATION FROM THE CSD

By delegation from the Administration (CSD), the disciplinary powers lie with the Spanish Sports Federations.

It is necessary to point out that the Federations are competent to investigate and resolve on disciplinary cases in doping-related matters, an activity that will be conducted by the disciplinary bodies provided for in their Statutes and Regulations.



Procedures to impose sanctions in doping-related matters will initially be investigated by the federations.

- The opening of the procedure and the resolution bringing it to an end must be communicated to the Health and Doping Control and Supervision Committee.
- When the Health and Doping Control and Supervision Committee is the body that must act to impose the sanction, through the principle of successive concurrence, as the Federation has not resolved the matter in due time and manner, the opening of the procedure and the resolution bringing it to an end must be communicated to the AEA.

The review in the administrative realm of resolutions handed down by the Federations or appeals in the case of the Agency will be carried out under an arbitration formula before a specific section of the Spanish Sports Disciplinary Committee.

7. OTHER COMPETENT BODIES IN DISCIPLINARY MATTERS

- a) Health and Doping Control and Supervision Committee:
 - President
 - Instructor, Law graduate.
- b) Spanish Sports Disciplinary Committee (CEDD)
 - Anti-doping section, 3 members, all Law graduates
 - The review of sanctions and when they affect senior officers in Federations, professional leagues or analogous bodies
 - The Resolutions of the CEDD bring the administrative route to an end; the only further remedies open are through administrative dispute appeals.

- c) State Anti-Doping Agency
- Bring an appeal before the Spanish Sports Disciplinary Committee when it is felt that the resolutions adopted by the Health and Doping Control and Supervision Committee do not conform to legal requirements.

8. OTHER BODIES ACTING IN THE FIGHT AGAINST DOPING: THE Spanish Olympic Committee

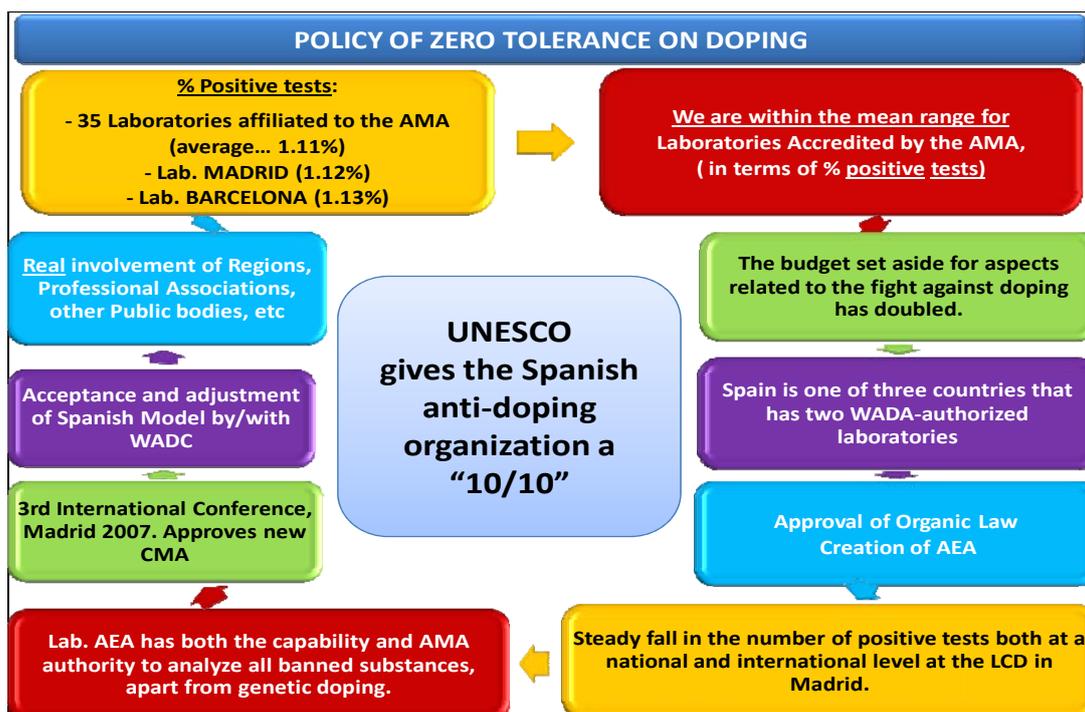
The **Goals** of the **Medical Committee** of the **Spanish Olympic Committee** (COE) include the *promotion and supervision of compliance with the ethical principles of medicine among athletes, trainers and health-care personnel taking part in the activities inherent to the Olympic Committee: collaborating in the prevention of and the fight against doping.*

Preferably:

- By promoting and distributing anti-doping information, particularly to “target groups” of athletes receiving a scholarship out of ADO funding and athletes on national teams.
- By participating actively in the international electronic programmes on the fight against doping (ADAMS), on Therapeutic Use Exemption (TUE's) and doping control by the World Anti-Doping Agency, under the supervision of the CCSSD.

During the Peking Olympic Games in 2008, the **Medical Committee** of the **Spanish Olympic Committee** made available to interested parties the information received from the International **Olympic Committee** on *health-care, pharmaceutical, doping control and therapeutic exemptions requirements*, as well as all significant logistics information received from the Organizing Committee.

A Collaboration Agreement has been drafted between the AEA and the COE and is now pending **signing**.



PART TWO

SPAIN'S COMPLIANCE WITH THE ANTI-DOPING CONVENTION OF THE COUNCIL OF EUROPE

1. ARTICLE 1. Purpose of the Convention

Compliance by Spain.

The Convention was **ratified** by this country on **April 29th, 1992**, and entered into force on July 1st, 1992.

This is the legal instrument with the greatest inter-governmental scope on co-operation, and the first instrument in International Public Law to acknowledge the powers of the WADA to carry out out-of-competition tests. It was initially signed by 45 States, mostly European, including Spain.

In March, 2003, what was then known as the **National Anti-Doping Commission** **accepted the adoption** by our country of the rules and guidelines of the **World Anti-Doping Code**.

Both the **State Anti-Doping Agency** and the **Health and Doping Control and Supervision Committee** have **ratified**, since **2008**, **their adoption** of the rules arising from the **World Anti-Doping Code**, with the scope and extent of their respective functions and powers.

Royal Decree 185/2008, of 8th February, approving the Statutes of the State Anti-Doping Agency, sets it up as a publicly-funded body in charge of executing the activities for doping prevention, health protection and the fight against doping in sport, as well as for the execution and galvanization of a research policy on doping-related matters and the protection of athletes' health. In this way, the country **complies** with the provisions of **Organic Law 7/2006**.

The four-year **Management Contract** conforms to the provisions contained in art. 19 of Royal Decree 185/2008, of 8th February, regarding the creation of the AEA, as well as the general provisions for all of the State Agencies in arts. 14 and 15 of Law 28/2006, of 18th July.

Spain has two internationally accredited laboratories, one in Madrid and one in Barcelona. The **Doping Control Laboratory in Madrid** was created in 1969 as Spain's state laboratory, forming part of what was then known as the National Sports Delegation. Subsequently, it was incorporated into the High Council for Sports and, **since 2008, it is a departmental unit of the State Anti-Doping Agency.**

The operational goal of this laboratory since its outset, and it continues to have the same goal today, has been to provide scientific verification of a possible violation of the international and national rules prohibiting doping in sport, through the analysis of physiological samples of urine and/or blood collected/extracted from athletes on the occasion of a competition or out of competition, on the conditions determined in the regulations.

2. ARTICLE 2. Definition and scope of application of the Convention

Compliance by Spain.

1. Organic Law 7/2006, of 21st November, on health protection and the fight against doping in sport considers **doping in sport** to be a **breach or violation by persons obliged by the regulations provided for** in this Act.
2. The **subjective scope of application** of this Act extends to athletes with a State federation licence or with a recognized regional licence in sports competitions organized, promoted or authorized by the Spanish Sports Federations.
3. The **objective scope of application** of this Act is determined by the official sports competitions at a state-wide level organized by sports institutions within the framework of the Sports Act (Law 10/1990, of 15th October).

Previously, in **February, 2005**, the **Spanish Cabinet** had approved the comprehensive design of a criminal policy against doping with the implementation of the **Comprehensive Action Plan against Doping in Sport**, which included **59 Measures** to be implemented in three priority action areas: **prevention, testing and repression** of doping.

These initiatives have improved the Spanish sports legislation from 1990 which, due to subsequent circumstances, had become outdated and **have constituted the seed and precedent for Organic Law 7/2006**.

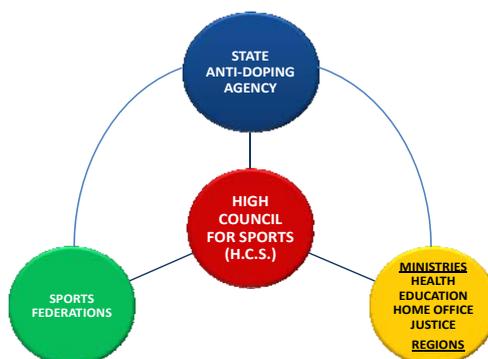
Spain has made a determined wager in the fight against doping in sport and the protection of athletes' health as a legal right to be protected.

Article 12 of Organic Law 7/2006 establishes the **obligation** of the **High Council for Sports** to **publish the list of substances and methods prohibited** in sport annually in the "**Boletín Oficial del Estado**" (Official State Gazette) by means of a **Resolution of its President**, which list shall come into force on January 1st each year. Furthermore, the said article foresees that this publication should take place in the framework of the international obligations and undertakings taken on by Spain and, in particular, in the framework of the Anti-doping Convention of the UNESCO and the Council of Europe.

An additional unambiguous sign of our **zero tolerance with doping** is that in Spain the provisions on sanctions giving rise to the loss of the licence **do not allow punished athletes** to access **publicly-funded financial aid or grants** from the Administration.

3. ARTICLE 3. Internal Coordination

Compliance by Spain.



NATIONAL BODIES, INSTITUTIONS AND ENTITIES IN RELATION TO DOPING

The Spanish Anti-Doping Agency (AEA), ascribed to the Cabinet Office through the High Council for Sports (CSD) [Royal Decree 638/2009, of 17th April, amending Royal Decree 1370/2008, of 1st August, developing the organic structure of the Cabinet Office, and developing Royal Decree 542/2009, of 7th April, re-organizing the Ministerial Departments (sole article, section Two.2; BOE dated May 8th, 2009)]

The legal constitution of the Agency took place in **September, 2008**: administrative configuration, spaces, premises, endowment of personnel, contents, legal aspects, approval of budgets, and execution of the **23 measures** approved and contemplated in its Management Contract.

Since that date, the **publicly-funded budget** for the fight against doping in Spain has been doubled.

WORK PLAN. BASIC LINES OF ACTION:

1. Constitution of an official Agency

2. Presentation of the Agency to Society, Public Institutions and to the most directly affected Social Agents, and Regions (education, health, sports sectors).

3 . Constitution of an Inter-regional Commission for Health and the Control of Doping. Body for participation, co-ordination and monitoring with the Regions.

Officially constituted on July 22nd, 2009

4. Relations and co-ordination with the World Anti-Doping Agency, the Council of Europe, UNESCO and other Bodies.

5. Collaborative relations with State Security Forces.

6. Formulation and carrying out of PR campaigns and the popularization of values: "Sport-Health" and "Clean-Sport"

7. Institutional presence and representation at forums and meetings within the national context and, when called for, on the global stage. Universities, Public bodies, Organisms, Professional Associations, Parliaments, European Council, Ibero-American Sports Council, etc

8. Social pedagogy

- Plan of rapprochement with the sports world, preferably with the sportsmen and women and their world.
- Constitution of the Group "Friends of Clean Sport", sportsmen and women who participate in campaigns to spread the word.

9. Co-ordination with the CSD's Health and Doping Testing and Supervision Committee.

- Processes for doping tests
- Measures to prevent doping and to protect health in Sport
- Athletes' Advice Unit. Psychological Unit.

10. Start of coordination with other Institutions, Public Organisms, Sports and Health Bodies on specific initiatives. Collaborative agreements

- With Spanish Sports Federations, the Spanish Olympics Committee

11. R&D+i. Research, Development and Innovation. Training and recycling staff from the Doping Test Laboratory

- AEA Medical Unit made up of four doctors
- Collaborative agreement with the Ministry of Science and Innovation
- R&D+i projects
- Agreements with Universities

12. Training and Recycling of AEA staff in the specific job tasks of each Department

13. Relations of AEA with the Therapeutic Use Exemption Committee. Coordination with the AMA for TUE-related information

14. Permanent updating of Laboratory material and teams to facilitate analyses of scientific quality, excellence and permanent standardization.

15. The setting up of Workshops given over to sport and health and the fight against doping, promoted by the State Anti-Doping Agency, in collaboration with the CSD and, when called for, the Regions, Spanish Sports Federations and other Ministerial Departments, Public Organisms, Sports and Health Bodies.

**16. Elaborate statistical and documented data, website, Newsletter, online training, online Library, etc
AEA in-house publications, training and informative material.**

17. Training of medical professionals as Doping Testing Agents, in collaboration with the AEA, the CCSSD and the Spanish Sports Federations.

18. Appeal by the AEA, request for revision on the part of the Spanish Sports Disciplinary Commission, according to the terms set out in the Organic Law 7 dated November 21st, 2006 when it feels that the resolutions adopted by the CCSSD do not conform to legal requirements.

19. To issue a mandatory report regarding any and all regulatory drafts being worked on by the State General Public Administration that might have an impact on the protection and athletes' health and the fight against doping (...).

20. Activities carried out during Spain's 2010 Presidency of the European Union, (Office of the Cabinet Secretary, CSD and AEA).

Spain supports these initiatives for the future.

- Participation with the CSD at the European Sports Forum (April 19th and 20th)
- Collaboration with CSD at the European Sports Congress (June 1st and 2nd)

21. Annual budgets. The public budget for the fight against doping has doubled.

22. Revenue from services rendered by the Doping Testing Laboratory

23. The search for possible external collaborators

4. ARTICLE 4. Measures intended to limit the availability and use of prohibited doping agents and doping methods

Compliance by Spain

1. The General State Budgets, in their CSD section, include the annual transfer of income to the AEA for the execution of policies for the fight against doping; this is the fundamental economic input for the AEA to deploy its action for the prevention of, research into and co-ordination in the fight against doping.
2. In its budget, the High Council for Sports (CSD) links some of the specific subsidies to Spanish Sports Federations to certain doping control programmes.
3. The Spanish regime for doping-related penalties foresees the loss of the right to access publicly-funded financial aid and grants for athletes sanctioned.
4. Through its Doping Control Laboratory, the AEA receives and systematically analyzes doping control samples received by International Sports Federations (UCI, UEFA, FIFA, FINA, among others) and by all the National Federations.
5. The AEA passes on solely and exclusively the real cost for the doping analyses, without any added profit whatsoever, so that the Spanish Sports Federations can correctly undertake their task and so that the tests are economically viable.

Some of the outstanding characteristics of Organic Law 7/2006:

PART III: "On the protection of public health through criminal law in activities related to doping in sport", contemplates:

- **Conversion of the offence into a crime** as administrative law is insufficient to put an end to the phenomenon.
- **Article 44: this inserts into the Criminal Code a category of crime against public health, as the legal right to be protected, classified below.**

Article 361 bis:

1. **Those persons who**, without any therapeutic justification, prescribe, provide, dispense, supply, administer, offer or facilitate prohibited substances or prohibited pharmacological groups, as well as non-regulatory methods, intended to increase their physical capacity or to alter the results of competitions, where these substances or methods, through their content, reiterated intake or other attendant circumstances, endanger life or health, to non-competing athletes in a federation, to athletes not members of a federation who practise sport as a leisure activity, or to athletes taking part in competitions organized in Spain by sports bodies, **shall be punished with the penalties of imprisonment from six months to two years, a fine from six to eighteen months and special disqualification from holding public office or position, profession or benefit for a period from two to five years.**

The more sophisticated design of new doping methods, at the same time more harmful for human health, have made it necessary and urgent to introduce a **criminal penalty in our country.**

In the ever stronger fight against doping in sports, not only at a professional level, the Second Additional Provision of Law 7/2006 contemplates that the Health and Doping Control and Supervision Committee may **order the performance of doping control** during the **final phases of juvenile and university-level** sports championships with a State-wide scope.

For the purposes contemplated in this provision, the regulations of the said championships are to include doping in sport, specifically, as a serious or very serious offence, in accordance with the same criteria established in the present Act.

The **enactment of the Law** created and strengthened the operational intervention group within the **Office of the General Commissioner for the Judicial Police** and the relations and co-ordination with the **Office of the General State Prosecutor** (Specialized Unit in the prosecution of crimes related to doping in sport). Over **40 Police Operations** have been conducted by the State Security Forces, in collaboration with the regional police forces (November, 2010). A large majority of the substances seized by the State Security Forces are **steroidal and/or anabolic** by nature.¹

The penalties on athletes will be proportional to the breach and may range from three months to two years, from two to four years and up to six years or a lifetime ban (ineligibility for a sports licence).

In the event of an economic penalty on athletes, up to a maximum of 12,000 euros (for Clubs and Teams up to 50,000 euros).

In Spain, the **marketing of doping substances at sports installations is considered a very serious violation**.

PART II: "Measures for the control and supervision of products, medicines and nutritional supplements containing prohibited substances in sports activities"

- **Article 37.** This indicates the obligation to declare products capable of producing doping in sport. Thus there is recognition that, without prejudice to the powers corresponding to the Regional Authorities, teams taking part in competitions held within the scope of application of the present Act are obliged to keep a **register**, in accordance with the terms determined in the regulations, **showing an indisputable record of the products dispensed or prescribed to athletes**, the physician ordering or authorizing such use, its period and the form of its prescription.
- **Article 38.** This contemplates the **traceability** of certain products. The Health and Doping Control and Supervision Committee may request that the **Spanish Medicines and Health-Care Products Agency, as well as the Spanish Food Safety and Nutrition Agency** adopt the **necessary measures** in order to know, throughout the entire production cycle and its dispensation and marketing, those products capable of producing doping within the realm of sports, as their intrinsic circumstances and their potential impact on public health are considered to require special monitoring to facilitate the testing regime provided for in this Act.
- **Article 39. Power of inspection:** where applicable, **the State Security Forces, the State Health Inspection Services as well as bodies of the Regions attributed these powers, the Customs and Duties Department of the State Tax Administration Agency**, on their own initiative or at the instance of the **State Anti-Doping Agency**, may **inspect the medicine cabinets and other instruments allowing the safekeeping or housing of the products and substances capable of giving a positive result in a doping control**.

As for the conditions for use of products capable of producing doping in sports activity, **article 41** contemplates the **commercialization and use of nutritional products**. In accordance with the **legislation on Protection of Citizens' Security, the deposit, marketing and distribution, under any form whatsoever** of products containing substances prohibited in sport as capable of producing doping and declared as such in accordance with this Act **are prohibited in establishments devoted to sports activities**.

¹ *The Council of Europe has available the detailed breakdown of all the substances seized in police operations.*

Similarly, in accordance with the **legislation on Protection of Citizens' Security**, it is **prohibited to incite the consumption of the products referred to in the preceding section in the places indicated therein.**

IN SUMMARY, Organic Law 7/2006 foresees a series of actions by the AEA in the **comprehensive approach** to the fight against doping in sports:

1. **The Inter-Territorial Committee on Health and the Fight against Doping**, which includes representatives of the **Regions** through the persons with senior responsibility for Health and Sports, highlighting the importance of the presence and active participation of those responsible for Public Health and Sports at both the Central Administration and the Regional Governments.

In total, there are **8 Regions** that have already joined the fight against doping in sport. Spain's Regions have received devolved **powers to handle the promotion of sports, to manage education and to deal with health.**

2. **Over-arching collaboration with the Central Administration and other Agencies.**

1. Agreement with the **Ministry of Justice** for the specialization of medical examiners / Forensic Experts.

2. Involvement of the **Ministry of Science and Innovation** with the **AEA** in the fight against doping: three **research lines**.

3. Proactive involvement, through the signing of the **Agreement with the Ministry for Home Affairs** (Secretary of State for Security), has allowed the establishment of a **Combined Working Panel with the AEA and the start of co-ordinated efforts on Police Operations**.

- Working Seminars have been arranged with the Ministry of Home Affairs and two more of these are planned for 2011.

4. Collaboration between the **Ministry of Health** and the **AEA**. Agreement signed in September, 2010.

5. Collaboration between the **General Council of Official Associations of Pharmacists in Spain** and the **AEA**. Agreement signed in October, 2010.

6. The **AEA** and the **Sports Bodies**: A collaboration agreement was signed with the **Real Madrid** football club. This is now being **implemented** through practically finalized dissemination and training programmes on four main levels:

- Training area targeting young people with the Real Madrid Foundation.
- Dissemination activities with club managers and lower categories
- Inclusion of subjects dealing with the fight against doping on the club's postgraduate courses
- Audio-visual resources for lower categories

7. Preparations are in hand for the signing of agreements with the **F.C. Barcelona** and **Atlético de Madrid** football clubs and with **Estudiantes** basketball club.

From this moment on, the incorporation of sports clubs to the prevention of and fight against sports doping will be effected in **combination with the respective Regional Government** of the territory in question, as by 2011 all of the regions will have joined through their respective agreements.

8. Other Administrations

- **Ministry of Defence:**
Forthcoming signing of a Collaboration Agreement with the AEA. In Spain, 5,000 military officers participate in sporting competitions organized by the Armed Forces or the respective Federations. Involvement of the Military Academies and Schools.
- **Ministry of Education,** for doping prevention, **specific training materials** have already been drafted for both class use and self-study, intended for schoolteachers, pupils and sports monitors (guidelines, ...). The Collaboration Agreement is pending signing.

There is a possibility that these materials could also be used by the Regions.

5. **ARTICLE 5. Laboratories**

Compliance by Spain

Spain is one of the three countries in the world (together with USA and Germany) to have **two doping control laboratories: Madrid (AEA) and Barcelona**, both internationally **accredited** by the WADA.

The AEA Doping Control Laboratory in Madrid enjoys a high level of **international rigour and prestige**. Unambiguous evidence of the quality backing up this renown is that major International Federations commission it to perform their analyses as regular "clients" of the Laboratory. In 2009 and 2010, these included the UCI, IAAF, FIFA/UEFA, FINA, among others. A similar comment could be made about the Laboratory in Barcelona thanks to its strong support for research.

We fully conform to the ISO/ENAC standard.

The AEA's Doping Control Laboratory has passed **6 unannounced annual evaluations/inspections** by the WADA, all with favourable outcomes, for its accreditation as an international laboratory since it is a reference laboratory.

In **2009**, the Doping Control Laboratory in Madrid analyzed a total of **7,132** samples. The percentage of adverse analytical results was 1.12% (national and international total). In the same year, the Laboratory in Barcelona analyzed a total of **3,705** samples. The percentage of adverse analytical results was 1.13%. The International mean was 1.11%.

Complementarily, the Doping Control Laboratory in Madrid conducts tests on candidates for public positions (police force, fire brigade ...) and as an expert witness in court cases, with as many as **100** in 2009, and it has performed **833 tests on haematological profiles**.²

The Laboratory of the AEA:

- Maintains and encourages an on-going programme for the training of analysts by means of scholarships for university graduates.
- Interchange of experiences with other Agencies and Laboratories. Collaboration with the laboratories of Portugal, Rumania, Tunisia, Colombia, Argentina, Mexico and Chile.
- Attendance at courses and seminars, etc. (Course in research and development of analyses for the improvement of growth hormone (GH) detection). Berlin, June, 2009. Also methodology for the detection of third generation EPO CERA in blood.
- Work leading to the collection and transportation of high-quality samples, ISO quality systems (collections and extractions).

² The CCSSD commissions analyses from the Laboratory in Barcelona within its annual plan.

- Collaboration relations with other laboratories: the Laboratory of the Spanish Food Safety and Nutrition Agency and the Laboratory of the Spanish Medicines and Health-Care Products Agency.
- Specific collaboration agreement with the Ministry of Science and Innovation (King Charles III Health Institute and the Higher Science Research Council).
- Promotion of research projects.

Within the **National R&D+I Plan**:

- Development of an analytical method for steroids in urine by means of direct LC-GC-MS and LC-GC-C-IRMS coupling. In collaboration with a national instrumentation company, a new interface will be developed for direct coupling of liquid and gas chromatography. The ultimate goal will be to increase the detection window for doping products. Funded by the Ministry of Science and Innovation. **135,520 euros**.
- Steroid profiles in athletes and their relationship with physiological and genetic parameters. Development of mathematical models for the determination of steroid threshold levels in doping control. This will allow the design of an effective mathematical model for the detection of cases of doping with natural steroids. It would imply a very useful tool to enable the directed and intelligent activation of tests. Funded by the Ministry of Science and Innovation. **149,790 euros**

Other Research Projects:

- Detection of doping with caffeine. The ergogenic effect of caffeine has been studied together with the determination of selective markers for the detection of the use of caffeine for fraudulent purposes in sports. A second part of this project has been designed and will be deployed by the European University in Madrid.
- Other studies: Financial assistance with postgraduate training.
- Training of Laboratory Technicians in animal doping detection and analytical techniques.
- Creation of an advisory group of Scientific and Technical Experts.
- Constitution of the **Medical Unit with health-care professionals** (four physicians) for the collection/taking of control samples and other functions relating to biomedical research in collaboration with the Doping Control Laboratory.
- The Doping Control Laboratory distributes scientific information through the dedicated newsletter, available to the CSD, the Spanish Olympic Committee, the Spanish Sports Federations, the Regions, Universities, specialist mass media, among others.
- We should note here the co-ordination provided by the AEA to the IOC, the COE, the WADA and a group of Spanish doctors/scientists in connection with plasma derivatives enriched with growth factors for the recovery of lesions in athletes. As a result of this study, the WADA has withdrawn "preparations derived from platelets" from the List of substances and methods prohibited in sport that will come into force on January 1st, 2011.

6. ARTICLE 6. Education

Compliance by Spain:

Education and training leading to a gradual mindset shift is one of the **basic tasks** in preventing and fighting doping in sport. It has been presented to the State Anti-Doping Agency and its goals have been announced to Society in general, to the pertinent Institutions and the Agents most directly affected through more than 25 fora.

In general:

1. Specific materials from the World Anti-Doping Agency disseminated in Spain by the AEA.
2. Institutional presence and dissemination activities at national and international meetings.
3. Communication campaigns and dissemination of values: "Deporte-Salud" (Sport-Health) and "Deporte-Limpio" (Clean Sport) under way with the Spanish Radio and Television Corporation (RTVE) and the CSD.
4. Social Pedagogy plans and proximity with technical experts, managers and people with responsibility within the Administrations. Presence at fora, seminars, meetings and workshops.
5. Involvement of top-level athletes in dissemination campaigns, prevention and social pedagogy.
6. Co-ordination with the Health and Doping Control and Supervision Committee of the C.S.D for the purposes of training in this area.
7. Joint efforts with the Regions for the preparation of training material.
8. Leading role in this educational activity of the direct action by sports clubs and Universities, particularly the Schools specializing in Physical Activities and Sports.
9. Work lines in collaboration with the Spanish Olympic Committee to strengthen deterrent policies involving Sports Federations and athletes.

Specifically:

PREVENTION CAMPAIGNS IN FAVOUR OF CLEAN AND HEALTHY SPORTS

- An on-going collaboration is under way with RTVE through a campaign with institutional messages and spots referring to "CLEAN SPORT. HEALTHY SPORT. PRACTISE IT". (TVE's channels 1 and 2 and the Teledporte sports channel).
- A SECOND CAMPAIGN with positive training and preventive messages given directly by top-level Spanish athletes: Rafa Nadal, Andrés Iniesta, Iker Casillas, Vicente Del Bosque, Gemma Mengual, Chema Martínez, Ricky Rubio, Amaya Valdemoro, Almudena Cid, Ederne Pasaban, Ángel Nieto, Jorge Lorenzo, Toni Elías, Marc Márquez, Erika Villaécija, Carlos Sastre, Theresa Zabell, Conchita Martínez, David Barrufet, Marta Mangué, Diana Sánchez...
- An agreement was signed with the State Lottery and Gambling Agency to include the AEA's logo on betting coupons and lottery tickets with the message "CLEAN SPORT. HEALTHY SPORT. PRACTISE IT".



- **First quarter:** “La Apuesta Hípica”
1,749,000 tickets
 - **Second quarter:** “El Quinigol”
25,755,000 tickets
 - **Third quarter:** “La Quiniela”
55,683,000 tickets
 - **Fourth quarter:** “La Apuesta Hípica”
1,749,000 tickets
- Total 84,936,000 tickets**



ON-LINE COURSE:

“Doping – Any questions?”, targeting members of the federations, athletes, sports institutions,... There are 66 sports federations in Spain that have issued a total of 3,470,659 official sports licences.

UNIVERSITY WORKSHOPS ON PREVENTING AND FIGHTING AGAINST DOPING

- Faculty of Sports Sciences at the University of Castile La Mancha.
- Faculty of Sports Sciences at the University of Extremadura (Mérida).
- Faculty of Sports Sciences and Physical Activity at the University of Oleiros - Corunna.
- Faculty of Physical Activity and Sports Sciences at the European University in Madrid.
- Faculty of Health, Physical Activity and Sports Sciences at the Saint Anthony Catholic University in Murcia.
- Faculty of Sports Sciences at the Public University in Murcia.
- Faculty of Physical Activity and Sports Sciences and the Faculty of Law at the University of Granada.

PUBLICATIONS AND MATERIALS PREPARED BY AEA

Aimed at society in general, the educational sector and the world of sport.

- Comprehensive approach and treatment to undertake the fight against doping in sports effectively. In paper and electronic formats.
- “Clean Sport, Healthy Sport” informative guidelines.
- Leaflet with the Royal Spanish Cycling Federation.
- Story from the WADA: “Always the last one picked”. Choose your own adventure.
- Posters targeting all stakeholders in the Spanish education system.
- Handbook on Good Practices in Physical Activities and Sports (aimed at technical experts and teachers).
- Leaflet: “Clean and healthy physical activity and sports” (aimed at schoolchildren).

THE SCIENCES OF PHYSICAL ACTIVITY & SPORT AND PREVENTING AND FIGHTING SPORTS-RELATED DOPING

One extremely relevant agreement is that signed with the Spanish Conference of Institutes and Faculties of Physical Activity and Sports Sciences. This implies the preparation of **five training blocks** so that they can be used by students in connection with preventing and fighting doping **in sport** at all the **Faculties of Physical Activity and Sports Sciences**.

7. ARTICLE 7. Collaboration with sports organizations regarding the measures they must adopt

Compliance by Spain.

The Spanish Sports Federations have two wide-ranging powers in this area:

1. The **performance of doping control** according to the schedule drawn up by the Health and Doping Control and Supervision Committee.

These tests are performed either by the Federations with their own resources or else through collaboration with the State Anti-Doping Agency, as is the case of the 2010 European Athletics Championship held in Barcelona; the Spanish Boxing Federation, the Spanish Hockey Federation or the Spanish Bowling Federation. In addition, technical and health-related support was provided to the Tour of Spain Cycling Race at the request of the sponsors, Unipublic. The AEA expects to collaborate in future with the execution of tests for the Royal Spanish Handball Federation and the Royal Spanish Football Federation.

The Sports Federations carry out the tests through the Doping Control Agents, who must be, as per the requirements of Spanish legislation, members of the medical profession. As of this date, **427 Doping Control Agents** have been accredited, distributed throughout Spain.

The High Council for Sport provides the Federations with annual financial assistance to meet the costs of doping control and analyses; this assistance is received as public funding reflected in their budgets.

For its part, the Doping Control Laboratory of the State Anti-Doping Agency considers solely and exclusively the real costs of the analytical tests, without any profit margin, so that they are economically acceptable for the Federations.

2. The **exercise of disciplinary powers**, by delegation from the High Council for Sport.

Spanish legislation considers the imposition of penalties by the Administration, by application of the principle of successive concurrence, in those cases where they are not imposed in due form and time by the Federations, thus avoiding both legal uncertainty and non-compliance with the sanction.

All Federations reflect in their Statutes and Regulations certain **precepts** on the **fight against doping**, including the obligatory nature of anti-doping control for athletes and the corresponding chapter on violations and sanctions.

Since the enactment of Organic Law 7/2006, the deadlines for the processing of disciplinary proceedings have been shortened.

The Sports Federations regularly receive updated training **from the State Anti-Doping Agency** and the **High Council for Sport** on the subject of recent knowledge, new matters, current protocols within Spain and in the international arena, mainly addressed to their Doctors, Anti-Doping Committees, Disciplinary Committees, etc.

For their part, the Federations adopt positive measures aimed at their members for health protection and the eradication of doping in sport, through awareness-raising about the importance entailed by the protection of athletes' health:

- Medical examinations, not mere bureaucratic check-ups, for obtaining a licence from the federation, using, where appropriate, the corresponding Unit of the High Council for Sports.

The Spanish Sports Federations are furnished with specific material and are urged to **organize jointly their prevention actions** and the fight against doping.

In this sense, the following events have taken place since the creation of the AEA:

- **2 Seminars with Spanish Sports Federations:** Aiming at sharing in updating the regulations and the various circumstances that the Sports Federations, their technical staff and their athletes may have to face on such aspects as the planning and the performance of doping control, the chain of custody, lab work, the opening of disciplinary proceedings for the imposition of penalties and other complementary actions in prevention and training tasks.
- **1 specific workshop requested by the Royal Spanish Football Federation.** Aimed at updating protocols and procedures, covering Five-A-Side football, Women's Football and 2nd Division B games.
- **Further seminars are scheduled** with Spanish Sports Federations on this subject of updates for January next year.

The Sports Federations can access and connect to the web sites of the AEA and the High Council for Sports, and they regularly receive pertinent information through the AEA newsletter, etc.

It is worth pointing out the efforts made by the AEA in terms of providing information and advice through the **Medical Advice Unit and the Psychological Advice Unit for Clean and Healthy Sport**. The Federations use this service offered by the Agency for both medical and psychological consultations for their athletes.

Spanish Sports Federations strictly abide by the List of substances and methods prohibited in sport, as approved by the Resolution of 19th December, 2009, adopted by the Senior Management of the High Council for Sports.

This Resolution is inexcusably applicable to all doping control procedures in sport when they are carried out in official state-level competitions or, out of competition, on athletes holding a licence to participate in such competitions.

One-off actions with international significance

- A collaboration agreement was signed with the Spanish Pelota Federation, with the acquiescence of the Union of European Federations of Basque Pelota and the International Federation of Basque Pelota. The AEA disseminated its policies on the fight against doping at the Pelota World Championship held in Pau, France, in October, 2010.
- Through its Director, the AEA has taken an active part in the third Working Group Meeting of INTERPOL experts in doping, held in Stockholm in October, 2010, and focussing on the trafficking of doping-related substances due to the existence of international networks.

Spain has submitted a request to organize the next meeting of this INTERPOL working group.

8. **ARTICLE 8 and following:** With regard to international co-operation, notification of information and the Monitoring Group. Attention is drawn to how the Parties will co-operate closely within the scopes referred to in the present Convention and will **encourage analogous co-operation among their sports organizations.**

Compliance by Spain.

It is necessary to underline how Spain has historically been collaborating with the Council of Europe:

- 1981-1989 Spain formed part of the Working Group created to draft an Anti-Doping Convention (at that time through the CSD).
- Since 1989, Spain has attended the meetings of the Monitoring Group as a State Party to the Anti-Doping Convention.
- Spain regularly attends the sessions of the CAHAMA.
- Since its creation, Spain has formed part of the following Advisory Groups of the T-DO:
 - T-DO SCI scientific group
 - T-DO LI legal group

Spain is a pioneer in collaborating with the Council of Europe in the fight against doping in sports, a task undertaken with ever greater involvement.

Other co-ordinated international actions

- The President of the High Council for Sport, i.e. Spain's Secretary of State for Sport, chairs the Conference of the Parties to the International Convention against Doping in sport (UNESCO) and is a member of the Executive Committee of the WADA. His mandate was extended last October.
- The CSD and AEA collaborate with the others countries like Colombia, Ecuador, Portugal, China...
- The AEA Doping Control Laboratory has had and continues to have strong relations for collaboration and the interchange of scientific and technical expertise with other laboratories on 5 continents. It has tutored and continues to tutor laboratories in other countries such as: Argentina, Colombia, Chile, Mexico, Portugal, Tunisia and Rumania, a task that has culminated with WADA's accreditation for the laboratories in Colombia and Tunisia. (Agreement signed between the Laboratories of Madrid and Tunisia for the interchange of expertise and scientific scope). Director and technical staff take part in the control of samples in Internationals competitions. Ex: Turin Olympic Games
- We should note here the co-ordination provided by the AEA to the IOC, the COE, the WADA and a group of Spanish doctors/scientists in connection with plasma derivatives enriched with growth factors for the recovery of lesions in athletes. As a result of this study, the WADA has withdrawn "preparations derived from platelets" from the List of substances and methods prohibited in sport that will come into force on January 1st, 2011.
- Spain has actively participated in the initiation and development of the battle against doping in the Principality of Andorra, Argentina, Colombia, Guatemala, China, through its training and dissemination work lines. These will continue through a forthcoming Agreement between the AEA and the Principality of Andorra.

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| <p>The AEA has shown its favourable disposition to the joint dissemination with the Council of Europe of both its plan for preventing and fighting doping in sports and also the permanent collaboration for possible speeches, presentations or public activity that the Council of Europe may deem appropriate to arrange.</p> |
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B. Report of the evaluation team

Introduction

The visit of the evaluation team was carefully organised by the High Council for Sport (Consejo Superior de Deportes (CSD)). The Compliance with Commitments report covered all the articles of the Convention. The report had several authors and the visit started with an internal meeting to discuss the prepared report and ask additional questions. During the visit the team also had the opportunity to meet representatives from the Health and Doping Control and Supervision Committee (Comisión de Control y seguimiento de la Salud y el Dopaje, CCSSD) and the State Anti-Doping Agency (La Agencia Estatal Antidopaje, AEA), the main authorities within anti-doping responsibilities in Spain. The team also had the opportunity to listen to representatives from the Spanish Sports Disciplinary Committee and from different sports organisations as well as from universities engaged in health protection of sportsmen and in the fight against doping .in sport and law enforcement public institutions.

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.

Spain ratified the Convention in 1992. Even before the ratification Spain had legal instruments on the matter of the fight against doping in sport. Already in the General Physical Culture and Sports Act (Law 13/1980) the High Council for Sport was given the responsibility to collaborate with the sports federations in monitoring illegal practices in the performance of athletes. Through the Sports Act (Law 10/1990) a National Anti-Doping Commission was set up.

The aim of the Convention has been implemented by Spain through various measures. It is evident from the report that Spain pays a lot of attention to the problem of doping and takes steps necessary to apply the provisions of the Convention. Major actions for prevention and fighting doping in sport in Spain are undertaken by State Anti-Doping Agency (AEA) and the Health and Doping Control and Supervision Committee (CCSSD) in collaboration with Spanish sports federations.

All the organizations involved in the fight against doping follow the Public General Act on health protection and the fight against doping in sport (7/2006) in their activity. The law which structures the phenomena of doping and defines instruments for fighting against it as well as assigns activities for fighting against doping in sport for some governmental and non-governmental institutions was considered a breakthrough for harmonization of the state anti-doping legislation with the requirements of the Convention. It should be noted that Spain has performed fundamental and consistent work for improving the national legislation with regard to fighting the doping. Spanish legislation includes a lot of different level legislative acts that regulate different aspects of the fight against doping in sport, such as prevention, health protection, testing and punishing.

In March 2003 what was then known as the National Anti-Doping Commission (which was performing some functions of a national anti-doping organisation) accepted the adoption of the World Anti-Doping Code. Later the World Anti-Doping Code was also accepted by the AEA and the CCSSD.

Spain has two internationally accredited anti-doping laboratories, one in Madrid and one in Barcelona.

The evaluation team found that the political commitment expected in Art. 1 is fulfilled.

Article 2 – Definition and scope of the Convention

1 For the purposes of this Convention:

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

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

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

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.

a) According to the definition given in the Public General Act 7/2006, doping in sport is a breach or violation by persons obligated by the regulations in the Act. The violations mentioned in the Convention -“administration to sportsmen or sportswomen, or the use by them, of pharmacological classes of doping agents or doping methods”- are included in the law, which in this matter has a wider range than the Convention.

b) The definition in the Convention on forbidden classes of doping agents and of doping methods refers to those banned by sport and approved by the Monitoring Group. The list that is applied in Spain is not exactly defined. The Public General Act 7/2006 gives, with reference to the international commitments and obligations assumed by Spain, and in particular within the framework of the UNESCO, the High Council for Sports the assignment to by order from the Presidency publish the list of substances and methods prohibited in sport annually in the “Boletín Oficial del Estado” (Official State Gazette). The evaluation team understood that the list published is the WADA list. If the Monitoring Group would decide on a list that is not in accordance with the WADA list, which is fairly improbable, the problem would have international complications and affect all signatories to the Convention and would have to be dealt with in some way.

c) The Convention defines sportsmen and sportswomen as those persons who participate regularly in organized sports activities.

The subjective scope of application of the Public General Act 7/2006 extends to athletes with a State federation license or with a recognized regional license for sports competitions organized, promoted or authorized by a Spanish Sports Federation. The objective scope of application of the law is determined by official sports competitions at a state-wide level organized by sports institutions within the framework of the Sports Act (Law 10/1990, of 15th October).

Prohibition of doping in sport is regulated in the law and concerns only a particular category of sportsmen and sportswomen, namely those who have a necessary license and not all the persons participating in the organized sport activities as it is foreseen in the Convention.

The evaluation team finds that the definition in the Public General Act, where anti-doping rule violations are regulated, is too narrow and recommends Spain to harmonize the definition of sportsman/sportswoman given in the Public General Act 7/2006 with that one in the Convention by legislating the prohibition for doping in sport for all the persons participating in the organized sport activities. In the other aspects of the Article the evaluation team finds that the scope of the Convention and the definitions applied are taken into account in a satisfactory manner.

Recommendation

To broaden the definition in the Public General Act to harmonize the definition with the one in the Convention

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.

According to the Public General Act on the protection of health and the fight against doping in sport (Law 7/2006) the powers of the state administration in the anti-doping field are exercised by the High Council for Sport (CSD) through the Health and Doping Control and Supervision Committee (CCSSD) and by the State Anti-Doping Agency, (AEA).

The Spanish anti-doping system, with the publication of the Public General Act 7/2006, leads to a broad involvement of different governmental and non-governmental institutions with the same spirit: “tolerance zero to doping”.

The report describes that AEA through different ministries has a broad range of cooperation with other institutions such as:

- Center for legal studies on training and specialization of medical examiners;
- Law enforcement agencies, Guardia Civil and Policia National, and the office of the General State Prosecutor by creation of the “Mixed AEA Monitoring and Cooperation Committee”. to combat the possession and trafficking of prohibited substances and methods;
- Several universities or university institutions to develop research and training programs for the athlete support personnel;
- Training of Forensic experts of institutions of the Ministry of Justice at the Madrid Anti-Doping Laboratory;
- Ministry of Science and Innovation in order to finance research lines dedicated to the anti-doping field.

The good results from such cooperation are described in the report and in presentations to the evaluation team.

It is important to emphasize the cooperation between AEA and the Ministries of Health and Education and with the Spanish Olympic Committee. This is crucial to raise awareness concerning the health consequences of doping and to alert the youngsters about the importance of the fight against doping in terms of the protection of ethics in sport.

The cooperation between national federations on one hand, and between CCSSD and AEA on the other hand, is very important to involve the sports organizations in the fight against doping. However, if the involvement of the national federations is wanted in terms of sharing information and education amongst their athletes and support personnel, and even in collaborating with CCSSD and AEA in the definition of the National Anti-Doping Program, it seems not advisable that they become responsible for the realization of doping controls in their own sport or that the doping control officers (DCO), although trained by AEA and licensed by CCSSD, are to be directly related with each national federation.

As said above the anti-doping activities are carried through by the CCSSD and the AEA. The powers, functions and goals of the AEA as well as the functions of the CCSSD are described in the report. Sometimes, though, it is difficult to understand the different responsibilities of the two institutions in terms of the fight against doping and the way they are interconnected.

The decision to attribute the responsibility for the coordination of the fight against doping in sport to two different institutions - CCSSD and AEA - created a large involvement of different stakeholders inside the Spanish society in terms of the fight against doping and this represents a very positive aspect. The composition and activities of CCSSD are important to involve different ministries like Health, Home Affairs and Education, Autonomic Regions. But also the sports side is involved through national federations and their physicians, professional leagues, associations of athletes, medical doctors and nurses and persons of renowned prestige in the scientific, sports, medical and legal areas in the anti-doping fight.

The contributions and activities of AEA involve the realization of different agreements, not only with different ministries, autonomic regions and law enforcement public institutions but also with other important stakeholders from the Spanish society like, for example, the Spanish Olympic Committee, universities, lottery, national federations, sports associations, teams and clubs.

The benefits of this system - having the attributions of the fight against doping shared by two governmental institutions - in terms of involvement of a broad part of Spanish society must be balanced with a definition sometimes unclear of the attributions of each institution. This can have undesirable consequences like the involvement of too many stakeholders with information that must be shared only by a restricted number of persons in order to preserve one of the main aspects of an anti-doping system – confidentiality.

The involvement of different Spanish Autonomic Regions in the fight against doping and the cooperation between those and AEA represents also a surplus value, mainly in terms of protection of health, sports promotion and in education, areas that are autonomic attributions according to the Spanish Constitution. Nevertheless, it is important to regulate the contributions of the autonomic regions as far as doping control is concerned in order to avoid duplications and a lack of supervision in the National Anti-Doping Program.

The Public General Act 7/2006 defines that “In the event of there being Anti-Doping Agencies within the scope of the Autonomous Communities, a body shall be set up at the offices of the State Anti-Doping Agency so that the former may participate in information, debate and cooperation with regard to State public policies in the area of doping”. From information gathered after the evaluation visit fact is that although all regions have the power to perform doping controls only one of them is performing such controls. The regions can only perform doping controls on athletes with a regional license. The CCSSD can only select national level athletes. The CCSSD gets a copy of the doping control forms for information on a performed regional control. There are two instruments to coordinate the performance of controls at national and regional level. The first is the meetings of General Directors on Sport in Spain. And the second one is through different bilateral agreements signed between each one of the regions and the State Anti-doping Agency.

The evaluation team finds that the provision in Article 3.1 is well met with the involvement of many government departments and other public agencies in the fight against doping in sport.

As pointed out the evaluation team finds it difficult to see the division on the tasks of anti-doping work between CCSSD and AEA and that there are too many organizations and persons involved in the work and especially the carrying out of doping controls, with a risk of a leak of confidential information and double work. This point will be more developed under article 7 and some recommendations will be given.

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.

Due to the fact that the Sports System in Spain in general is created and (fully) governed by national (or where applicable regional) law a dense legal framework has emerged over the last decades. Hence the legislation concerning the restriction of the availability and the ban of doping agents/methods is complex and split between several laws, royal decrees or other rules issued by the President of the High Council for Sport (CSD). Furthermore legislation and regulations of authorities from other departments such as the Ministries of Justice, Security and Defence have to be taken into consideration for the assessment.

Primary source for the regulations concerning the availability/ use of doping agents and the basis of administrative law is the *Sports Act (Ley del Deporte 10/1990 October 15)* where in its preamble the necessity of the establishment of instruments for an effective fight against the consumption of prohibited substances and the use of prohibited methods is explicitly mentioned. Title VIII of this law is dedicated to the control of substances and methods prohibited in sports. The competence for the issuing and elaborating the list which contains the prohibited substances and methods is assigned to the CSD (Article 56) whereas Article 58 constitutes the obligation for all the licensed sportsmen/ - women for submission to all requested doping controls (OOC and IC Tests) by the CSD, the Spanish sports federations, the Professional Leagues or the former National Anti-Doping Commission.

The Title XI on “La disciplina deportiva” contains amongst others various definitions of infringements in sports. Most important for the establishment of an efficient anti-doping regime is the classification of restricting the use of substances and methods as a severe infringement of the rules of the game, of competitions or any other general rules of sport. Therefore Article 76 Subsection 1d in the Law states that

“The promotion, consumption, incitement or the use of prohibited methods such as referred to in Art 56 of this Law (...)”

are to be considered in any case as a severe infringement of the rules of the game. In addition the denial of undergoing or hindering of a doping control, the disregard of providing all requested data and the submitting of false data by sportsmen/ -women are classified as severe infringements. Moreover Article 76 in its Subsection 8 defines the legal hierarchy for the issuing of possible further rules on the protection of health and on doping, clarifying that any infringements stated within these other rules are to be considered as severe infringements of sporting rules.

These additional rules regarding doping in sports have been enacted through the *Public General Act on the Protection of Health and the Fight against Doping in Sports (Ley Orgánica de protección de la salud y la lucha contra el dopaje en el deporte 7/2006 November 21)*. Primarily this law gives a detailed definition of doping (in Sec 1 and 13f). Within the rules determining the scope of application of this regulation Sec 1.8. the CSD in general shall be responsible for establishing policies to fight against the use of substances and methods through measures that help to prohibit their sale, dispensing or use by any means. Following the provision of the Sports Act, as mentioned above, the law 7/2006 specifies the various elements of the availability and use of prohibited substances and methods. Section 14.1. considers inter alia the following acts and omissions as very serious violations relating to doping:

“g) The possession of substances or the use of methods that are banned or unauthorized in sport, when there is no authorisation for therapeutic or medical use (...), or when the volume or quantity of the substance, instruments or methods is unjustifiably high or disproportionate to being administered or applied for medical or therapeutic ends;
h) The administering, dispensing, offering, providing or supplying to sports people of substances or the use of method that are unlawful or banned in sports practice;
i) The promoting, encouraging, contributing, instigating or facilitating of conditions for the use of banned or unlawful substance or methods or any other activity that encourages sports people to use products or to behave in a way not permitted by the rules controlling doping or that are aimed at
placing at the disposal of sports people substances or methods banned or unauthorised in sport;j) The collaboration or participation, by action or omission, in the putting into practice of unlawful methods or in any other behaviour that is in breach of the regulations against doping.”

After establishing the facts for the definitions of violations the penalties for the various different possible offenders are set out in the Sec 15 and subsequent. Sports people are fined and suspended for a period of two to four years, whereas the violation of Sec 14.1. h) and i) does result in an increased fine and an even longer period of ineligibility. Along with fines sport clubs and teams can be deducted points or lose rankings within a classification or even suffer relegation. Technicians, umpires or referees, managers or directors can be fined or receive a temporary suspension of the authorization to fulfil sports positions. Finally team doctors and health personal who carry out health functions under a sports license or equivalent authority are addressees of these regulations as well. Due to the naturally limited competence of the CSD team doctors/health personal can only be

suspended their sports licences or can be fined. Sec.43 though points out on general that all doctors and health personal shall be subject to disciplinary action in case of prescribing, providing for collaborating and dispensing of substances and methods liable to produce doping.

Furthermore one of the most essential parts for effective implementation of measures for control and supervision of substances and the use of methods is the development of various collaborations of State (Administrative) Authorities. Sec 38 of the Public General Act 7/2006 does relate to the traceability of certain products and enables the CCSSD to ask the Spanish Drug and Health Product Agency, as well as the Spanish Food safety Agency to adopt certain measures to trace certain products in connection with doping. Also possibilities for cooperation of the CSD with the State Health Inspection services, the state Security Forces and National Corps or the Department of Customs are provided for in general. The Ministry of Health and Consumer Protection is responsible for and shall establish in accordance with the CSD specific mechanisms to inform and publish the relevant nutritional facts for substances. Moreover the sale or the distribution of these products is forbidden in stores dedicated to sports activities.

In addition to the various administrative laws/regulations, the Public General Act 7/2006 in its Section 44 introduces a new section of the *Spanish Penal Code* (Public General Act 10/1995 dated November 23):

“Section 361a.

1. Those who, without therapeutic justification, prescribe, provide, dispense, supply, administer, offer or make available to federated non-competitive sports people, non-federated sports people who play recreational sport or sports people who take part in competitions organised in Spain by sports entities, banned substances or pharmacological groups, as well as non-authorised methods, aimed at increasing their physical capacity or modifying the results of competitions, which, by their content, repetition of ingestion or other attendant circumstances, place the life or the health thereof in danger, shall be punished with prison sentences of six months to two years, a fine of six to eighteen months and special withdrawal of authorisation for public employment or position, profession or office, from two to five years.

2. The upper half of the penalties provided for in the previous paragraph shall be imposed when the offence is committed with any of the following circumstances also occurring:

1. When the victim is a minor.

2. When deceit or intimidation has been employed.

3. When the person responsible has taken advantage of a relationship of superiority in employment or professional terms.”

Establishing the supply/dealing of/with doping agents or the use of methods as an element of a criminal offence is one of the most essential and effective steps to limit the availability and use of doping agents. Subject to criminal law is everyone independently of his/her (other) involvement in sports. This takes the fight against doping from a mere sporting issue to a more broaden social matter and raises awareness throughout society. Furthermore criminal law entails investigation and enforcement powers for State Prosecution and even Police Forces and therefore ensures and supports a sustainable fight against doping.

The excerpt above from the Spanish Penal Code shows that certain actions will be punished, but only if they are directed to sports people who play recreational sport or sports people who take part in competitions. So there seems that it is not criminalised to prescribe, provide etc doping substances to people outside sport. But the convention concerns only doping in sport so the evaluation team finds that Spain fully meets the requirements of article 4.1.

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.

Concerning the topic of grants or subsidies pursuant to this article of the Convention has to be stated that due to the little information on the funding system, the evaluation committee had to research on its own account. Therefore this result can not make a claim to be complete.

Since the Spanish Sport System is widely based on state law the relevant basic laws and regulations had to be explored. The *Sports Act (Ley del Deporte 10/1990 October 15)* does comprise within its chapter III rules for the establishment of Spanish sport federations, their statutes and for their registration within the Register of Sport Associations.

Anti-Doping rules or rather the topic of anti-doping for sports federations are only stipulated within the Art 32 Sec 4 in connection with the sports federations of the autonomous regions. This rule relates to anti-doping regulations within eligibility requirements for sports people for competitions and the withdrawal of licences in case of violation of such requirements. There are no other special prerequisites or standards such as the compulsory adoption of anti-doping rules, for the establishment and registration of sport federations within this law than the regulations already mentioned. Moreover the *Royal Decree 1835/1991 dated September 20, 1991 on the Spanish Sport Federations* which specifies the requirements for the creation and registration of a sport federation does not contain any rules or regulations for anti-doping either.

As far as the funding of sports federations is concerned no obligation for the federations to adhere to anti-doping rules could be detected within the latest public convocations for subsidies or funding for sport federations. Also within the *Law for General Subsidies (Ley 28/2003 dated November 17, 2003)* or the *Royal Decree 887/2006 dated June 21, 2006 on the regulation of General Subsidies nor the Legal Ordinance ECI/2768/2007 dated September 20, 2007 on the basic criteria for the grant of subsidies of the High Council for Sports (CSD)* no such rules could be discovered.

There is nothing in the Public General Act 7/2006 that stipulates the withdrawal from sports organisations of grants or public subsidies if they do not effectively apply anti-doping regulations. The seventh final provision of the Public General Act 7/2006 states that the sports federations should adapt and amend their own anti-doping rules in compliance with the Spanish law and with the anti-doping rules of the related international federation. To what extent their regulations are in compliance is unknown to the evaluation team It is also unknown if the subsidising is dependent on applying these regulations.

In the report prepared by Spain it is only mentioned that rules on some funding for specific subsidies to the sports federations for certain doping control programmes can be found within the regulations for the budget of CSD.

From this review the evaluation team cannot find if any appropriate steps to withhold grants in case of doping violations in connection with Sports Federations have been taken by Spain..

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;

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.

4.3 a According to the Spanish report the AEA receives grants for the execution of the fight against doping. The AEA passes on solely and exclusively the real cost for the doping analyses. The seventh additional provision to the law 7/2006 obliges the public administration to establish a system to finance the anti-doping controls in sports activities. The evaluation team was told that the costs for the doping control officers were covered by the AEA. Only in official competitions of a professional nature, when there is no agreement between the federation and the professional league and the CCSSD orders doping controls the costs shall be shared by the sports federation and the CCSSD (Section 11.4. of the Public General Act 7/2006)

4.3 b According to Article 51 of the *Ley del Deporte 10/1990 October 15* the CSD has the government supervision and the control over sports on the highest professional level. The rules for individual sportspeople relating to funding are much more difficult and stringent.

First of all the *Royal Decree 971/ 2007 July 13 on the sportsmen and –women on the highest professional level and highest level of performance* in its Art 15 b) does threaten the sportsmen/ -women with the loss of their high-profile status as consequence for the involvement with a doping offence. Furthermore the criteria 9b within the *Resolución de la Presidencia del CSD dated January 12, 2004 for the establishment of general criteria for subsidies for World and European Championships* does exclude sportsmen/-women from funding if he/she has been convicted with a doping offence. This system is also pursued within the latest criteria for the Olympic Games in London 2012, where general criteria for funding have been published.

4.3c This issue is regulated within the law 7/2006 which in Section 30 states:

“1. The responsibility for organising and carrying out doping controls in international competitions held in Spain corresponds to the IOC or to International Sport Federations or other institutions that organise them, respectively, or to those federations delegated with the aforementioned responsibility by the latter.

2. They are also responsible for exercising disciplinary powers (...), regarding the efficiency of penalties that may be imposed by them.”

So the entitlement to carry out doping control in international competitions held in Spain is granted. Rules on out of competition testing are stipulated in Sections 31 and 32 of the law. Section 31 gives

the CCSSD the right to order out of competition controls on foreign sports people located in Spain who are using publicly owned training centres or facilities. Carrying out of such controls requires according to section 32 that the AEA be notified of the proposals and the material conditions of their performance. International sports organisations and the AEA may enter into collaboration agreements so that the latter may carry out, materially, the doping controls required.

Thus, out of competition testing on sports people is only dealt with from the perspective of the relevant Spanish Public Authority, the CCSSD.

Section 3.2.2 g) of the Public General Act 7/2006 states that the CCSSD shall be informed by WADA or International Federation of planned controls out of competition as well as controls carried out in competition.

In any case the requirements for doping controls as stipulated in Article 2 have to be adhered to, in particular the obligation that controls have to be carried out by medical doctors (and authorised health personnel).

4.3 d Nothing is mentioned in the report prepared by Spain about the possibility of members of a Spanish sports federation to be tested abroad. The evaluation team assumes that the obligation for an athlete to assent to a doping control abroad is also valid if the doping control is staged abroad. The federation in question who has the assignment from CCSSD to perform the control on the athlete has the responsibility to conduct it, either by themselves or by another authorised doping control team. Spain also signed the additional Protocol to the Convention.

The evaluation team finds that the article 4.3 is fulfilled.

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.

As can be noted by what is written earlier under this article there is an amount of legislation on different levels that regulates anti-doping matters. The sports federations are obliged to have regulations that are in compliance with the regulations of their international federation and the Public General Act 7/2007.

The evaluation team has got the impression that there are no regulations that are incompatible with the principles of the Convention.

When taking into account what is written in the Spanish report and what has been described above the team has nevertheless some suggestions.

To facilitate carrying out of doping controls by international federations and WADA the evaluation team finds that there should be a rule which explicitly permits such organisations to conduct out of competition testing.

The evaluation team also thinks that an amendment would be useful to section 44 in the Public General Act 7/2006 section 44 in order to increase the imprisonment penalties for crimes related with the prescription or administration, without therapeutic justification or with trafficking of prohibited substances and methods to, at least three years in order to allow for effective penalties of imprisonment to persons that commit a first infraction. The amendment should also relate the prohibited substances and methods described as the ones defined in the Prohibited List mentioned in section 12 of the Public General Act 7/2006.

Lastly the evaluation team would like to point out the possibility in connection with measures to restrict the availability and use of banned substances and methods to allow for- if legally possible – a sustainable exchange of information on doping cases and intensified collaboration between the various state forces and anti-doping agencies involved in the fight against doping.

Recommendations

To clearly make it a criterion for the grant of public subsidies to sports organisations and a criterion for the withdrawal and reclaim of already granted subsidies that they effectively apply anti-doping regulations.

To strengthen the penalties for acts enumerated in section 44 of the Public General Act 7/2006 and relate them to the list of prohibited substances and methods published by the High Council for Sport.

To facilitate and encourage exchange of information and collaboration on doping cases between state forces and anti-doping agencies involved in the fight against doping.

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.

Spain has two anti-doping laboratories (Barcelona and Madrid) both accredited by WADA and working in compliance with the International Standard for Laboratories approved by the Monitoring Group in accordance with the article 11.1.b of the Anti-Doping Convention. Both laboratories are also accredited with the ISO 17025 Norm, as required also by that International Standard. These laboratories have very good quality standards. The Madrid Anti-Doping Laboratory was created in 1969 and accredited since 1982 and the Barcelona Anti-Doping Laboratory was created and accredited before the Barcelona Olympic Games.

The two laboratories analyzed in 2009 a total of 10 837 samples, 7 132 in the laboratory in Madrid and 3 705 samples in the laboratory in Barcelona, not only from the National Anti-Doping Program but also from international clients like for example WADA, UCI, IAAF, UEFA, FIFA and FINA.

Both laboratories can analyze urine and blood samples, but the national anti-doping system didn't use all the analytical capacities of their own laboratories because blood samples are not yet collected in the national anti-doping program.

The Madrid Anti-Doping Laboratory is a unit of State Anti-doping Agency (AEA) and it is financed by the budget that AEA receives from the Spanish Government. The Barcelona Anti-Doping Laboratory belongs to the Neuro-Psycho Pharmacology Research Program of the Municipal Medical Research Institute in Barcelona (IMIM) and is part of the Research Area of Barcelona's Municipal Health-Care Provision Institute (IMAS). The High Council for Sport (CSD) established an agreement with the Barcelona Anti-Doping Laboratory to analyze between 1500 and 2000

samples collected in the National Anti-Doping Program, in order to help the laboratory to maintain the WADA accreditation. Actually each accredited laboratory has to analyze a minimum of 3 000 samples per year to maintain the WADA accreditation.

The Evaluation Team received information specially related with the Madrid Anti-Doping Laboratory but no extensive information about the Barcelona Anti-Doping Laboratory.

The Madrid Anti-Doping Laboratory is very well equipped and is installed in very good and secure facilities. There is a good planning for maintenance and acquisition of new equipments.

All the costs concerned with the analysis of samples from the National Anti-Doping Program are covered by CSD, including the ones concerned with professional sports.

The evaluation team finds that Spain very well with its two laboratories meets the requirements of Article 5.1 of the Convention.

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.

The Madrid Anti-Doping Laboratory has high qualified and experienced staff and has a good planning for the training and retraining of its technical and administrative staff. Half of the 32 employees that work in AEA have developed their activities in the Madrid Anti-Doping Laboratory. The Evaluation Team didn't receive any information concerning the Barcelona Anti-Doping Laboratory related with this aspect.

Both laboratories develop research in partnership with universities and other research teams, covering the objectives described in the Anti-Doping Convention. The Evaluation Team emphasizes the research activities developed by the Barcelona Anti-Doping Laboratory that conduced to the development of new methods of detection of prohibited substances and methods. Those were and are being financed by WADA.

Both laboratories published scientific papers with the results of their research. The Evaluation Team wants to underline the publications of the Barcelona Anti-Doping Laboratory in peer-review scientific journals and the work developed by the Barcelona and Madrid Anti-Doping Laboratories in the training and re-training of staff members of other anti-doping laboratories, namely in anti-doping laboratories trying to get the accreditation, mainly in countries of Latin America, this in the scope of the cooperation between the countries that are members of the Ibero-American Sports Council.

The evaluation team finds that Spain very well satisfies the requirements of Article 5.2 of the Convention. The evaluation team though has the two following recommendations.

Recommendations:

To clearly define the legal status of the Madrid Anti-Doping Laboratory to establish its technical and scientific independency, instead of being, as it is now, under the head of one of the three main units of AEA – the Prevention and Testing Unit.

To increase the involvement of the Barcelona Anti-Doping Laboratory in the analysis of samples collected in the scope of the Spanish National Anti-Doping Program and the cooperation between the two Spanish Anti-Doping Laboratories, namely in terms of common detection methods approach and research.

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.

The areas of prevention and education have been developed in Spain parallel to the anti-doping policy since the 1990s. The main focus has been placed on the health risks doping poses for the population as a whole even though it is estimated that less than one percent of the population, according to information given to the evaluation team, is dependent on doping substances. (Nonetheless, prevention and education work is an important cornerstone of the fight against doping in Spain which was given a major boost when the State Anti-Doping Agency (AEA) was set up around two and a half years ago.

Prevention is developed primarily by the AEA and is implemented in cooperation with partners in many different ways, with the provision of nationwide information on the harmfulness of doping being one of the main focal points. Yet individual target groups are also specifically addressed. A few campaigns can be mentioned as an example in this context: The AEA provides online information on the fight against doping, it publishes a newsletter and it provides an online library as well as a USB stick containing the most important information.

27 campaigns have been developed and aired on television in cooperation with a TV broadcasting company. These campaigns are supported by a large number of sportsmen and sportswomen. Campaigns have also been developed for cinemas. Reference to the AEA's "Clean Sports" campaign has been printed on 84 million lottery tickets.

An information leaflet has been developed for children and information has been drawn up for coaches.

The training and integration of multipliers is of special importance. So far, 35 teachers have undergone training at universities to teach children and adolescents between the age of 6 and 16 and there are 900 professors who educated around 13,000 sports students. A compulsory course module on the fight against doping has been incorporated into all degree courses at sports universities. The

current aim is to incorporate this commitment into all teacher training courses at universities as well. It would be equally desirable to incorporate this commitment into courses run by the medical, nursing and law faculties.

Cooperation between the AEA and university circles is exemplary. In 2010, a decision was taken to set up an Observatory in Toledo (initially for a period of 2 years) which will as a research and documentation centre record the social reasons for doping and will draw up recommendations in the healthcare sector. For instance, codes of ethics are to be developed for various groups, media characteristics are to be observed and parents associations are to be targeted. It is possible that an independent degree course may evolve in future in parallel to the work performed by the Observatory. The work performed by the Observatory will also provide an initial opportunity to conduct an open discussion about doping which up to now has tended to be conducted behind closed doors.

The Observatory combines research and politics in a remarkable way. The fact that this Observatory is managed by persons of High Council of Sport (CSD), the AEA and the region, chosen for its location, highlights the universal importance of this institution. Spain therefore fully meets the obligations from Article 6 para. 2 of the Anti-Doping Convention of the Council of Europe.

However, there is still room for improvement in terms of practical doping prevention within the sports federations themselves. The fact that sports federations are independent bodies should not prevent them from providing persons who are active members of the federation with more material that is tailored specifically to these groups' needs, insisting that concrete doping prevention programmes be made mandatory and ensuring by specific control programs that this requirement is met in the sport federations.

It is thought that similar to other countries, the use of doping substances in the area of recreational sport and gyms accounts for the lion's share of revenue generated by the doping substances in Spain. However, there is certainly room for improvement in relation to prevention in the area of leisure sports and of gyms. Although there is general information material available, it seems rather doubtful whether this information material is actually reaching gym users as a target group. It would be desirable to develop an information approach that is oriented to those specific target groups as well as prevention concepts that could be used in leisure sports and gyms in particular.

The evaluation team is impressed by the progress that has been made so far and by Spain's determination to further strengthen doping prevention and education in future. All things considered, Spain has transposed Article 6 of the Anti-Doping Convention of the Council of Europe most effectively. The foundations have been laid both in organisational terms (with the AEA, the universities and the Observatory) and also in the form of information material. Plans for the future are pointing in the right direction and it is anticipated that doping prevention will be of an exceptionally high standard.

Spain meets the obligations ensuing from Article 6 of the Anti-Doping Convention. The evaluation team congratulates Spain on the holistic approach it has adopted in transposing the Convention and hopes that funds will continue to be provided in the years to come so that doping prevention can be implemented on a broad scale.

Recommendations

To incorporate compulsory course modules on doping prevention into courses run by the medical, nursing and law faculties.

To intensify cooperation with parents in the area of prevention.

To urge sports federations to implement doping prevention programmes and monitor the implementation.

To develop a contractual obligation for all individuals working with sportsmen and sportswomen to abstain from taking part in any doping activities (coaches, mentors, therapists etc.).

To enhance the fight against doping at gyms with regard to doping prevention.

To develop material that is tailored specifically to the needs of target groups as well as implementation concepts.

To introduce in the educational programs tools to evaluate its efficiency.

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

1 The Parties undertake to encourage their sports organisations and through them the international sports organisations to formulate and apply all appropriate measures, falling within their competence, against doping in sport.

Spain has created the legal basis to combat doping in sport comprehensively by adopting a wide range of laws and administrative ordinances. The Spanish Constitution (Articles 43, 148, 149) and a variety of laws and royal decrees (in particular no. 1462 issued in 2009) as well as resolutions adopted by Spain's High Council for Sport (CSD) - (in particular Resolution 15177 adopted by the CSD on 19 September 2009) deserve special mention in this context. These comprehensive regulations specify the fight against doping as a whole and impose an obligation on the national sports federations to issue their own internal anti-doping regulations and to ensure that their athletes observe the international anti-doping regulations (in particular the World Anti-Doping Code and the relevant international standards that have been set).

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 judgment 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.

2 a. The World Anti-Doping programme (Code and Standards) was coordinated between all international sports federations and many national anti-doping agencies. The seventh final provision of the Public General Act 7/2006 states that the sports federations should adapt and amend their own anti-doping rules in compliance with the Spanish law and with the anti-doping rules of the related international federation. To what extent they are in compliance is unknown to the evaluation team. That these anti-doping rules are in place could be a task for AEA in order to avoid legal disputes in future disciplinary procedures.

2 b. The list of prohibited substances adopted by WADA applies to all athletes in Spain who are members of a national sports federation and who are licensed to take part in competitions.

2 c. As far as the doping control procedures are concerned, Spain has opted for a multi-layered procedure. The Health and Doping Control and Supervision Committee (CCSSD) forms the top level of the control procedure. Members of this Committee include both government representatives, representatives of sports federations, professional leagues and the regions as well as scientific, medical and legal consultants. Decisions involving sports policy are pooled at this level, particularly those on health protection, prevention and the doping control system. A pool of information (databases and information on the whereabouts of sportsmen and sportswomen) form the basis for planning how many doping controls are to be carried out and for implementing them. The out of competition controls affect 368 licensed sportsmen and sportswomen. Only licensed sportsmen and sportswomen are required to undergo doping controls.

The planning of doping controls, including the use of a whereabouts system, means the use of personal information. The Public General Act 7/2006 gives the right to transfer data and files regarding doping controls to the public or private bodies that are party to and participate in the fight against doping in the sporting area. This right though is limited by the reference to legally binding international commitments entered into by Spain.

However, the doping controls are not normally conducted by the CCSSD itself but by the sports federations which get access to the “whereabouts” data of sportsmen and sportswomen and to the 427 doping controllers who have been licensed by the Committee. In addition the regions also have the right to carry out their own independent doping controls, but only on athletes with a regional licence. The AEA also can perform doping controls as well as the CCSSD itself, when it comes to out of competition controls.

In principle, the evaluation team considers that the control system could be optimised in order to avoid some weak points.

The Committee represents a good combination of the relevant groups that will take decisions on sports policy. Yet it is doubtful whether this body is also predestined to manage the control system on the one hand because the very persons who commission the doping controllers (sports federations) are also represented in this body, which means they are basically contracting with themselves. On the other hand, however, it is not possible to prevent a large number of persons from gaining knowledge of envisaged doping controls, rendering it extremely difficult to guarantee

total confidentiality. Thirdly, planning is not facilitated by the possibility to perform doping controls on both central and regional level.

The division of the responsibilities between CCSSD, AEA and the federations means that personal data, often sensitive data, is transferred between the organisations which could be eliminated in another system.

In addition, the Committee is unlikely to be in a position to engage flexibly in intelligent planning of doping controls since the training data, performance data, and competition data needs to be reviewed almost on a daily basis. In order to do so, it is necessary to make a distinction between the density of controls based on the degree of risk posed by the individual sport disciplines and the individual athletes' level of performance as well as to plan the individual doping controls, taking the exact points in time when there is a risk of doping in relation to specific sport disciplines and specific levels of performance, training progress, competition plans and additional parameters into account. Looking at the 2010 Anti-Doping Program and the outcome of it in terms of positive results the evaluation team finds that the program is not adequate enough. More anti-doping rule violations would maybe be found with a better test distribution plan.

And last but not least, the sports federations that carry out disciplinary procedures are the same bodies that conduct the controls and reports of positive tests. Article 7 para. 2d ii of the Anti-Doping Convention of the Council of Europe stipulates that these bodies should be distinct from one another. That sports federations have separated control and disciplinary procedures does not really do much to remedy this either. In order to optimise the procedure, it would be worth considering centralising the entire control procedures from planning right through to implementation in one organisation only. As in many other countries, these tasks could be assigned to the National Anti-Doping Agency which would need to have the relevant competencies.

2 d. The disciplinary procedures for sportsmen and sportswomen seem to be sufficiently independent. The result management is handled by the federations as prescribed in Section 28 in the law 7/2006. Though, the procedures to follow when the anti-doping rule violation is not based on an adverse analytical finding are not described with precision.

The federations impose sanctions, appeals are brought before the Spanish Sports Disciplinary Committee (CEDD) for the sportsmen and sportswomen belonging to national federations and before the International Court of Arbitration for Sport (CAS) for the sportsmen and sportswomen belonging to international federations. As mentioned before the fact that the federations are both reporting bodies and disciplinary bodies at the same time is problematic as the Article 7 para. 2 d says these two bodies must be distinct. The disciplinary procedure in the federations needs to be initiated within two months otherwise the CCSSD has the right to launch disciplinary procedures. The AEA has the right of appeal. In principle, the disciplinary procedure is free of any cost which is greatly welcomed. In addition to suspensions, fines can also be imposed in some cases up to 70 percent of the annual salary (one cyclist). But this sanction is rarely imposed, especially since sportsmen have successfully won a relevant court case. The possibility of fines being imposed therefore does not have much of a deterrent effect.

2 e. The procedures against persons in the environment of sportsmen and sportswomen, especially against doctors usually involve tip-offs by colleagues. Although doctors cannot be brought before a state court, their actions are evaluated by a medical committee (this has happened in four cases to date). Sports doctors have announced that they will be handling this much more strictly in future, at present the sanctions do not seem to be all that serious.

2 f. All sanctions are recognised in all sport disciplines and by all national Anti-Doping Agencies.

3 Moreover, the Parties shall encourage their sports organisations:

a to introduce, on an effective scale, doping controls not only at, but also without advance warning at any appropriate time outside, competitions, such controls to be conducted in a way which is equitable for all sportsmen and sportswomen and which include testing and retesting of persons selected, where appropriate, on a random basis;

b to negotiate agreements with sports organisations of other countries permitting a sportsman or sportswoman training in another country to be tested by a duly authorised doping control team of that country;

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

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

e to make full and efficient use of the facilities available for doping analysis at the laboratories provided for by Article 5, both during and outside sports competitions;

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

3 a. Whether an effective number of doping controls are being conducted without advanced warning in Spain, as called for in Article 7 para. 3 of the Anti-Doping Convention of the Council of Europe, would certainly be worth examining. The need for “random” controls has been placed on a legally sound footing with the adoption of Resolution 15177 of 19 September 2009 by the CSD. This means it is possible to carry out random doping controls without time restrictions as called for by the WADC. The number of doping controls totalling approx. 7,000 analyses per year also seem adequate. Nonetheless, limiting the controls to the comparatively small number of licensed sportsmen and sportswomen (368 in the registered testing pool) does hardly live up to the doping problem as a whole in sport. A glance at other countries shows that the control areas there are much broader and that a wide scale approach is being adopted to tackle the problem of doping in sport. There are several possibilities available in this respect, for instance, the test pool could be expanded (even several test pools) to include top-level sport or licences could be issued to all competitive sportsmen and sportswomen (also in amateur sport). The evaluation team here also refers to its opinion on Article 2 that the anti-doping work should comprise all athletes that regularly take part in organised sports activities.

The team also wants to point out that in Section 5 in the Public General Act 7/2006 states that controls outside competition may be carried out by surprise or by prior arrangement. Prior arrangements have nothing to do with out of competition controls without advance warning.

Pursuant to Article 7 para. 3 a of the Anti-Doping Convention of the Council of Europe, doping controls are to be conducted in a way which is equitable for all sportsmen and sportswomen. This is where there is certainly room for improvement in Spain. Regulations for doping controls should be standardised.

3 b. Spain has transposed the requirements in the Anti-Doping Convention in relation to doping controls on international sportsmen and sportswomen and on doping controls abroad by applying the Additional Protocol to the Anti-Doping Convention.

3 c. Doping controls are compulsory for participation in the Olympics. Anyone upon whom sanctions have been imposed is not permitted to take part in competitions of sports organisations or in organised training.

3 d. Active participation of sportsmen and sportswomen in the fight against doping has been effectively implemented. As outlined in the comments on Article 6 above, sportsmen and sportswomen are involved in the doping prevention campaigns.

3 e. It cannot be conclusively assessed whether full and efficient use is being made of the facilities available for doping analysis at the two laboratories provided for both in and out of competition tests called for. Definitely the Spanish anti-doping system doesn't use the capacities of the two anti-doping laboratories to analyse blood samples. The doping control laboratories in Madrid and Barcelona seem to be commissioned to carry out analyses in very different ways. At the very least, coordination between the laboratories could be greatly enhanced.

3 f. The two doping control laboratories in Madrid and Barcelona analyse the samples taken from sportsmen and sportswomen in and out of competitions but in addition to this they also engage in comprehensive research. Article 5 covers the comprehensive work performed by the laboratories.

The evaluation team holds the view that in principle Article 7 of the Anti-Doping Convention of the Council of Europe has been transposed in Spain but can be improved. It is very positive how sport policy decisions are managed in the CCSSD integrating all the relevant stakeholders, thereby ensuring work can be performed as swiftly as possible. By contrast, however, there does seem to be room for improvement regarding the Spanish doping control system. Integrating a large number of persons and organisations into the control system creates a large amount of coordination work, little flexibility, low intensity regarding the use of an intelligent control system and increased effort in safeguarding the confidentiality of the controls. The evaluation team therefore is of the opinion that the CCSSD should still have the responsibility to promote the health protection of sports people, develop a policy of prevention, control and sanctions for the use of products, substances and methods and should decide on the numbers of tests and the distribution on the different sports federations..

The control system could be greatly optimised if it was centralised at the AEA and if the controls were decoupled from the sports federations. The cooperation that already exists between laboratories and the AEA would support this. The AEA should be given the competence to perform all the practical anti-doping work. This includes planning and performing of all in and out-of-competition controls with its own administrative staff and doping control officers, therapeutic use exemptions, the whereabouts system and the training and licensing of DCOs. The evaluation team does not see the need for additional regional controls, however, at the very least, they should be integrated into the centralised control planning of one organisation and be performed by the AEA.

All in all, a broader approach should be adopted to tackling the problem of doping in sport beyond the number of licensed sportsmen and sportswomen included in the registered testing pool (368).

Recommendations:

To centralise the doping control procedure at the National Anti-Doping Agency.

To integrate regional controls into the centralised control procedures.

To tighten sanction possibilities against persons in athletes' environment.

To expand doping controls to cover more athletes.

To standardise the regulations governing doping controls.

To enhance coordination between the two doping control laboratories and use the capacities of the two anti-doping laboratories to analyse blood samples..

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.

Spain has been collaborating with the Council of Europe from the early days on as being part of the Working Group for the drafting of the Anti-Doping Convention. Spain does also actively participate within the Monitoring Group, the various Advisory Groups of the T-DO and the CAHAMA. Spain's Secretary of State for Sports; Mr Jaime Lissavetzky, is currently representing Europe within the Executive Committee of the World Anti- Doping Agency and has been elected as chair of the second Conference of Parties to the International Convention against Doping in Sport (UNESCO).

Due to the traditionally strong bounds with South America, both institutions the High Counsel for sport (CSD) and the State Anti-doping Agency (AEA) collaborate inter alia with the relevant authorities in Colombia, Ecuador, Argentina. Moreover the AEA Doping Control Laboratory does regularly exchange scientific and technical expertise with other laboratories, tutoring laboratories in Argentina, Colombia, Chile, Mexico, Tunisia and Romania and assisted the laboratories in Tunisia and Colombia until their accreditation through WADA.

In summary Spain does play an active and supportive role within the areas of international co-operation and fulfils its obligations under the Convention.

The evaluation team finds that the requirements in Article 8 are fulfilled.

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

This article has not been distinctly covered in the report prepared by Spain. It has come to the knowledge of the evaluation team that Spain has not yet sent in the answers to the annual data base questionnaire of the Monitoring Group.

Recommendation:

To return the filled-in questionnaire of the Monitoring Group in due time

General conclusions and recommendations of the evaluation team

The Spanish anti-doping work fulfils in general the commitments under the Council of Europe's Anti-Doping Convention. The evaluation team though thinks that the recommendations given by the team could even improve the Spanish anti-doping measures to the benefit of all stakeholders and especially the athletes and thus serve as suggestions for further development of the Spanish anti-doping measures. The evaluation has one recommendation that is prioritised and which is mentioned first below. No prioritising could be made between the rest of the recommendations.

| Article | Recommendations | Actor concerned |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 3 and 7 | To centralise the doping control procedure at the National Anti-Doping Agency, including the doping control plan, carrying out of doping controls, result management and handling of all personal information, connected with anti-doping work. | Government |
| 2 | To broaden the definition in the Public General Act to harmonize the definition with the one in the Convention | Government |
| 4 | To clearly make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations. | Government |
| 4 | To strengthen the penalties for acts enumerated in section 44 of the Public General Act 7/2006 and relate them to the list of prohibited substances and methods published by the High Council for Sport. | Government |
| 4 | To facilitate and encourage exchange of information and collaboration on doping cases between state forces and anti-doping | Government |

| | | |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| | agencies involved in the fight against doping. | |
| 5 | To clearly define the legal status of the Madrid Anti-Doping Laboratory to establish its technical and scientific independency, instead of being, as it is now, under the head of one of the three main units of AEA – the Prevention and Testing Unit. | Government |
| 5 | To increase the involvement of the Barcelona Anti-Doping Laboratory in the analysis of samples collected in the scope of the Spanish National Anti-Doping Program and the cooperation between the two Spanish Anti-Doping Laboratories, namely in terms of common detection methods approach and research. | Government |
| 6 | To incorporate compulsory course modules on doping prevention into courses run by the medical, nursing and law faculties. | Universities and other educational organisations |
| 6 | To intensify cooperation with parents in the area of prevention. | State and regional Governments |
| 6 | To urge sports federations to implement doping prevention programmes and monitor the implementation | Government and sports federations |
| 6 | To develop a contractual obligation for all individuals working with sportsmen and sportswomen to abstain from taking part in any doping activities (coaches, mentors, therapists etc.). | Government |
| 6 | To enhance the fight against doping at gyms with regard to doping prevention. | Government |
| 6 | To develop educational material that is tailored specifically to the needs of target groups as well as implementation concepts. | Educational organisations |
| 6 | To introduce in the educational programs tools to evaluate its efficiency. | Educational organisations |
| 7 | To integrate regional controls into the centralised control procedures. | State and regional Governments |
| 7 | To tighten sanction possibilities against persons in athletes' environment. | Government |
| 7 | To expand doping controls to cover more athletes. | AEA |
| 7 | To standardise the regulations governing doping controls. | AEA |
| 7 | To enhance coordination between the two doping control laboratories and use the capacities of the two anti-doping laboratories to analyse blood samples. | AEA |
| 9 | To return the filled-in questionnaire of the Monitoring Group in due time. | Government |

Acknowledgments

The preparations for the meeting in Spain were very good. All the meetings, except the visit to the AEA laboratory and to the AEA administrative quarters, took place in Red Chamber of the High Council for Sports – a convenient meeting room with technical facilities. Questions asked after the end of the visit have been kindly and promptly answered. The team would like to thank the organisers of the visit and all the participants in the meetings, who gave good information and interesting discussions.

All the oral presentations and discussions were held in English or translated to English. The team though would have wished – for the homework afterwards – that all written information had been translated as well.

Composition of the evaluation team

Prof. Dr Luis Horta (Portugal), head of the team
Mr Friedrich-Wilhelm Moog (Germany)
Ms Natalia Zhelanova (Russia)
Ms Pia Haschke (Austria)
Mr Markus Adelsbach (CoE)
Ms Kristina Olinder (Sweden), coordinator

Programme of the evaluation visit

7 February 2011

09:30 First Working Session

Meeting with writers of the national report on the implementation by Spain of the Anti-Doping Convention of the Council of Europe.

Ms Miryam PALLARES CORTON, Secretary of the Health and Doping Control and Supervision Committee, Law Degree

Ms Carmen VALVERDE CABEZUDO, Head of Service of the R + D + i of the State-Antidoping Agency, Law Degree

Ms Marta COLINO CASTRO, Head of Service of the R + D + i of the State-Anti-doping Agency, Law Degree

Mr Victor MANTECA VALDELANDE, Manager State Anti-Doping Agency, Law Degree

10:30 Reception in the high council for sport to the council of europe delegation.

Greetings from the Secretary of State for Sport Mr Jaime LISSAVETZKY DÍEZ

11:00 Second Working Session

Spanish government commitment for zero tolerance with sports doping (part 1)

Mr Albert SOLER SICILIA, Chairman of the Health and Doping Control and Supervision Committee, General Manager of the High Council for Sport

11:45 Coffee break

12:00 Third Work Session

Spanish government commitment for zero tolerance with sports doping (part 2)

Mr Fco. Javier MARTIN DEL BURGO SIMARRO, Director of the State Anti-Doping Agency

13:30 Lunch

15:30 Fourth Working Session

Doping control laboratory of Madrid

Method of work, new technologies, research projects and visit to the laboratory.

Mr Jesus MUÑOZ- GUERRA REVILLA, Director of the Doping Control Laboratory

Ms M^a Andres DEL MAR PLATA, Responsible for the Financial Analysis Unit (Quality Control)

16:45 *Fifth Working Session*

Integrated work between state security forces and authorities responsible in fight against doping in sport

M. Marceliano GUTIERREZ RODRIGUEZ, Head of Department of Citizen Security and Operations, State Secretary of Security.

Mr Luis PELAEZ PIÑEIRO, Commander of Civil Guard, Technical Unity Judicial Police.

Mr Faustino ÁLVAREZ SOLA, Chief Colonel of Central Operative Unity of Civil Guard. Headquarter Judicial Police

Mr Fco. Javier MARTIN DEL BURGO SIMARRO, Director of the State Anti-Doping Agency

Presentation about integrated work between State Security Forces and Authorities responsible in fight against sport

17:45 *Sixth Working Session*

**The disciplinary procedures for doping
Meeting with representatives of the Disciplinary Committee of Sports Federations,
the Spanish Sports Disciplinary Committee and experts in sports law**

Mr Liborio HIERRO SANCHEZ PESCADOR, President of the Spanish Sports Disciplinary Committee.

Mr Fernando URUBURU SISTIAGA, President of the National Committee for Sports Discipline and Competition in the Cycling Federation

Mr Gilberto PEREZ DEL BLANCO, Member of National Committee of Sports Discipline and Competition in the Basketball Federation

Mr Manuel MARTIN DOMINGUEZ, Sports specialist lawyer and advisor to the Spanish Olympic Committee

8 February 2011

9:30 *Visit to the state anti-doping agency.*

10:30 *Seventh Working Session*

Spanish university in the fight against doping in sport and health protection of sportmen

Mr Rafael MARTIN ACERO, President of the Spanish Conference of Deans, Dean of the Faculty of Physical Education and Sport at the La Coruña University

Mr Juan MAYORGA GARCIA, Dean of the Faculty of Physical Education and Sport of the European University of Madrid

Ms Susana MENDIZABAL ALBIZU, Dean of the Faculty of Physical Activity and Sport in Castilla-La Mancha

11:30 Coffee Break

11:45 Eighth Working Session

Sports society involvement in the fight against doping in sport and health prevention in cooperation with the Spanish state

Mr Jose M^a ODRIOZOLA LINO, President of the Spanish Athletics Federation

Mr Julian GARCIA ANGULO, President of the Spanish Federation of Pelota Vasca, President of the Union of the Europeans Federations of Pelota Vasca

Mr Eduardo CHOZAS OLMO, Professional cyclist from 1986 and 1993, Member of the professional Association Professionals Sportmen

Mr Jose M^a MARTINEZ FERNANDEZ, Active athlete, European Medal.

Mr Pedro MANONELLES MARQUETA, President of the Spanish Federation of Sports Doctors.

13:00 Meeting between the European delegation of the Council of Europe with the political organs responsible of the fight against doping in Spain

Mr Albert SOLER SICILIA, General Manager of the High Council for Sport

Mr fco. Javier MARTIN DEL BURGO SIMARRO, Director of the State Anti-Doping Agency

Mr Alejandro BLANCO BRAVO, President of Spanish Olympic Committee.

14:00 Lunch

End of the visit

C. Comments by Spain

Response to the recommendations in the report by the Council of Europe assessment team on its visit to Spain in February, 2011, to verify compliance by Spain of the anti-doping convention of the Council of Europe.

ART. 2. DEFINITION AND SCOPE OF APPLICATION OF THE CONVENTION

Throughout the articles contained in Fundamental Law 7/2006, the Act contains provisions that define and extend the status of athletes who have to submit to the disciplinary measures to prevent doping under this Act, such as the obligation to know and take responsibility for the substances found in their bodies, whereabouts, etc.

Nonetheless, in the amendment to this Act now before Parliament, we have studied a definition that coincides more with the status of athletes subject to anti-doping measures under the Convention so as to harmonize the said definitions between the Convention and Law 7/2006.

ART. 3. INTERNAL CO-ORDINATION

The Health and Doping Testing and Supervision Committee (CCSSD) has charged the Spanish Anti-Doping Agency (AEA), in line with its functions as established in the corresponding Royal Decree developing the same, to carry out intelligent controls, both individual and those corresponding to the national teams, so as to ensure their total independence, determination in the decision on who is to be tested, confidentiality, etc.

We must express with legal and constitutional clarity that Spain's Regional Governments have taken on the powers to manage Education, Health and the Promotion of Sports within their respective territories, pursuant to their respective Statutes, which have the status of Fundamental Laws enacted in Parliament with a qualified majority.

Respect for these powers, in the distribution of responsibilities made by the Spanish Constitution, is as contemplated in Law 7/2006 on the protection of health and the fight against doping in sport. In order to specify the notable role of the Regional Governments in the fight against doping, within the scope of their respective territories and for competitions organized by the same, and within the framework of the said Law 7/2006, the Inter-territorial Commission has been set up with members representing the health and sports authorities in each region and the AEA as a working committee chaired by the Director of the AEA. The Regional Governments execute their anti-doping policies through specific agreements signed with the AEA and the CCSSD. As of this date, these agreements have been signed with 11 of the 17 Regional Governments of Spain. (The AEA began its regulatory activities in 2009).

The Basque Country has already drafted a Bill for the fight against doping in sports for its territory.

The quasi-federal model of the Spanish State must be understood and respected.

The co-ordination between the CCSSD and the AEA is complete and effective. Nonetheless, in the amendment to the Act now proposed by National Government before Parliament, and according to the recommendation of the report, it has been included a new model, with the integration of both

instances. In this way, the AEA will assume both sets of responsibilities, but it is necessary to respect the final decision of the Parliament.

ART. 4. THE MEASURES TO RESTRICT THE AVAILABILITY AND USE OF DOPING AGENTS AND BANNED METHODS.

Art. 4.2

The total budget devoted by the Central Administration to the fight against doping in sport in Spain is 13 million Euros: the budget of the AEA itself, the budget of the CCSSD and the budget of the Spanish sports federations receiving funding each year from the CSD specifically for this purpose, as can be verified at any time.

This amount represents a considerable increase with respect to the 4 million that existed prior to the approval of Law 7/2006 on the protection of health and the fight against doping in sport.

In addition to these 13 million Euros, it is necessary to include the personnel costs of the State's security forces, the Civil Guard and the National Police, as well as the resources dedicated by the Regions.

The CSD, very directly through the Sub-Directorate for High Competition, has eliminated and, where appropriate, frozen the financial aid for athletes receiving scholarships for high technology and Olympic Sports, not only when they receive an anti-doping penalty, but also when signs of their potential liability are seen through the corresponding case files. This is an express mandate of the 1990 Sports Act, still in force.

The CSD annually evaluates in its budgets the sports federations' fulfilment of their goals, including compliance with anti-doping programmes.

Art. 4.3

The Spanish sports federations are subject to the disciplinary measures, regulations and statutes of their respective international sports federations and the IOC. Among its functions, the CSD has the obligation to monitor, oversee and even order the interim suspension of the presidents of the sports federations, on good grounds, for clear failures to carry out their functions, pursuant to the Spanish legislation on these matters, and it does so through the Management Board of the CSD as, even though the federations are private institutions in Spain they carry out functions deemed to be of public interest (1990 Sports Act, in force).

Art. 4.4

Law 7/2006 contemplates the possibility that international sports federations can carry out doping checks in Spain and, in fact, this is being done by each and every one of these international federations. They do so when the event in question is at an international level or when the international federation decides to apply an individualized check on one or more specific Spanish athletes.

The Spanish Criminal Code contemplates prison sentences of more than two years for certain crimes against public health. Nonetheless, it is up to Parliament to determine, in its discretion, on the classification of sentences and their severity, in accordance with the principles of proportionality and other applicable legislation.

We are of the opinion that it is not possible to ignore the intense efforts put into policing operations for crimes relating to doping in sport in Spain. Since 2004 to date, 47 police operations have been carried out, 543 people have been arrested and more than 90 of them charged by the Police Authorities. (Figures as of April 19th, 2011).

It is very relevant that 91.5% of these Police Operations were able to be conducted thanks to the enactment of Law 7/2006 and specifically since the creation of the State Anti-Doping Agency (AEA). In 2010, 15 police operations were organized and, as of today, 3 more are pending conclusion.

A stable collaboration agreement has been signed between the office of the Secretary of State for Security and the State Anti-Doping Agency with a Work and Co-ordination Commission that meets every month under the chairmanship of the Director of the AEA together with the Civil Guard and the National Police force.

Next June, an innovative “Procedure and good practice handbook for police operations” will be approved. The State General Prosecutor, at the request of the AEA, has drafted an “instruction” that will be applicable throughout Spain for alleged crimes relating to doping in sport. Once this is in place, the creation of a Department specializing in sports doping crimes will be requested.

The mutual understanding and co-ordination between the State Security Forces and the AEA and CCSSD is total and absolute. The AEA’s doping control laboratory has been providing expert analyses of substances and products seized by the Civil Guard and the National Police Force on a permanent basis at the request of the State Security Forces for the greater certainty of their actions prior to going before the Judicial Authorities.

ART. 5. LABORATORIES

As part of the planned re-organization of the AEA Laboratory, its Governing Council, at a session to be held next June, will give the green light for the new investigating tasks and quality policing functions of the said laboratory, run by a Director at the highest level of the Administration, level 30, with a deputy director responsible for quality and four divisional heads for the new tasks and responsibilities. As the new organizational and functional head of the Laboratory, its Director will now report directly to the Director of the AEA.

The CCSSD guarantees a sufficient number of analyses for the laboratory in Barcelona in order to maintain its classification by the WADA as well as its excellent research line and this number of analytical tests will form part of the national programme the cost of which is borne by the CSD. It is necessary to be familiar with and respect the institutional nature of the Barcelona laboratory which reports directly to the Municipal Institute of the said city with the collaboration of the Regional Government of Catalonia.

The will of the CCSSD and the AEA is to reach a stable collaboration agreement that will allow the Barcelona laboratory to be included in the national network for the fight against doping, and it is up to the parties to reach agreement on the essential aspects:

Policies on personnel, budgets, responsibilities, hierarchy and administrative assignments, etc., are always subject to negotiation and mutual acceptance.

ART. 6. EDUCATION

We are grateful for the excellent recognition of the work done by Spain in connection with this article.

The academic units and modules are already being drafted in this subject area for all the students of Sports Sciences studying at the Schools and Institutes offering this subject, in collaboration with their respective Deans. These academic units and modules will also be adapted for secondary-school students pursuant to an agreement recently signed between the Ministry of Education and the AEA (it was signed after the visit).

Several other university institutions such as Law Schools have requested the creation of a specialization in this area as an in-house university diploma awarded by these Universities in collaboration with the AEA.

The co-operation of students' parents is already effective through this agreement signed with the Ministry of Education as is the involvement of the Regional Governments with devolved responsibility for managing education (11 agreements have already been signed with the regions). Several federations such as those for jai-alai, tennis, cycling, soccer, triathlon... are implementing prevention and awareness programmes in the fight against doping and these will gradually be extended. Special mention must be made of the direct activities of the AEA's Psychological and Medical Consultancy Unit which is already working with 30 Spanish sports federations.

The recently created University Observatory for the diagnosis, prevention and fight against doping in sport pursuant to an agreement between the AEA and all the Physical Education Faculties in Spain will be giving preference in its activities to the federations, technical staff and athletes. All of the agreements signed with the Regional Governments contain a programme line under the heading "Ethical Code" for technical staff and athletes.

Stress is placed on the very considerable efforts made by Spain in police operations on gyms. Most police operations, except for 4 closely linked to the highest levels of sports correspond to operations in gyms over several months. We would invite the Council of Europe Assessment Commission to join in the congratulations offered by INTERPOL at the last WADA-organized seminar in Lausanne to Spain and Canada jointly as the country with the largest number of police operations conducted.

These police operations also involve the regional police forces, particularly those of Catalonia and the Basque Country.

Spain has submitted an application to be the host country for the next meeting of INTERPOL. Our State Security Forces and the AEA maintain close ties with their opposite numbers for the solid and effective co-ordination and exchange of information.

ART. 7. CO-OPERATION WITH SPORTS ORGANIZATIONS REGARDING THE MEASURES TO BE ADOPTED

The Spanish model for the fight against doping is now bearing fruit. It bears repeating that according to the recommendation of the report, it has been included a new model in the amendments of the law, with the integration of both instances in the AEA.

Nonetheless, it is stated for the record that there is a degree of confidentiality in all doping tests; that there is a nation-wide programme for national level competitions and for athletes holding a national licence and there may be another legitimate instance within the territory corresponding to the Regional Governments pursuant to Law 7/2006 and the legislation in force in each region; that the CCSSD reserves its option to carry out any other kind of checks or tests, for example for reasons of health or individualized checks, as well as out-of-competition tests.

It is not true that the drug-testing laboratories in Madrid and Barcelona carry out their analyses differently. They are governed by the standards and international rules for detection issued by the WADA scientific and technical for all 35 accredited laboratories, ISO and ENAC standards, as contemplated in the latest revision of the World Anti-Doping Code and in Spanish legislation. The persons responsible for both these laboratories form an active part of the scientific and technical committees of UNESCO, WADA, IOC, Council of Europe ... They also follow their own research lines within the scope of the nation and in collaboration with Universities, the Ministry of Science and Research ...

CONCLUSIONS OF THE AEA ON THE REPORT BY THE COUNCIL OF EUROPE'S REPRESENTATIVES

1. Appreciate very positively both their visit to Spain and the sincere interest shown in the various panels and discussion meetings
2. Also appreciate very positively the detailed study they have made of our contributions and the numerous materials provided
3. Given the complexity of their evaluation due to the abundant legislation against doping in Spain since 2006, the uniqueness of the model, the marked administrative decentralization of our country into Autonomous Regions and the implementation of a new public body, the Spanish Anti-Doping Agency, we feel that it is necessary:
 - To acknowledge in the report the outstanding advances Spain has made in this area
 - To respect the State's national sovereignty, as that of the other countries signing the Council of Europe's Anti-Doping Convention.
4. Express our gratitude for the excellent mark given to the prevention policies implemented in Spain.
5. It would constitute an objective recognition if the report were to reflect the firmness of the fight against doping in sport in Spain in the form of alleged crimes against health for the sale and supply of illegal substances and banned methods, in view of the great volume of highly professional work done by the Civil Guard, National Police, AEA and the Office of the Public Prosecutor since the enactment of Law 7/2006 contemplating a new crime, namely that stipulated in article 361 bis of the Criminal Code.

The AEA reiterates its willingness to collaborate with other National Anti-doping Agencies, Institutions and Organizations, and makes available to them and to the Council of Europe the most unique and effective initiatives in our model.