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T-DO (2004) 28

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

Compliance with Commitments

### **Supplementary Report by the Netherlands on compliance with the Anti-Doping Convention**

**Note:** This supplementary report should be read in conjunction with the auto-evaluation report submitted by the Netherlands to the Monitoring Group in March 2001 'Anti-Doping Policy in the Netherlands: a report on compliance with the Anti-Doping Convention' and published by NeCeDo.

The Opinion on the Dutch Auto-Evaluation report adopted by the Monitoring Group at its 16<sup>th</sup> meeting, 14-15 November 2002, is in document T-DO (2002) 15

## Compliance Report

In 2001 the report “Anti-Doping Policy In The Netherlands, A Report on Compliance with the Anti-Doping Convention of the Council of Europe by the Netherlands” has been published. In that report, the Netherlands informed the Council of Europe and its member States about its compliance with the Council of Europe’s Anti-Doping Convention. The report focused on the relevant articles of the Convention. For each specific article, the report set how the Netherlands complied with the different articles of the Convention. With a consultation visit upcoming, it is time to describe some significant developments in the field of anti-doping that happened since the publication.

This includes the following subjects:

- . Netherlands Anti-doping Platform
- . Medicines Act
- . The Netherlands Security System Nutritional Supplements Elite Sports (NZVT)
- . Research on doping use in club sports
- . Determinants of the use of doping drugs by athletes of gyms and fitness centres
- . Survey amongst elite athletes; attitudes towards doping issues
- . Gene doping
- . Model Rules for Dutch National Federations
- . National Disciplinary Body
- . Copenhagen Declaration
- . ANADO membership NeCeDo en DoCoNed

The above mentioned developments will be described within the context of the various articles of 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**

**Netherlands Anti-Doping Platform**

During the last decade, the anti-doping activities of different organisations in the Netherlands have increased. More players appeared on the field, each with their own authority and focus. The adoption of the World Anti-Doping Code caused more activities for these different organizations and more tasks to fulfil the requirements laid down in the Code. These activities had positive results, but also a negative one: the coordination of the activities was lacking from time to time.

In order to improve the cooperation between the different organizations active in the field of anti-doping in the Netherlands, the State Secretary of Health, Welfare and Sport decided to establish the Netherlands Anti-Doping Platform, in April 2003.

The platform has an independent Chairman and a secretary, both designated by the State Secretary and nine other members: two representatives of Netherlands Olympic Committee\*Netherlands Sports Confederation (NOC\*NSF), two representatives of DoCoNed (Doping Control Netherlands), two representatives of the NeCeDo and two of the Athletes Commission of NOC\*NSF. One member represents the Ministry of Health, Welfare and Sport.

Major tasks of the Platform are:

- . To improve adequate exchange of information between parties active in the field of anti-doping;
- . To promote the coordination of activities by the different organizations, including the participation in international activities.

The platform reports to the State Secretary on a yearly basis.

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

**1) The Parties shall adopt, where appropriate, legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.**

In the Netherlands the Medicines Act, which provides a legal basis for counteracting the illegal trafficking and production of various doping substances has been changed fundamentally in May 2001. The penalties and fines have increased substantially. The maximum fine nowadays is € 45.000 (was: € 4.500) and the maximum imprisonment 6 years (was 6 months). An important consequence being: more competences of criminal investigation (like confiscation and visitation), not only for the regular law-enforcement authorities, but also for particular ones as inspectorates for health care and custom-officers.

Like in many other European countries of Europe, the Netherlands harmonized legislation in this area, towards more severe actions against the criminal aspects of doping, i.e. illegal trafficking and production. In general, the prescription by physicians of (regular) drugs for doping purposes is not a subject of criminal law, but of disciplinary law. An important instrument are the guidelines of the Royal Dutch Medical Association. As a part of those guidelines the Association of Sports Medicine formulated in 1996 the "Guidelines for professional conduction of physicians working in sports". Those specific rules contain an injunction on prescribing drugs for doping purposes and instructions on informing sports people about (the risks of) doping. In case of violation of those guidelines (including the specific rules), sanctions can vary from an official reprimand to a definitive disqualification to practice medicine.

## **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 education programmes will emphasise respect for medical ethics.**

### **The Netherlands Security System Nutritional Supplements Elite Sports (NZVT)**

Several organisations like Netherlands Olympic Committee\* Netherlands Sports Confederation (NOC\*NSF) and the Netherlands Centre for Doping affairs (NeCeDo), the Ministry for Health, Welfare and Sports (VWS) and the branch organization for supplements producers and providers in the Netherlands, the NPN are working closely together in the Netherlands Security System Nutritional Supplements Elite Sports (NZVT). This system is developed to assure that the highest levels of security are reached thus given Elite Athletes in the Netherlands a minimal chance of testing positive as the results of using supplements. The analyses are conducted by TNO Nutrition and Food Research (TNO-voeding), the National Institute of Public Health and the Environment (RIVM) and the WADA accredited laboratories of Gent and Cologne. A self regulated system to minimize the risk of inadvertent doping use through nutritional supplements.

### **Determinants of the use of doping by athletes of gyms and fitness centres**

The Netherlands Centre for Doping Affairs (NeCeDo) commissioned TNO Prevention and Health to carry out a study into the determinants of the use of performance-enhancing drugs by athletes of gyms and fitness centres, like: *“Which social-psychological determinants are related to the use of performance-enhancing drugs by athletes of gyms and fitness centres?”* and *“To what extent will owners of gyms and fitness centres support the introduction of (parts of) a policy aimed towards preventions?”*. The results and outcome of the study will be used of the development and implementation of an attitude and behaviour targeting education campaign.

### **Survey amongst elite athletes; attitudes towards doping issues**

Every four years, the Netherlands Centre for Doping Affairs (NeCeDo) conducts a survey amongst Dutch elite athletes to evaluate the existing anti-doping policy measures and to assess the knowledge of doping related issues in this group. In 2002, the survey focus was expanded to include an assessment of the social-psychological determinants of doping use. The results of this study will be used to design a behaviour targeting educational campaign. The negative attitudes towards doping found in this study should be confirmed and extended.

### **Research doping use in club sports**

At the request of the State Secretary for Health, Welfare and Sport, the Netherlands Centre for Doping Affairs (NeCeDo) conducted a research into the doping use in club sport, athlete taking part in organised sport that are not regarded elite athletes. The results and outcome of this study were used for a targeted education campaign aimed at power lifters entitled *“Pure Strength”*.

**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.**

### **Gene doping**

The State Secretary of Health, Welfare and Sport asked the Netherlands Centre for Doping Affairs (NeCeDo) for a research study of the possible applications and risks of genetic manipulations in sports. In collaboration with the Dutch Society for Gene Therapy, a study was conducted. It can be concluded that the athletic world will sooner or later be faced with the phenomenon of gene doping to improve athletic performance. The exact number of years that it will take for this method to enter the athletic arena is difficult to estimate, but it is most likely that this will happen within five years. The uncontrolled use of non-therapeutic gene therapy by athletes imposes potential risks. It is questionable whether the existing regulations on genetic materials are sufficient to tackle such uncontrolled use. At this moment, a combination of developing a detection method based on proteomics and a clear education programme on the associated risks seems to be the most promising preventive method to counteract the possible application of gene doping. Based on the outcome of this study NeCeDo advised the State Secretary to a) promote the development of detection methods at a global scale, b) closely inform athletes on the potential consequences of gene doping and c) evaluate current regulations on genetic materials from a doping perspective.

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

**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;**

### **Model Rules for Dutch National Federations**

International Federations have adapted the existing anti-doping regulation on the basis of the World Anti-Doping Code. Dutch federations also need to have anti-doping regulations that are Code compliant. This is an obligation to stay a member of NOC\*NSF, which is a signatory to the Code. To assist the National federations in the process of updating their Anti-Doping regulations and make it compliant to the Code, NeCeDo developed the “Model Rules for Dutch national Federations” in cooperation with NOC\*NSF, the Ministry of VWS and DoCoNed. The drafting process included consultation of athletes, lawyers, law professors and national federations. On various occasions WADA was consulted on questions regarding the interpretation of the Code. The objective was to create a set of doping regulations that is comprehensive and transparent. The “Model Rules for Dutch National Federations” contain the World Anti-Doping Code as well as parts of different International Standards (Prohibited List, International Standard for Testing and the International Standard for Therapeutic Use Exemptions).

**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;**

### **National Disciplinary Body**

Initiated by some federations, and assisted by NOC\*NSF, the National Disciplinary Body was founded in July 2003. Some federations saw themselves confronted with more disciplinary cases than in earlier years. These cases turned out to be difficult to handle by members of the federations’ own disciplinary commissions. They were not always capable of dealing with the difficult issues. Its members are, in most cases, volunteers originated from the federation itself, where their opponents are in some cases professional lawyers. These situations occurred especially in cases that dealt with offences of the anti-doping regulations. The required higher sanctions in doping cases could thereby often lead to cases in civil court and claims against the Federation. These were the primary reasons that lead to the development of the National Disciplinary Body.

The National Disciplinary Body consists of a disciplinary commission and a commission of Appeal. Both consist of a “Chamber” of three people. A secretariat is assisting the

Commissions; a special legal secretariat is established to assist the lawyers. Each commission is chaired by a lawyer, the other members are not, but preferably they are insiders in the sport.

In doping cases, the National Disciplinary Body has the ability to form special “Doping Chambers”, including a disciplinary Commission as well as a Commission of Appeal. The Chamber includes specialists on different relevant fields such as International Law, anti-doping policy, elite sports and pharmaceutical/medical experts. The National Disciplinary Body is allowed to impose sanctions to members of participating federations, as laid down in the official regulations of these federations.

Currently eleven federations take part in the National Disciplinary Body, but it is expected that, with the introduction of the World Anti-Doping Code, more federations will follow.

## **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.**

On June 12, 2003 the State Secretary of Health, Welfare and Sport, Mrs. Ross-Van Dorp, signed on the behalves of the Dutch Government the “Copenhagen Declaration”. By doing so, Dutch Government agreed to support the implementation of the “World Anti-Doping Code”.

**2. The Parties undertake:**

**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.**

### **Membership Association of National Anti-Doping Organisations (ANADO)**

Both DoCoNed (Doping Control Nederland) and NeCeDo are members of the Association of National Anti-Doping Organisations (ANADO), since the beginning of this organisation in April 2003.