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

Project on Compliance with Commitments

### **Compliance by Poland with the Anti-Doping Convention**

**Report prepared by the Monitoring Team**

**Adopted by the 46<sup>th</sup> meeting of the Monitoring Group of the Anti-Doping  
Convention on 3 May 2017 in Copenhagen, Denmark**

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**Glossary:**

AAF	Adverse Analytical Finding
ADAMS	Anti-Doping Administration and Management System
ATF	Atypical Finding
CAHAMA	Ad Hoc European Committee for the World Anti-Doping Agency
CAS	Court of Arbitration for Sport
CDDS	Committee for the Development for Sport
EPO	Erythropoietin
ETS	European Treaty Series
GHRFs	Growth Hormone Releasing Factors
IC	In-competition
IGF-1	Insulin-like Growth Factor-1
iNADO	Institute of National Anti-Doping Organisations
IPC	International Paralympic Committee
IRMS	Isotope Ratio Mass Spectrometry
ISL	International Standard for Laboratories
ISO	International Standards Organisation
ISTI	International Standard for Testing and Investigations
NADO	National Anti-Doping Organisation
NOC	National Olympic Committee
OOC	Out-of-Competition
PANDA	Polish Commission against Doping in Sport
RTP	Registered Testing Pool
T-DO	Monitoring Group of the Anti-Doping Convention of the Council of Europe
UNESCO	United Nations Educational, Scientific and Cultural Organization
WAADS	World Association of Anti-Doping Scientists
WADA	World Anti-Doping Agency

## EXECUTIVE SUMMARY

1. As part of the Compliance with Commitments project of the Council of Europe and on the request of the Ministry of Sport and Tourism of Poland, a Monitoring Team held a Visit to Warsaw, Poland on 30 and 31 March 2016.
2. The aim of the Monitoring Visit was to assess compliance by Poland with the Anti-Doping Convention of the Council of Europe (the Convention) and in particular, to evaluate those articles of the Convention and its Additional Protocol that place obligations on state parties.
3. Summarised below are the principal findings and outcomes of the Monitoring Team on each of the Articles of the Convention and its Additional Protocol that have been evaluated whereas background and detailed findings are provided in subsequent chapters of this Report.
4. Convention Article 1- Aim of the Convention: Poland has ratified the Convention in 1990 and the Additional Protocol to the Convention in 2004. State Parties are required to take measures to reduce and eliminate doping in sport, including legislation and commit themselves towards this responsibility. The Act of 25 June 2010 on Sport provides the legal background for the fight against doping in Poland and establishes the Polish Commission against Doping in Sport. Although the Act on Sport does not make direct reference to the Convention, Poland has fulfilled the political commitments described in Article 1 of the Anti-Doping Convention of the Council of Europe.
5. Convention Article 2 – Definitions and scope of the Convention: The Act on Sport and the Anti-Doping Rules of the Polish Commission against Doping in Sport provide for the definition of doping, in line with the World Anti-Doping Code which covers the respective definition of doping of sport of the Convention and is even broader. WADA's Prohibited List is incorporated in the Polish legal system; however, there is no reference to the role of the Monitoring Group on the adoption of the list of pharmacological classes of doping substances and doping methods. The Act on Sport contains no definition of athlete whereas the Commission's Anti-Doping Rules contain the Code-based definition which is not as broad as the respective definition of the Convention.
6. Convention Article 3 – Domestic co-ordination: In accordance with the Law on Sport, the Commission against Doping in Sport is the responsible authority for the fight against doping in Poland. The Commission has entered into cooperation agreements with the Polish National Police Headquarters and the Customs Service for the fight against doping. The Commission receives funding from the Ministry of Sport and Tourism.
7. Convention Article 4 – Measures to restrict the availability and use of banned doping agents and methods: Poland has no specific legislation, regulations or administrative measures aiming to restrict the availability of doping agents and methods. However, the accessibility to certain groups of doping substances and methods may be considered as restricted on the basis of pharmaceutical laws and regulations.
8. Convention Article 5 – Laboratories: The Department of Anti-Doping Research of the Institute of Sport is a WADA-accredited laboratory since 2004. It is funded mainly by the

Ministry of Sport and Tourism and analyses samples primarily for the Polish Commission against Doping in Sport.

9. Convention Article 6 – Education: The Polish Commission against Doping in Sport is active in anti-doping information and education, and carries out several programmes targeting mainly athletes and their support personnel. For its anti-doping information and education activities the Commission receives funding from the Ministry of Sport and Tourism. Contrary to information and education, the involvement of the Polish Commission against Doping in Sport in research in the field of anti-doping is very limited.
10. Convention Article 7 – Cooperation with sports organisations on measures to be taken by them: The Polish Commission against Doping in Sport, acting as the national anti-doping organisation, has developed its Anti-Doping Rules in line with the 2015 Code that –following the developments that took place after the Monitoring Visit- are nationally enforced across all sports in Poland. The Polish Commission against Doping in Sport has in place an extensive testing programme. Moreover, the Anti-Doping Rules of the Polish Commission against Doping in Sport provide for a harmonised hearings procedure before the Disciplinary Panel of the Commission, the Court of Arbitration for Sports of the Polish Olympic Committee and Court of Arbitration for Sports (CAS).
11. Convention Article 8 – International Cooperation: Representatives of the Polish Ministry of Sport and Tourism and the Commission against Doping in Sport actively participate in the meetings of the Monitoring Group and its Advisory Groups as well as the meetings of CAHAMA at the Council of Europe. The Polish Commission against Doping in Sport is a member of the Institute of National Anti-Doping Organisations and also has established collaborations and cooperation with other national anti-doping organisations and international federations.
12. Convention Article 9 – Provision of Information: Representatives of the Polish Ministry of Sport and Tourism and the Commission against Doping in Sport attend the Monitoring Group meetings and report on the legislative and other measures taken for the purposes of the implementation of the Convention.
13. Additional Protocol Article 1 – Mutual recognition of doping controls: The Polish Commission against Doping in Sport incorporates in its Anti-Doping Rules the Code-based provisions for the mutual recognition of sanctions.
14. In conclusion, it is the opinion of the Monitoring Team that Poland has fulfilled most of the commitments described in the Anti-Doping Convention of the Council of Europe and its Additional Protocol.
15. The Monitoring Team's Recommendations on each of the Articles that have been evaluated are provided in Chapters 2 to 11 of this Report, whereas an overview of all of the Recommendations is presented in Chapter 12.
16. The below key Recommendations are proposed by the Monitoring Team:
  - The Polish authorities should ensure adequate structures and practices for efficient cooperation and coordination between the Ministry of Sport and Tourism, the Polish

Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) and other departments and public agencies for the fight against doping at the national level.

- The Ministry of Sport and Tourism should ensure that the Polish Commission against Doping in sport is independent in its operations (including budget) and decisions and free of organisational and individual conflicts of interest.
- The Polish authorities should ensure that the List of banned pharmacological classes of doping agents and banned doping methods in force in Poland is the one adopted by the Monitoring Group; it does not mean, however, that it cannot be the WADA Prohibited List since the two Lists are identical.
- The Polish authorities should publish the List of banned pharmacological classes of doping agents and doping methods in the Journal of Law (Dziennik Ustaw), prior to its entry into force.
- The Polish authorities shall adopt comprehensive legislative measures to control the trafficking of doping substances; these measures should include, as a minimum, the list of substances to be controlled, the agencies to be involved, and the applicable sanctions.
- The Ministry of Sport and Tourism should introduce criteria related to anti-doping for the funding of Polish sport associations allowing withholding of public funds from those sport associations that do not effectively apply anti-doping regulations.
- The Ministry of Sport and Tourism should consider revising the Act on Sport and/or the Regulation of the Minister of Sport and Tourism on Sports Grants for members of Polish national teams to explicitly mention anti-doping rule violation as a reason to withhold or cancel sport grants.
- The Ministry of Sport and Tourism, jointly with the Polish Commission against Doping in Sport and the Department of Anti-Doping Research of the Institute of Sport – National Research Institute should reconsider the financing of the analysis of samples collected by the Commission with the view of allowing the Commission the necessary budgetary flexibility to decide on the number of samples to be collected each year and the type of analyses to be requested as well as the flexibility to send samples to other WADA-accredited laboratories, when necessary; it is meant that, the obligation of the Polish authorities to provide the Department of Anti-Doping Research with the required minimum number of samples, as per the International Standards for the Laboratories, shall be respected at all times.
- The Commission should prepare short, and long-term anti-doping information and education strategies to cover the priorities based on risk assessment rather than on a request basis.
- The Commission should constantly evaluate the implementation and effectiveness of its anti-doping information and education programmes and adapt accordingly.
- The Polish Commission against Doping in Sport should enter into agreements with other anti-doping organisations or private sample collection companies for testing of Polish athletes when training in other countries; and the Ministry of Sport and Tourism should provide the Polish Commission against Doping in Sport with the necessary funds and administrative flexibility for such agreements.

## **CHAPTER 1:**

### Introduction, Methodology and Scope

#### 1.1 Introduction

1.1.1 The Compliance with Commitments project was developed in 1997 by the Steering Committee for the Development for Sport (CDDS) with the main aim to help participating countries to determine how “*the European Sports Charter, the Anti-Doping Convention and the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches*” are applied in their countries.

1.1.2 The preferred working method involves interactions between a national team who prepare a detailed report on compliance with the commitments entered into under the Convention or Charter (National Report) and a Monitoring Team appointed by the Council of Europe. Following a visit by the Monitoring Team, a second report is prepared detailing their findings, suggestions, and possible recommendations for improved compliance with the commitments.

#### 1.2 Methodology

1.2.1 By letter dated 19 October 2014, signed by Mrs Dorota Idzi, Deputy State Secretary in the Polish Ministry of Sport and Tourism at that time, and addressed to Mr. Anders Solheim, Chair of the Monitoring Group of the Anti-Doping Convention of the Council of Europe (T-DO) with copy to Mr. Sergey Khrychikov, Head of Sport Conventions at the Council of Europe, the Polish authorities invited the Council of Europe to pay a Monitoring Visit to Poland.

1.2.2 The Secretariat of the Sport Conventions of the Council of Europe and the Chair of the Advisory Group on Compliance of the Monitoring Group of the Anti-Doping Convention appointed the Monitoring Team for the Monitoring Visit to Poland (herein after the “Visit”). The Monitoring Team was comprised of Dr. Michael Petrou, President of the Cyprus Anti-Doping Authority and Chair of the Advisory Group on Compliance of the T-DO as the Head of Delegation and Rapporteur, Mrs. Christina Friis Johansen, Senior Consultant at the Anti-Doping Denmark, Mrs. Satu Heikkinen, Counselor in the Sport Division of the Ministry of Education and Culture of Finland, Mrs Kornelija Tiesnesyte, Head of Law and Common Affairs Division in the Department of Physical Education and Sport of the Government of the Republic of Lithuania, Mr. Sergey Khrychikov, Head of Sport Conventions at the Council of Europe and Mrs. Maryam Gafar-Zada from the Secretariat of Sport Conventions of the Council of Europe, as Coordinator. The composition of the Monitoring Team is shown in Annex 1.

1.2.3 The Visit was organised by the Ministry of Sport and Tourism of Poland jointly with the Secretariat of the Sport Conventions of the Council of Europe and the Monitoring Team. Ahead of the Visit, the Polish authorities provided the Secretariat of Sport Conventions of the Council of Europe with a National Report (Appendix 1) and additional documents. In addition, a list of questions was prepared and submitted by the Monitoring Team and answered by the Ministry of Sport and Tourism of Poland prior to the Visit. Moreover, several teleconferences between the Rapporteur and the Ministry of Sport and Tourism of Poland were held.



1.2.4 The aim of the Monitoring Team was to be as prepared as possible for the Visit in order to have efficient and constructive meetings. In other words, the Monitoring Team wanted to familiarise itself as much as possible with the anti-doping work in Poland prior to the Visit in order to conduct an in-depth evaluation of the anti-doping policies and actions in the country and provide recommendations accordingly.

1.2.5 The study of the National Report and the additional documents provided to the Monitoring Team by the Ministry of Sport and Tourism and the answers to the Monitoring Team's questions gave the Monitoring Team an insight into the country's anti-doping programme. The teleconferences with the Ministry of Sport and Tourism of Poland provided further information and guidance.

1.2.6 For the preparation of the Visit to Poland, the Monitoring Team reviewed the information on Poland from the Council of Europe's annual questionnaire on national anti-doping policies.

1.2.7 As part of its preparation, the Monitoring Team convened in the morning before the Visit to discuss the agenda, the approach to the meetings and the interviews and the key questions and issues per Convention article.

1.2.8 The Visit of the Monitoring Team in Warsaw, Poland was held on 30 and 31 of March 2016 and included meetings with Mr. Witold Bańka, Minister of Sport and Tourism, Mr. Ryszard Szuster, Undersecretary of State in the Ministry of Sport and Tourism responsible for sports, the Chairman and the members of the Commission on Physical Culture, Sport and Tourism of the Polish Parliament, representatives from the Ministry of Sport and Tourism, the Ministry of Health, the Ministry of Interior and Administration and the Ministry of Finance, the President of the National Olympic Committee of Poland, the Polish Commission against Doping in Sport, representatives of national sport federations, athletes and other stakeholders. The Team visited the Institute of Sport – National Research Institute and its Department of Anti-Doping Research (which is a WADA-accredited laboratory) and met with the Institute and Laboratory Directors. The programme of the Visit is shown in Annex 2.

1.2.9 In order to ensure that every stakeholder and interviewee was informed about the Anti-Doping Convention of the Council of Europe as well as the aim of the Visit and the expectations from the interviews, the Monitoring Team agreed to structure the interviews as below:

- a. To provide each interviewee with a brief introduction about the Anti-Doping Convention, the members of the Monitoring Team and the purpose of the Visit;
- b. To explain to each interviewee that the objective of the Monitoring Team was to assess the implementation of the Convention in Poland and the actions taken by each stakeholder in that respect;
- c. To ask each interviewee about the strengths, weakness and challenges that they face towards the implementation of the Convention and to identify areas of improvement; and
- d. To invite each interviewee to engage in an open discussion with the Monitoring Team.

1.2.10 All the meetings were conducted in a friendly and open way, and all the governmental and sport representatives with whom the Monitoring Team met shared their concerns and showed great interest to hear how their anti-doping programme could be improved.

1.2.11 At the end of the Visit, the Monitoring Team met and discussed with the Deputy Minister of Sport and Tourism of Poland the Team's preliminary findings and conclusions and the most important recommendations.

1.2.12 The Monitoring Team prepared the Report "Respect by Poland with the Anti-Doping Convention" with the aim of providing the Monitoring Group with the following on each article of the Convention: (a) a short introduction; (b) summary of the findings and analysis; (c) conclusion in relation to the question whether Poland complies with its commitments under the Anti-Doping Convention of the Council of Europe; and (d) recommendations. The Report includes also an Executive Summary and an overview of the Monitoring Team's recommendations.

1.2.13 In addition, since, after the Visit and prior to the preparation of the Report, the Polish authorities proceeded with important changes of the legislation and other measures on anti-doping, the Report contains a chapter with a summary of the developments and commentary.

1.2.14 A draft version of the Monitoring Team's Report was provided to the Ministry of Sport and Tourism of Poland for review and their comments are included in Appendix 2.

1.2.15 The Monitoring Team's Report is prepared for review and approval by the Monitoring Group of the Anti-Doping Convention.

### 1.3 Scope

1.3.1 The aim of the Visit to Poland is to monitor compliance with the Anti-Doping Convention. In that respect, the Monitoring Team evaluated the following articles of the Convention and the Additional Protocol to the Convention that place obligations on state parties:

- Convention Article 1: Aim of the Convention;
- Convention Article 2: Definition and scope of the Convention;
- Convention Article 3: Domestic coordination;
- Convention Article 4: Measures to restrict the availability and use of banned doping agents and methods;
- Convention Article 5: Laboratories;
- Convention Article 6: Education;
- Convention Article 7: Cooperation with sports organisations and measures to be taken by them;
- Convention Article 8: International cooperation;
- Convention Article 9: Provision of information; and
- Additional Protocol Article 1: Mutual recognition of doping controls.

1.3.2 Taking into account that (a) the Polish authorities have ratified the International Convention against Doping in Sport of UNESCO and signed the Copenhagen Declaration on Anti-Doping in Sport that refer to the World Anti-Doping Code; and (b) the Convention requires from states parties to harmonise their anti-doping rules which can only be achieved under the umbrella of the Code, the Monitoring Team agreed that a comparison between the Anti-Doping Rules of the Polish Commission against Doping in Sport and the World Anti-Doping Code fell within the Scope of the Visit.

**CHAPTER 2:****Convention 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.*

**2.1 Introduction**

2.1.1 The Convention, under this introductory article, requires State Parties to take measures to reduce and eliminate doping in sport, including legislation, and commit themselves towards this responsibility.

2.1.2 The Additional Protocol to the Anti-Doping Convention (ETS No. 188) opened for signature in Warsaw, Poland on 12 September 2002 and entered into force in 2004. The aim of the Additional Protocol is to enhance and reinforce the application of the provisions of the Convention.

**2.2 Findings**

2.2.1 Poland is a party to the Anti-Doping Convention of the Council of Europe which it signed on 16 November 1989 and ratified on 7 September 1990, and the Additional Protocol to the Anti-Doping Convention, signed and ratified on 18 June 2004. In addition, on 17 January 2007 Poland became a party to the International Convention against Doping in Sport of UNESCO.

2.2.2 The Polish authorities have also signed the Copenhagen Declaration against Doping in Sport<sup>1</sup> and on 8 April 2004, the Polish Commission against Doping in Sport accepted the World Anti-Doping Code. As required by the Code, the Polish Commission against Doping in Sport, as a Signatory to the Code and acting as the National Anti-Doping Agency of Poland developed its Anti-Doping Rules, in line with the Code.

2.2.3 The main legislation regulating sport in Poland is the Act of 25 June 2010 on Sport. Chapter 9 of the Act on Sport (Articles 43-45) establishes the legal background for the fight against doping in sport in Poland. The said Act contains a definition of doping in sport and refers to the Prohibited List, provides a framework for action for the Polish Commission against Doping in Sport as the competent authority for the fight against doping in the country, and establishes the principles of financing both the Polish Commission against Doping in Sport and the Institute of Sport including the WADA-accredited laboratory that operates as part of the Institute.

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<sup>1</sup> The Copenhagen Declaration on Anti-Doping in Sport (Copenhagen Declaration) was drafted and agreed to by governments at the Second World Conference on Doping in Sport held in Copenhagen, Denmark, in March 2003. The Copenhagen Declaration was the political document through which governments signaled their intention to formally recognize and implement the World Anti-Doping Code. This initiative was the first step taken by governments towards the preparation of the UNESCO International Convention against Doping in Sport. (Source: [www.wada-ama.org/en/governments#CopenhagenDeclaration](http://www.wada-ama.org/en/governments#CopenhagenDeclaration); accessed: 9.9.2016).

2.2.4 In addition, the Act on Sport (under Article 50) provides for criminal liability in cases of administration of doping substances to a minor in sport or use of a prohibited method in respect to a minor in sport. Similarly, the said Act provides for criminal liability in cases of administration of doping substances to any athlete or use of a prohibited method in respect to an athlete without his/her knowledge.

2.2.5 Poland has no specific legislation regarding the availability and the control of trafficking of doping substances; however, certain Acts in place relate to restricting the availability of medicines and drugs, and are thus relevant to anti-doping.

2.2.6 The Act on Sport does not refer specifically to the Anti-Doping Convention of the Council of Europe or the International Convention against Doping in Sport of UNESCO that have been ratified by Poland. As described in more detail in paragraph 4.2.3 of this Report, the only relevant reference is found in the Ordinance No. 4 of the Minister of Sport and Tourism of 5 March 2013 on grant statute to the Commission against Doping in Sport which provides as follows:

*“§5. 1. The Commission’s work shall be governed by the relevant provisions of the law, including international treaties ratified by Poland, which have been transposed into the Polish legal order.”*

2.2.7 The Anti-Doping Convention of the Council of Europe as well as the International Convention against Doping in Sport of UNESCO are international instruments that stipulate governmental support for the fight against doping in the state parties’ countries, not limited to the operations of their national anti-doping organisation. Therefore, the Monitoring Team is of the opinion that the implementation of the Council of Europe’s Anti-Doping Convention (as well as the International Convention against Doping in Sport of UNESCO) should always be explicitly mentioned in the relevant legislation and policy related documents.

## 2.3 Conclusion

2.3.1 The Monitoring Team concludes that Poland has fulfilled the political commitments described in Article 1 of the Anti-Doping Convention of the Council of Europe.

## 2.4 Recommendations

2.4.1 Recommendation no. 1: The Polish authorities should indicate in the respective legislation that the fight against doping in the country shall respect and governed by the Anti-Doping Convention of the Council of Europe.

**CHAPTER 3:****Convention Article 2 - Definition and scope of the Convention****2.1 For the purposes of this Convention:**

- a “doping in sport” means the administration to sportsmen or sportswomen, or the use by them, of pharmacological classes of doping agents or doping methods;**
- b “pharmacological classes of doping agents or doping methods” means, subject to paragraph 2 below, those classes of doping agents or doping methods banned by the relevant international sports organisations and appearing in lists that have been approved by the monitoring group under the terms of Article 11.1.b;**
- c “sportsmen and sportswomen” means those persons who participate regularly in organised sports activities.**

**3.1 Introduction**

3.1.1 This article provides for the definitions of “doping in sport”, “pharmacological classes of doping agents and doping methods” and “sportsmen and sportswomen”.

3.1.2 With the entry into force of the World Anti-Doping Code in 2004 and its consecutive revisions in 2009 and 2015, a broader definition of doping is established. The Code-based definition of doping has been adopted by the International Convention against Doping in Sport of UNESCO.

3.1.3 Similarly, since the entry into force of the World Anti-Doping Code, the list of banned doping agents and doping methods has been revised at least once a year and is published by WADA instead of the International Olympic Committee.

3.1.4 Unlike with the definition of doping in sport, the list of pharmacological classes of doping agents and doping methods is reproduced in the appendix to the Council of Europe’s Anti-Doping Convention and is approved by the Monitoring Group whenever is revised by WADA. This mechanism allows for a speedy approval by the Monitoring Group of new lists, so that they become legally applicable for the Parties’ own purposes.

3.1.5 Article 2.1.c provides the definition of “sportsmen” and “sportswomen” as *“those persons who participate regularly in sports”*. As clarified in the Explanatory Report to the Anti-Doping Convention:<sup>2</sup>

*“It is not the drafters’ intention that the Convention is to be applied indiscriminately to all sports and to all levels of sports. National authorities will decide their own priorities and make appropriate selections and decisions: (...) The Convention will be applied realistically, concentrating firstly on sports where doping is known to exist. (...) The use of the adverb “regularly” in*

<sup>2</sup> Explanatory Report to the Anti-Doping Convention, Strasbourg, 16.XI.1989, paragraph 48.

*Article 2.1.c is designed to bring these participants within the merit of the Convention where it is appropriate, while not prescribing an unduly heavy obligation to control purely casual participants”.*

### 3.2 Findings

3.2.1 The Polish Commission against Doping in Sport, acting as the national anti-doping organization of Poland adopted its own Anti-Doping Rules (“Anti-Doping Rules for PANDA”). The Rules were developed based on the 2015 WADA Model Rules for NADOs and following review by WADA were deemed Code Compliant. Article 2 of the Commission’s Anti-Doping Rules contains a definition of “doping in sport” as follows:

*“ARTICLE 2 DEFINITION OF DOPING - ANTI-DOPING RULE VIOLATIONS  
Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of these Anti-Doping Rules.*

*(...)*

*The following constitute anti-doping rule violations:*

*2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample*

*(...)*

*2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method*

*(...)*

*2.3 Evading, Refusing or Failing to Submit to Sample Collection*

*(...)*

*2.4 Whereabouts Failures*

*(...)*

*2.5 Tampering or Attempted Tampering with any part of Doping Control*

*(...)*

*2.6 Possession of a Prohibited Substance or a Prohibited Method*

*(...)*

*2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method*

*2.8 Administration or Attempted Administration to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition*

*2.9 Complicity*

*(...)*

*2.10 Prohibited Association.”*

3.2.2 The Code-based definition of doping that is found in the Commission’s Anti-Doping Rules covers the respective definition of doping in sport of the Convention. In fact, it is even broader.

3.2.3 The Act of 25 June 2010 on Sport under Article 43.1 provides for the definition of doping as below:

*“The following shall be considered as doping in sport:*

- 1) the presence of a prohibited substance or its metabolites or markers in a sample from a person who participates in or prepares for a sports competition;*
- 2) the use or attempted use, assistance in or encouraging the use of a prohibited method or substance by a person who participates in or prepares for a sports competition;*
- 3) possessing a prohibited substance or tools that make it possible to use a prohibited method in connection with participating in or preparing for a sports competition;*
- 4) administering or trying to administer a prohibited substance, or participation in preparing or using a prohibited method in connection with participating in or preparing for a sports competition;*
- 5) hindering or pre-empting anti-doping control, or manipulating its course;*
- 6) marketing the prohibited substances or tools that make it possible to use a prohibited method, or participation in such marketing.”*

3.2.4 The aforementioned clause of the Act of 25 June 2010 on Sport covers the respective definition of doping in sport of the Convention. Similarly, it also goes further.

3.2.5 The Polish legal system was previously deemed by WADA to be in line with the Code. However, after the Monitoring Visit, the Team became aware that, following review of the Act on Sport and the Commission’s Anti-Doping Rules by WADA, it was found that Article 2.10 of the Code (Prohibited Association) has not been incorporated. Thus, it was deemed that the Act in force was not in line with Article 2 of the Code and the Polish Commission against Doping in Sport was given a deadline of three months to resolve the issue and avoid be declared non-compliant.<sup>3</sup> The Polish authorities reacted to WADA’s decision and amended the Article 43.1 of the Act on Sport to incorporate the definition of doping in sport in line with the Code. The definition of doping that is found in the Act of 11 August 2016 amending the Act on Sport -that is currently in force- is in line with the Convention and the Code.

3.2.6 The Commission’s Anti-Doping Rules under Articles 4.1 and 4.2.1 refer to WADA’s Prohibited List as below:

*“ARTICLE 4 THE PROHIBITED LIST*

*4.1 Incorporation of the Prohibited List*

*These Anti-Doping Rules incorporate the Prohibited List which is published and revised by WADA as described in Article 4.1 of the Code.*

*4.2 Prohibited Substances and Prohibited Methods Identified on the Prohibited List*

*4.2.1 Prohibited Substances and Prohibited Methods*

*“Unless provided otherwise in the Prohibited List and/or a revision, the Prohibited List and revisions shall go into effect under the Anti-Doping*

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<sup>3</sup> WADA, Matter for WADA Executive Committee and Foundation Board, 11-12 May 2016, Agenda Item #: 10.3.

*Rules three months after publication of the Prohibited List by WADA without requiring any further action by PANDA.”*

3.2.7 The Act of 25 June 2010 on Sport under Articles 43.3 to 43.5 provides for the definition of prohibited substances and prohibited methods, referring to WADA’s Prohibited List International Standard that is annexed to the International Convention against Doping in Sport of UNESCO, as below:

*“3. A prohibited substance is defined as a substance which may contribute to improving sports performance, the use of which is against fair play, and which is listed in Annex 1 to the convention referred to in paragraph 2.*

*4. A prohibited method is defined as an action which may contribute to improving sports performance, the use of which is against fair play, and which is listed in Annex 1 to the convention referred to in paragraph 2.*

*5. A substance or action which makes it difficult to detect a substance or method referred to in paragraphs 3 and 4, and listed in Annex 1 to the convention referred to in paragraph 2, shall also be considered a prohibited substance or method.”*

3.2.8 It is the opinion of the Monitoring Team that the definition of prohibited substances and prohibited methods that are found in the Act of 25 June 2010 on Sport is complicated. Moreover, the Monitoring Team points out that the role of the Monitoring Group of the Convention in approving the List of banned substances and methods is not mentioned in the Polish legislation. Finally, the issue of compatibility of the lists should be raised. The Commission’s Anti-Doping Rules incorporate the WADA’s Prohibited List directly whereas the Act on Sport refers to the WADA’s Prohibited List as annexed to the International Convention against Doping in Sport of UNESCO. The WADA Prohibited List is beyond doubt compliant with the Convention. However, if the Monitoring Group of the Convention adopts a prohibited list that differs from WADA’s Prohibited List, albeit this is improbable, then Poland -as well as many other State Parties to the Convention- would have to deal with such a peculiar situation.

3.2.9 With the Act of 11 August 2016 amending the Act on Sport that is currently in force, the definition of prohibited substance and prohibited method has been simplified. However, there is no reference to the List of doping substances and doping methods adopted by the Monitoring Group.

3.2.10 Another issue that relates to the List of banned substances and methods is its publication in the Journal of Law (Dziennik Ustaw) which is the official journal of laws of Poland. As mentioned in paragraph 3.2.6 above, in accordance with Article 4.2.1 of the Commission’s Anti-Doping Rules, the Prohibited List shall go into effect under the said Rules three months after its publication by WADA without requiring any further action by the Commission. The Monitoring Team is of the opinion that, the List of banned substances and methods as an Appendix to the Anti-Doping Convention of the Council of Europe (and similarly the Prohibited List of WADA as an Annex to the International Convention against Doping in Sport of UNESCO) should be translated and published in the Journal of Law after its adoption by the Monitoring Group of the Anti-Doping Convention of the Council of Europe (or UNESCO, respectively). This is of particular importance taking into account that the Act on Sport provides for criminal liability for conduct that relates to prohibited substances and prohibited methods (e.g., administration). Timely publication of the List is also important, not only for the



prevention of possible legal challenges regarding the version of the List that is in effect but also for its prompt communication to the public, and in particular to the athletes and their support personnel. It is even more important when knowing that WADA publishes its Prohibited List in a limited number of languages and Polish is not among them.

3.2.11 The Act of 25 June 2010 on Sport uses the term “athlete” throughout the text; however, it contains no definition of this term. The National Report (under Article 2) provides the following analysis regarding the definition of athlete in the *Act on Sport*:

*“(...) in the context of its anti-doping provisions (the definition of doping included in Article 43(1)), the Act employs the term "person who participates in or prepares for a sports competition", the said term should be understood as a definition of an athlete, adopted for the purposes of these anti-doping provisions.”*

3.2.12 The Monitoring Team is of the opinion that, the aforementioned definition of athlete is complicated (*"person who participates in or prepares for a sports competition"* contrary to, for example, *"a member or license-holder of any National Federation in Poland"* that is found in the Anti-Doping Rules of the Polish Commission against Doping in Sport). Moreover, the aforementioned definition of athlete is limited, and it does not refer directly to the elements of “regular participation” and “organized sports” which are found in the definition of athlete in the Council of Europe’s Convention. Thus, the definition of athlete found in the Act on Sport is incomplete from the Convention perspective. In addition, the Team is of the opinion that the abovementioned limitations of the definition of athlete in the Act on Sport is of particular importance taking into account the criminal liability that the Act provides in Article 50. See also paragraph 3.1.5 below.

3.2.13 The Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”) introduced the standard definition of “athlete” of the World Anti-Doping Code which reads as follows:

*“Athlete: Any Person who competes in sport at the international level (as defined by each International Federation), or the national level (as defined by each National Anti-Doping Organization). An Anti-Doping Organization has discretion to apply anti-doping rules to an Athlete who is neither an International-Level Athlete nor a National-Level Athlete, and thus to bring them within the definition of “Athlete”. (...) For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any Person who participates in sport under the authority of any Signatory, government, or other sports organization accepting the Code is an Athlete.”*

3.2.14 In line with the definition of Athlete in the Commission’s Anti-Doping Rules, Article 1.3 of the Rules defines the persons that fall into the scope of the Rules, as below:

*“Application to Persons*

*1.3.1 These Anti-Doping Rules shall apply to the following Persons (including Minors), in each case, whether or not such Person is a national of or resident in Poland:*

*1.3.1.1 all Athletes (...) who are members or license-holders of any National Federation in Poland, or of any member or affiliate organization of any National Federation in Poland (including any clubs, teams, associations or leagues);*

*1.3.1.2 all Athletes (...) who participate in such capacity in Events, Competitions and other activities organized, convened, authorized or recognized by any National Federation in Poland, or by any member or affiliate organization of any National Federation in Poland (including any clubs, teams, associations or leagues), wherever held;*

*1.3.1.3 any other Athlete (...) who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the jurisdiction of any National Federation in Poland, or of any member or affiliate organization of any National Federation in Poland (including any clubs, teams, associations or leagues), for purposes of anti-doping;*

*1.3.1.4 all Athletes (...) who participate in any capacity in any activity organized, held, convened or authorized by the organizer of a National Event or of a national league that is not affiliated with a National Federation; and*

*1.3.1.5 all Athletes who do not fall within one of the foregoing provisions of this Article 1.3.1 but who wish to be eligible to participate in International Events or National Events. (...)*

*1.3.2 These Anti-Doping Rules shall also apply to all other Persons over whom the Code gives PANDA jurisdiction, including all Athletes who are nationals of or resident in Poland, and all Athletes who are present in Poland, whether to compete or to train or otherwise.”*

3.2.15 The Monitoring Team is of the opinion that the definition of athlete that is found in the Convention (i.e., “*those persons who participate regularly in sports*”) is broader than the definition of athlete that is found in the Commission’s Anti-Doping Rules. However, the Team finds that, under the circumstances, Article 1 of the said Rules provides for a realistic application of the Convention in Polish sport. (See also paragraph 3.1.5 above)

### 3.3 Conclusion

3.3.1 The Monitoring Team concludes that Poland has not fulfilled the commitments described in Article 2.1 of the Anti-Doping Convention of the Council of Europe.

3.3.2 The most prominent non-conformities under this sub-article are: (a) the lack of any reference in the Polish legislation to the List of banned pharmacological classes of doping agents and doping methods and the role of the Monitoring Group in its adoption; and (b) the incomplete definition of “athlete” in the Act on Sport.

### 3.4 Recommendations

3.4.1 Recommendation no. 2: The Polish authorities should consider introducing comprehensive and exhaustive definition of “athlete” in their legislation, so as to ensure that they cover the respective definitions of the Council of Europe’s Anti-Doping Convention and the Code.

3.4.2 Recommendation no. 3: The Polish authorities should ensure that the List of banned pharmacological classes of doping agents and banned doping methods in force in Poland is the one adopted by the Monitoring Group. It does not mean, however, that it cannot be the WADA Prohibited List since the two Lists are identical.

3.4.3 Recommendation no. 4: The Polish authorities should publish the List of banned pharmacological classes of doping agents and doping methods in the Journal of Law (Dziennik Ustaw), prior to its entry into force.

\* \* \*

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

### 3.5 Introduction

3.5.1 The list of banned pharmacological classes of doping agents and doping methods that was in effect at the time when the Convention came into force was in appendix to the original text of the Convention. When the Monitoring Group of the Convention approves a new list, it is reproduced in the appendix so that it becomes legally applicable for the Parties’ own purposes (and the previous version cease to be effective).

### 3.6 Findings

3.6.1 Poland ratified the Council of Europe’s Anti-Doping Convention in 1990 and the International Convention against Doping in Sport of UNESCO in 2007. The two Conventions are similar in the sense that they both have the List of banned substances and banned methods and the WADA Prohibited List as an appendix or annex, respectively.

3.6.2 As mentioned in paragraph 3.2.10 above, the Polish authorities publish the WADA’s Prohibited List in the Journal of Law after its adoption by the Conference of Parties of the International Convention against Doping in Sport of UNESCO and not the List of banned substances and banned methods that is adopted by the Monitoring Group of the Anti-Doping Convention of the Council of Europe. For more comments on the List, see paragraphs 3.2.6 to 3.2.10.

### 3.7 Conclusion

3.7.1 The Monitoring Team concludes that Poland has not fulfilled the commitments described in Article 2.2 of the Anti-Doping Convention of the Council of Europe.

### 3.8 Recommendations

3.8.1 See Recommendations no. 3 and no. 4 (paragraphs 3.4.2 and 3.4.3, above).

**CHAPTER 4:****Convention Article 3 - Domestic co-ordination**

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

**3.2** *They shall ensure that there is practical application of this Convention, and in particular that the requirements under Article 7 are met, by entrusting, where appropriate, the implementation of some of the provisions of this Convention to a designated governmental or non-governmental sports authority or to a sports organisation.*

## 4.1 Introduction

4.1.1 The fight against doping in sport involves several governmental departments or agencies like the departments responsible for public health, medical care, customs, police, sport, education, etc. They all need to work together constructively to achieve best results. Even though the Convention does not propose a single operative method, Parties should ensure the practical implementation of the Convention and –in that respect- establish a national responsible body, with some degree of authority over individual sports so as to ensure consistency across all sports at the national level.

4.1.2 The World Anti-Doping Code requires each country to designate a National Anti-Doping Organization (NADO) defined as an entity “(...) possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of samples, the management of test results, and the conduct of hearings at the national level”. Moreover, the Code under Article 22.6 requires each government to “respect the autonomy of a national anti-doping organization in its country and not interfere in its operational decisions and activities”.

## 4.2 Findings

4.2.1 The legal framework that regulates sport in Poland, including anti-doping, is the Act of 25 June 2010 on Sport (consolidated text: Dz. U. [Journal of Laws] of 2016, item 176).

4.2.2 Article 44(1) of the Act of 25 June 2010 on Sport provides for the responsible authority for the fight against doping, as follows:

*“44.1 The fight against doping in sport shall be the responsibility of the Commission against Doping in Sport.”*

4.2.2 In addition, Article 44(5) of the Act of 25 June 2010 on Sport specifies the tasks of the Polish Commission against Doping in Sport, as follows:

*“44.5. The Commission’s tasks shall include, in particular:*

- 1) maintaining a list of prohibited substances and methods;*
- 2) conducting anti-doping control during competitions and outside of them;*
- 3) conducting research which supports the fight against doping in sport;*

*4) supporting, preparing and implementing education or training programmes concerning the fight against doping in sport.”*

4.2.3 Although the Act on Sport does not refer specifically to the Anti-Doping Convention, the *Ordinance No. 4 of the Minister of Sport and Tourism of 5 March 2013 on grant statute to the Commission against Doping in Sport* that is issued pursuant to Article 44(9) of the Act of 25 June 2010 on Sport makes reference to the international treaties that have been ratified by Poland in relation to the work of the Commission as follows:

*“§5. 1. The Commission’s work shall be governed by the relevant provisions of the law, including international treaties ratified by Poland, which have been transposed into the Polish legal order.*

*2. Save for §5(1), documents of international organizations and other organizations of recognized authority in the field of the fight against doping in sport, including the documents adopted by the World Anti-Doping Organization (WADA), can serve as guidelines for the Commission’s work.”*

4.2.4 The work of the Polish Commission against Doping in Sport is supported by the Commission Office which operates as a state budget entity and manages the budget for implementing the tasks of the Commission. The establishment of the Commission Office as a state budget entity is required under the Act of 27 August 2009 on Public Finance (consolidated text: Dz. U. of 2013, item 885, as amended).

4.2.5 The Monitoring Team is of the opinion that the obligation of the Polish authorities to fund the Polish Commission against Doping in Sport is met. However, as described in detail in other parts of the Report, it is the Team’s opinion that the practical arrangements of financing of the Polish Commission against Doping in Sport seems problematic and needs to be revised in order to allow the Commission more budget flexibility and independence (see paragraphs 5.10.2 – 5.10.6, 5.13.3, 5.22.5, 6.2.10 and 8.34.2).

4.2.6 In accordance with Article 44.2 of the Act of 25 June 2010 on Sport, the Polish Commission against Doping in Sport comprise the President and 10 members, appointed by the Minister of Sport and Tourism among professionals in the fields of medicine, sport, ethics, biology or law. In its current composition, the Commission includes representatives, among others, from the Ministry of Health, the Ministry of Interior (Police) and the Ministry of Finance (Customs Service). In addition, in accordance with *Ordinance No. 4 of the Minister of Sport and Tourism of 5 March 2013 on grant statute to the Commission against Doping in Sport* the Minister of Sport and Tourism or his representative can attend the meetings of the Commission, without the right to vote. The Monitoring Team is of the opinion that the representation of the abovementioned Ministries and governmental departments in the structure and the work of the Commission contributes significantly to the required coordination at the national level for the fight against doping. However, the Team notes that the Commission includes also sport doctor(s) as well as a representative of the Department of Anti-Doping Research of the Institute of Sport – National Research Institute (which is the Polish WADA-accredited laboratory) with apparent or potential individual or institutional interests that may conflict with the work of the Commission.

4.2.7 Domestic coordination for the fight against doping in Poland is enhanced through cooperation agreements that the Polish Commission against Doping in Sport has entered into with the Polish National Police Headquarters and the Customs Service (see paragraphs 5.2.6 and 5.2.7).

4.2.8 The Monitoring Team finds that the aforementioned agreements between the Polish Commission against Doping in Sport and the Police and the Customs Service set the basis for effective cooperation and coordination for the fight against doping at the national level. However, the Team did not have the chance to study how the information assessment and sharing model works in practice and evaluate the practical application and efficiency of the agreements and the domestic coordination in place. Based on the information provided in the National Report (under Article 4), although the Polish Commission against Doping in Sport has notified the Police of 34 cases in 2014 and 39 cases in 2015 of suspected crime (administration of prohibited substance or use of prohibited method without the knowledge of the athlete or in respect of a minor in violation of Article 50 of the Act on Sport) in none of these cases were investigation proceedings initiated which raises concerns about the practical application and the effectiveness of the respective agreement.

4.2.9 As is described in Chapter 13 of this Report, the Polish authorities are in the process of adoption of an Act on the fight against doping in sport. In accordance with the draft version of the said Act that the Team received (version 4; dated 30 September 2016), domestic coordination will be enlarged with the cooperation between the Polish Anti-Doping Agency (which will be the body to replace the Polish Commission against Doping in Sport) and the Border Guard, the Military Police as well as the public prosecutors' offices for sharing of information related to the fight against doping. Moreover, the said draft Act provides for the cooperation between the Polish Anti-Doping Agency and the minister competent for health issues with the aim to inform the public of the risks of doping and to ensure correct labelling of medicinal products, in particular those containing prohibited substances.

### 4.3 Conclusion

4.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 3 of the Anti-Doping Convention of the Council of Europe.

### 4.4 Recommendations

4.4.1 Recommendation no. 5: The Polish authorities should ensure adequate structures and practices for efficient cooperation and coordination between the Ministry of Sport and Tourism, the Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) and other departments and public agencies for the fight against doping at the national level.

4.4.2 Recommendation no. 6: The Ministry of Sport and Tourism should ensure that the Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) is independent on its operations (including budget) and decisions and free of organisational and individual conflicts of interest.

4.4.3 Recommendation no. 7: The health authorities should include the fight against doping in their scope of activities, especially the control of availability of doping substances and methods as well as the prevention of doping in society; and cooperate, collaborate and coordinate with the Polish

Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) as the competent authority, including sharing of information.



**CHAPTER 5:****Convention 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.*

## 5.1 Introduction

5.1.1 Under Convention sub-article 4.1, States Parties are required to adopt measures to restrict the availability, including trafficking, of banned substances and methods and, in particular, anabolic steroids. As it is explained in the Explanatory Report to the Anti-Doping Convention<sup>4</sup>, most of the classes of banned substances and methods are under pharmacists' regulations or strict medical control and the main area of further restrictions lies in the anabolic steroids.

5.1.2 In addition to the above provision of the Convention, the Monitoring Group adopted the *Recommendation Rec (94/2) on Measures to Restrict the Availability of Anabolic Steroids* that recommends the Parties to ensure –among other- that a legislative framework that provides for (a) efficient control of the unauthorised possession, supply and transfer of anabolic androgenic steroids; and (b) appropriate penalties for such conduct are in place.

## 5.2 Findings

5.2.1 Poland, at the time of the Monitoring Visit, had no specific legislation in place with respect to restricting the availability of prohibited substances. However, the accessibility to certain groups of doping substances may be considered as restricted on the basis of different legislative and administrative measures in effect in Poland. With the exemption of the Act on Sport, the measures that are in place in Poland aim to restrict the use of banned substances and methods, in general, and are not limited to sports.

5.2.2 The National Report contains a list of the legislative acts regulating the availability of certain groups of banned doping agents and doping methods that are in place in Poland:

- a. Act of 25 June 2010 on Sport: It represents the main legislative act relating to sport as well as the fight against doping. The Act on Sport provides for criminal liability in cases of administration of doping substances to a minor in sport or use of a prohibited method in respect to a minor in sport. Similarly, the said Act provides for criminal liability in cases of administration of doping substances to any athlete or use of a prohibited method in respect to an athlete without his/her knowledge.
- b. Act of 6 September 2001 – Pharmaceutical law: It applies to prohibited substances that are contained in medicinal products and provides for criminal liability for whoever

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<sup>4</sup> Explanatory Report to the Anti-Doping Convention, Strasbourg, 16.XI.1989, paragraph 52.

market, or store in order to market a medicinal product in the territory of Poland without licence.

- c. Act of 29 July 2005 on Prevention of Drug Addiction: It covers possession, sale, distribution and supply of prohibited substances that fall into the classes of narcotics or cannabinoids, as well as certain stimulants on the list of banned substances and banned methods.
- d. Act of 20 May 2010 on medical devices.
- e. Act of 6 June 1997 - Penal Code: The provisions of the Penal Code are applicable to acts which involve administration of a prohibited substance to another person, if such conduct poses a risk to human life or health.

5.2.3 With the exception of the Act of Sport, the aforementioned legislation aims to regulate the availability of medicines and narcotics and is not limited in sport. The Monitoring Team did not evaluate the aforementioned legislation (apart from the Act on Sport). However, based on the information that is available in the National Report and the discussions that the Team held during the Visit about the impact of the said Acts on the fight against doping in Poland, it is the opinion of the Monitoring Team that the legislation in place for limiting the availability of doping substances and doping methods needs to improve further.

5.2.4 One of the areas that the Monitoring Team explored further in relation to the control of the availability of doping substances was the work of the Chief Sanitary Inspectorate, a service subordinate to the Ministry of Health. Operating under the Act of 25 August 2006 on Food and Nutrition Safety, the Chief Sanitary Inspectorate performs controls on food supplements, including laboratory examinations by the National Medicines Institute with the aim to detect the presence of pharmacologically active substances (e.g., sildenafil, sibutramine, etc.) that are not declared on the label of the product. Since 2015, the Chief Sanitary Inspectorate has broadened the scope of their analysis on food supplements to include doping substances in accordance with the WADA's Prohibited List using the Department of Anti-Doping Research of the Institute of Sport.

5.2.5 The role of law enforcement agencies and customs for the restriction of the availability and the use in sport of banned doping agents and doping methods is of great importance. Moreover, the cooperation between national anti-doping organisations and law enforcement agencies and customs has proved to be an effective measure in the fight against doping in sport, and governments should find ways to facilitate and promote such cooperation. Since 2014, the Polish Commission against Doping in Sport has agreements with the Polish National Police Headquarters and the Customs Service in place, allowing information sharing as well as other measures with the aim to increase the effectiveness of the fight against trafficking, smuggling and use of prohibited substances and methods.

5.2.6 The Monitoring Team notes that, the agreement between the Polish Commission against Doping in Sport and the Customs Service that is in place refers to the WADA's Prohibited List (as an annex to the International Convention against Doping in Sport of UNESCO) without specifying the classes of the substances or methods that fall into the scope of the agreement. However, the respective agreement in place with the Police limits its scope to certain classes of prohibited substances and prohibited methods (i.e., S1. Anabolic agents; S2. Peptide hormones, growth factors, related substances; S6. Stimulants, in particular amphetamine, cocaine, methamphetamine, and methylhexanamine; M1. Methods enhancing the transport of oxygen; M2. Chemical and physical manipulation; and M3. Gene doping), only. The Monitoring Team understood that, the Polish authorities might have chosen to limit the scope of the agreement between the Police and the

Commission to cover the priorities based on risk assessment. However, it is not clear to the Team why potentially dangerous prohibited substances falling into S0. Non-approved substances or S4. Hormone and metabolic modulators, as well as prohibited methods like blood transfusions (M1.1) or intravenous blood manipulation (M1.3) do not fall into the scope of the agreement with the Police.

5.2.7 The Monitoring Team became aware that, as part of the developments that took place following the Visit (see Chapter 13) the Polish authorities are in the process of adopting an Act on the fight against doping in sport. In accordance with the draft of the said Act that the Team received (version 4; dated 30 September 2016) the Polish authorities are planning to introduce criminal liability for trafficking of certain classes of prohibited substances (i.e., S1. Anabolic agents; S2. Peptide hormones, growth factors, related substances and mimetics; and S4. Hormone and metabolic Modulators). Moreover, the aforementioned draft Act includes provisions requiring Police, the Customs Service, the Border Guard, the Military Police and public prosecutors' offices to forward to the Polish Anti-Doping Agency (that will be established under the said Act) ex-officio or following a request from the Polish Anti-Doping Agency, any information that is at their disposal and is necessary to establish disciplinary liability for doping in sport.

### 5.3 Conclusion

5.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 4.1 of the Anti-Doping Convention of the Council of Europe. However, it is the opinion of the Team that the legislative and other measures aiming to limit the availability of banned substances could be improved further.

### 5.4 Recommendations

5.4.1 Recommendation no. 8: The Polish authorities shall adopt comprehensive legislative measures to control the trafficking of doping substances; these measures should include, as a minimum, the list of substances to be controlled, the agencies to be involved, and the applicable sanctions.

5.4.2 Recommendation no. 9: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should establish cooperation agreements with as many law enforcement bodies and other agencies as necessary, including information sharing, to control the availability of doping substances and methods.

5.4.3 Recommendation no. 10: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should consider expanding the scope of the cooperation agreement with the Police to cover more classes of prohibited substances (e.g., S0. Non-approved substances, and S4. Hormone and metabolic modulators) and prohibited methods (e.g., blood transfusions (M1.1), and intravenous blood manipulation (M1.3)).

\* \* \*

***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.***

## 5.5 Introduction

5.5.1 As a form of encouragement to sport organisations to fight doping, Article 4.2 of the Convention requires the States or the relevant non-governmental organisations to make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.

## 5.6 Findings

5.6.1 Article 1.2.1 of the Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”) that came into effect on 11 August 2016 (see Chapter 13) provides as follows:

*“1.2.1 As a condition of receiving financial and/or other assistance from the Government of Poland and/or the National Olympic Committee of Poland, each National Federation of Poland shall accept and abide by the spirit and terms of Poland’s National Anti-Doping Program and these Anti-Doping Rules, and shall incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules as part of the rules of sport that bind their members and Participants. Additionally each National Federation shall accept that result management and hearings shall be managed in accordance with the PANDA rules. Decisions of PANDA Disciplinary Panel, the Court of Arbitration for Sport of the Polish Olympic Committee and CAS are binding for National Federations and shall be recognized by them.”*

5.6.2 The comment annotating the aforementioned provision of the Anti-Doping Rules of the Commission expressly reads as follows:

*“[Comment to Article 1.2.1: PANDA shall work cooperatively with its Government and National Olympic Committee to ensure that recognition of PANDA and acceptance and application of these Anti-Doping Rules represents a precondition to a National Federation’s receipt of any financial and/or other assistance from the Government and/or the National Olympic Committee.]”*

5.6.3 The Act of 25 June 2010 on Sport includes clauses regulating the provision of financial support from the Ministry of Sport and Tourism to sport organisations as well as the supervising role of the Ministry over sport organisations in Poland.

5.6.4 Regardless of the aforementioned provisions of the Act on Sport and the Anti-Doping Rules of the Polish Commission against Doping in Sport, in practice, the sport associations’ compliance with the Anti-Doping Rules or other relevant parameters (like, for example, the number of doping rule violations by members of a sport association) are not taken into account when determining the size of the subsidies to be granted by the Ministry of Sport and Tourism to each sport association.

## 5.7 Conclusion

5.7.1 The Monitoring Team concludes that Poland has not fully fulfilled the commitments described in Article 4.2 of the Anti-Doping Convention of the Council of Europe.

## 5.8 Recommendations

5.8.1 Recommendation no. 11: The Ministry of Sport and Tourism should introduce criteria related to anti-doping for the funding of Polish sport associations allowing withholding of public funds from those sport associations that do not effectively apply anti-doping regulations.

\* \* \*

### ***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;***

## 5.9 Introduction

5.9.1 Under this article of the Convention, governments may underwrite the entire cost of doping controls and analysis or offer partial grants to the sport organisations, as a form of encouragement to undertake testing on a worthwhile scale.

## 5.10 Findings

5.10.1 In accordance with Article 44.5.2 of the Act on Sport, doping control is a task of the Polish Commission against Doping in Sport.

5.10.2 The Polish Commission against Doping in Sport is supported by the Commission Office which operates as a state budget entity and manages the budget for the implementation of the tasks of the Commission, including testing. The budgetary appropriations for the Commission Office for the implementation of the tasks of the Commission (including testing) are allocated directly in the state budget.

5.10.3 Based on the information available in the National Report (under Article 1), the annual budget for the implementation of the Commission's tasks in the years 2011 to 2016 ranged from 1,735,000 PLN (approx. 401,480 Euros) in 2011 and steadily increased to 2,094,000 PLN (approx. 484,554 Euros) in 2016. These amounts do not include the costs of analysis of samples which is covered directly by the Ministry of Sport and Tourism under a separate agreement with the Institute of Sport.

5.10.4 Based on the information available in the 2015 Annual Report of the Polish Commission against Doping in Sport, the Commission allocated 878,871 PLN (approximately 203,371 Euros) for testing which equals approximately to 42% of its annual budget.

5.10.5 As mentioned in paragraph 5.10.3 above, the annual budget for the implementation of the Commission's tasks does not include the costs of analysis which are covered by the Ministry of Sport and Tourism under a separate agreement with the Institute of Sport. Based on the information available in the National Report (under Article 1), in 2015 and 2016 the Ministry of Sport and

Tourism allocated to the Institute of Sport the amount of 4,500,000 PLN (approx. 1,041,305 Euros) per year, specifically for the Department of Anti-Doping Research, for the analysis of samples collected by the Polish Commission against Doping in Sport as part of its testing programme as well as the analysis of samples from the Polish Equestrian Federation.

5.10.6 The Monitoring Team is of the opinion that the Polish authorities fulfill their obligations under this particular article i.e., to finance doping controls and analysis, on a meaningful scale. Moreover, the Team is of the opinion that the funding of the Polish Commission against Doping in Sport and the Institute of Sport is secured by the Act on Sport and the relevant Ordinances of the Ministry of Sport and Tourism. However, it is the opinion of the Monitoring Team that the practical arrangements of financing of testing and analysis need to be reconsidered with the view that, the Commission (and the Polish Anti-Doping Agency that will replace the Commission) should have sufficient budget and administrative flexibility to decide on the number of samples to be collected and the analyses to be performed as well as the flexibility to send samples to other WADA-accredited laboratories, if needed. See also paragraphs 8.30.12 and 8.30.13, above.

#### 5.11 Conclusion

5.11.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 4.3.a of the Anti-Doping Convention of the Council of Europe.

#### 5.12 Recommendations

5.12.1 Recommendation no. 12: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should have the budgetary and administrative flexibility to decide on the number of samples to be collected each year and the analyses to be performed and to be able to send samples to other WADA-accredited laboratories apart from the Department of Anti-Doping Research of the Polish Institute of Sport, if necessary.

\* \* \*

***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;***

#### 5.13 Introduction

5.13.1 This article of the Convention is to be interpreted in the sense of withholding financial support from public funds, whether directly from the state or indirectly through sport organisations, to sportsmen and sportswomen who have been suspended for doping, during the period of their suspension.

#### 5.14 Findings

5.14.1 In accordance with Article 32 of the Act of 25 June 2010 of Sport and the Regulation of the Minister of Sport and Tourism of 15 October 2012 on Sports Grants for members of Polish national teams, the Minister of Sport and Tourism may award, withhold or cancel sport grants for athletes-

members of a national team who undertake in writing to follow a preparatory programme for the Olympic Games, the Paralympic Games, the Deaflympics or a preparatory programme for the World Championships or the European Championships, developed by the relevant Polish sports association, and to participate in those competitions.

5.14.2 Although the aforementioned Act and Regulation contain provisions covering the minister's decision to withhold sport grants, there is no reference to anti-doping rule violations. It was explained to the Monitoring Team that, for athletes who are sanctioned for anti-doping rule violations, the decision to withhold sport grants is based on the athlete's failure to follow the preparatory programme (ineligibility). However, it is the opinion of the Monitoring Team that anti-doping rule violations should be explicitly mentioned as a reason for withholding or cancelling sports grants either in the aforementioned Act and Regulation or in a document explaining the said provisions in plain language, for better clarity and maximising its deterrence effect.

5.14.3 In addition to the above, the Anti-Doping Rules of the Polish Commission against Doping in Sport ("Anti-Doping Rules for PANDA") include provisions that allow withholding of financial support or other sport related benefits (e.g., sponsorship) from athletes serving a period of ineligibility. In particular, Article 10.12.4 of the said Rules provides as follows:

*"10.12.4 Withholding of Financial Support during Ineligibility  
In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.4 or 10.5, some or all sport-related financial support or other sport related benefits received from such person will be withheld by PANDA, the Polish Government, and the National Federations."*

5.14.4 The Monitoring Team understood that, although the aforementioned provisions of Article 10.12.4 of the Anti-Doping Rules of the Polish Commission against Doping in Sport ("Anti-Doping Rules for PANDA") are standard, Code-based clauses and in line with the Convention, are not yet implemented by the Polish Commission against Doping in Sport, the Ministry of Sport and Tourism and the national federations.

## 5.15 Conclusion

5.15.1 The Monitoring Team concludes that Poland fulfilled the commitments described in Article 4.3.b of the Anti-Doping Convention of the Council of Europe; however, the Team is of the opinion that the relevant legislative and/or regulatory framework needs to be strengthened.

## 5.16 Recommendations

5.16.1 Recommendation no. 13: The Ministry of Sport and Tourism should consider revising the Act on Sport and/or the Regulation of the Minister of Sport and Tourism on Sports Grants for members of Polish national teams to explicitly mention anti-doping rule violation as a reason to withhold or cancel sport grants and/or producing a document explaining the said provision in plain language, for better clarity and maximising its deterrence effect.

5.16.2 Recommendation no. 14: The Ministry of Sport and Tourism should adopt and enforce (as necessary) a policy regulating the reporting by the Polish Commission against Doping in Sport to the Ministry of Sport and Tourism and the national federation concerned of any anti-doping rule violation

not involving a reduced sanction; and the withhold by the Ministry of Sport and Tourism and the national federation of some concerned of all sport-related financial support or other related benefits received from such person.

\* \* \*

*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*

## 5.17 Introduction

5.17.1 The Convention requires from states to take measures to reduce the use of doping in sport. In addition to the direct measures (restrict of availability required in Article 4.1), states may offer different forms of encouragement to reduce the use of doping, such as financial encouragement and/or penalisation (Articles 4.2, 4.3.a and 4.3.b). Article 4.3.c of the Convention requires from states more practical forms of encouragement such as in facilitating doping control testing, both in-, and out-of-competition.

## 5.18 Findings

5.18.1 The Polish Commission against Doping in Sport collaborates and facilitates international federations and anti-doping organisations to conduct testing in Poland, both in-, and out-of-competition.

5.18.2 In accordance with the 2015 Annual Report<sup>5</sup> of the Polish Commission against Doping in Sport, in the reference year the Commission conducted 423 doping tests commissioned by 64 sport or anti-doping organisations.

5.18.3 The Monitoring Team became aware of the difficulties on financing of doping controls authorised by international federations or anti-doping organisations, either for international events that take place in Poland or athletes in their jurisdiction who train in Poland. The Polish Commission against Doping in Sport is supported by the Commission Office which operates as a state budget entity and manages the budget for the implementation of the tasks of the Commission. As a state budget entity the Commission covers its expenditures directly from the state budget, but its income (revenue) has to be paid in full to the state budget. When a third party requests the Commission to conduct testing (e.g., in an international events taking place in Poland or athletes who are training in Poland) at their sole expenses, the Commission has to cover the expenses for these tests from the Commission Office's own funds (e.g., sample collection personnel compensation, traveling, consumables, work hours for the coordination of the mission etc.) and the third party would pay the state budget as its revenue. The Team is of the opinion that a solution to this issue should be found, not only to facilitate testing by international organisations in Poland but also as a means of income for the Polish Commission against Doping in Sport taking into account the increased number of doping controls that are carried out by the Commission for third parties (as mentioned in paragraph 5.18.2, above).

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<sup>5</sup> [http://www.antydoping.pl/upload/2016/ANNUAL\\_REPORT%202015%20EN.pdf](http://www.antydoping.pl/upload/2016/ANNUAL_REPORT%202015%20EN.pdf) (accessed: 26.10.2016)



## 5.19 Conclusion

5.19.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 4.3.c of the Anti-Doping Convention of the Council of Europe.

## 5.20 Recommendations

5.20.1 Recommendation no. 15: The Polish authorities should reconsider the payment model for doping tests and other services provided by the Polish Commission against Doping in Sport to international federations or anti-doping organisations with the view to facilitate such services.

\* \* \*

***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.***

## 5.21 Introduction

5.21.1 The aim of this provision of the Convention is to ensure that athletes continue to be subject to testing even when they are out of their countries, for training or competition.

5.21.2 The importance of testing of athletes when they are out of the country, for training or competition is reflected in the Additional Protocol to the Convention.

5.21.3 Similarly, the World Anti-Doping Code under article 20.5 (Roles and Responsibilities of National Anti-Doping Organisations) requires National Anti-Doping Organisations “*to encourage reciprocal testing*” between them.

## 5.22 Findings

5.22.1 The Act on Sport under Article 44.7 allows the Polish Commission against Doping in Sport “*to authorise other entities to conduct doping controls (during competitions or outside of them)*”.

5.22.2 In the Introduction of the Commission’s Anti-Doping Rules (“Anti-Doping Rules for PANDA”), it is clearly stated:

*“The National Anti-Doping Program*

*(...) PANDA has the necessary authority and responsibility for:*

*(...)*

- *Encouraging reciprocal testing between National Anti-Doping Organizations.”*

5.22.3 The Monitoring Team was informed by the Polish authorities that there are no official agreements in place between the Polish authorities and other anti-doping organisations or private sample collection companies for testing of athletes from Poland when training in other countries, and no other measures have been taken in that respect.

5.22.4 In addition, the Monitoring Team was not presented with any data showing that Polish athletes are tested out of the country on the request of the Polish Commission against Doping in Sport or any sport organisation, like, for example, the respective national federation or the National Olympic Committee of Poland.

5.22.5 The Monitoring Team was informed that, the aforementioned lack of testing of Polish athletes by other organisations when they are training or competing out of the country, on the request of the Polish Commission against Doping in Sport, is linked to the funding limitations since the Commission does not have its own budget for the analysis of samples in a WADA-accredited laboratory other than the Department of Anti-Doping Research of the Institute of Sport. (See also paragraphs 5.10.2, 5.10.5 and 5.10.6).

## 5.23 Conclusion

5.23.1 The Monitoring Team concludes that Poland has not fulfilled the commitments described in Article 4.3.d of the Anti-Doping Convention of the Council of Europe.

## 5.24 Recommendations

5.24.1 Recommendation no. 16: The Polish Commission against Doping in Sport should enter into agreements with other anti-doping organisations or private sample collection companies for testing of Polish athletes when training in other countries; and the Ministry of Sport and Tourism should provide the Polish Commission against Doping in Sport with the necessary funds and administrative flexibility for such agreements.

\* \* \*

***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.***

## 5.25 Introduction

5.25.1 This Article of the Convention acknowledges the right of states to adopt legislation by virtue of which, inter alia, public authorities may themselves organise doping controls. As it is explained in the Explanatory Report to the Anti-Doping Convention<sup>6</sup> this is particularly the case where the public authorities feel that the sport organisations are not fulfilling their responsibilities adequately.

## 5.26 Findings

5.26.1 Article 44 of the Act of 25 June 2010 on Sport, provides as follows:

*“1. The fight against doping in sport shall be the responsibility of the Commission against Doping in Sport, hereinafter referred to as the ‘Commission’.*

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<sup>6</sup> Explanatory Report to the Anti-Doping Convention, Strasbourg, 16.XI.1989, paragraph 58.

(...)

4. *The Commission's tasks shall include, in particular:*

(...)

2) *conducting anti-doping control during competitions and outside of them*

(...)"

5.26.2 In addition, article 43.6 of the Act of 25 June 2010 on Sport, provides as follows:

*"Entities which conduct sports activities including, in particular, Polish sports associations shall enforce disciplinary liability for doping in sport, in accordance with their internal rules and regulations."*

5.26.3 The Polish Commission against Doping in Sport, as a signatory to the Code, has adopted its Anti-Doping Rules in line with the Code. However, since, at the time of the Visit, the Act of Sport contained no provision to make the said Rules binding, out of the 71 registered national sport federations, only 38 had adopted the said Rules and 12 more were "willing" to do so. Even though, in accordance with the Act on Sport, the Commission had jurisdiction to conduct doping controls, most of the sport federations, by virtue of article 43.6 of the Act, had their own internal disciplinary rules and regulations for the management of the results from the doping tests conducted by the Commission.

5.26.4 As described in detail in Chapter 13 of this Report, the Act of 11 August 2016 amending the Act on Sport has entered into force before the finalisation of this Report. Based on the amended Act on Sport, it is clarified that the Polish Commission against Doping in Sport establishes disciplinary rules relating to doping in sport, including doping controls and the Polish sport federations shall recognize and respect the Commission's exclusive jurisdiction in the application of these rules. Thus, the Commission's Anti-Doping Rules are now operational and nationally enforced across all sport federations in Poland.

## 5.27 Conclusion

5.27.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 4.4 of the Anti-Doping Convention of the Council of Europe.

## 5.28 Recommendations

5.28.1 None.

## CHAPTER 6:

### Convention Article 5 – Laboratories

#### 5.1 *Each Party undertakes:*

- a. *either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the monitoring group under the terms of Article 11.1.b; or*
- b. *to assist its sports organisations to gain access to such a laboratory on the territory of another Party.*

#### 5.2 *These laboratories shall be encouraged to:*

- a. *take appropriate action to employ and retain, train and retrain qualified staff;*
- b. *undertake appropriate programmes of research and development into doping agents and methods used, or thought to be used, for the purposes of doping in sport and into analytical biochemistry and pharmacology with a view to obtaining a better understanding of the effects of various substances upon the human body and their consequences for athletic performance;*
- c. *publish and circulate promptly new data from their research.*

## 6.1 Introduction

6.1.1 The important role of doping control laboratories in the fight against doping is reflected in the Convention, as well as the World Anti-Doping Code and the International Convention against Doping in Sport of UNESCO.

6.1.2 As explained in the Explanatory Report to the Convention<sup>7</sup>, the laboratories' complexity is such that, laboratories are attached to an institution benefiting from public funds (hospital, university, etc.) and a number of elements for their recognition are relevant. Apart from the high technical standards, laboratories are required to abide an ethics code.

6.1.3 Since 2004, anti-doping laboratories are accredited by WADA who also monitors and assess their performance continuously. According to the International Standard for Laboratories (ISL)<sup>8</sup>, WADA is responsible for accrediting and re-accrediting anti-doping laboratories, thereby ensuring that they maintain the highest quality standards. Whenever a laboratory does not meet ISL requirements, WADA may suspend the laboratory's accreditation.

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<sup>7</sup> Explanatory Report to the Anti-Doping Convention, Strasbourg, 16.XI.1989, paragraphs 59-60.

<sup>8</sup> The World Anti-Doping Code International Standard for Laboratories (ISL) is a mandatory International Standard developed as part of the World Anti-Doping Program. The main purpose of the ISL is to ensure laboratory production of valid test results and evidentiary data and to achieve uniform and harmonized results and reporting from all Laboratories.

6.1.4 As a result of WADA's assessment, in 2015 and 2016 several laboratories have had their accreditation suspended<sup>9</sup> for not meeting the required standards. In addition, following the publication of the Report of the WADA Independent Commission that was launched to investigate allegations implicating Russia, the International Amateur Athletics Federation, athletes, athletes' entourages as well as the Russian Anti-Doping Agency and the Moscow Antidoping Center in Russia (Laboratory), WADA suspended the operations of the Moscow Laboratory as of 10 November 2015 and on 15 April 2016 revoked its accreditation due to irregularities that constitute non-compliance with the International Standard for Laboratories<sup>10</sup>.

## 6.2 Findings

6.2.1 The Department of Anti-Doping Research of the Institute of Sport – National Research Institute is a WADA-accredited laboratory since 2004. It analyses both urine and blood samples as well as samples from animals in sport.

6.2.2 Apart from WADA's accreditation, and in line with the International Standard for Laboratories of WADA, the Department of Anti-Doping Research is accredited by the Polish Centre of Accreditation to ISO/IEC 45001 and guideline 25 and by 2001 to ISO/IEC 17025 with reference to the analysis of both urine and blood doping control samples. In addition, the Department of Anti-Doping Research is accredited by the Association of Official Racing Chemists (AORC) in the field of anti-doping testing in animals.

6.2.3 The laboratory was established within the Institute of Sport in 1987, with the name Doping Control Laboratory. In 1995, the name of the laboratory changed to Department of Anti-Doping Research.

6.2.4 The Institute of Sport (or Institute of Sport – National Research Institute as is the official name of the Institute since November 2015) was established in 1977 as an independent scientific institute. Until 30 September 2010, the Institute had the status of a research and development entity when its mission changed to a research institute which implements certain tasks and objectives, pursuant to the Act on Research Institutes (Dz. U. of 2015, item 1095, as amended). The Institute has a long list of core activities, like, for example, scientific and analytical research in the fields of physical education, sport science, and health sciences, scientific and analytical research in the field of anti-doping, assessment of the athletes - members of sport associations involved in competitive sports, etc.. Moreover, the Institute supports the national teams preparing for international events through monitoring their preparation, education of coaches etc. The work of the Institute is supervised by the Ministry of Sport and Tourism.

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<sup>9</sup> In 2016 WADA has suspended the accreditation of the following laboratories: the Laboratório de Análises de Dopagem (LAD), Portugal (as of 15.4.2016); the South African Doping Control Laboratory – Bloemfontein, Republic of South Africa (as of 3.5.2016); the Madrid Anti-Doping Laboratory, Spain (as of 6.6.16); the ATHLETES' ANTI-DOPING LABORATORY Committee for Sport and Physical Education, Kazakhstan (as of 24.6.2016); the Antidoping Lab Qatar, Doping Analysis Lab, Qatar (as of 7.11.2016); and the Laboratorio Nacional de Prevencion y Control del Dopaje-CONADE, Mexico (as of 23.11.2016).

<sup>10</sup> <https://www.wada-ama.org/en/media/news/2016-04/wada-revokes-accreditation-of-moscow-laboratory> (accessed: 12.12.2016)

6.2.5 Apart from the Department of Anti-Doping Research, the Institute of Sport – National Research Institute has several other departments such as Outpatient General Clinic and Sports Medicine Clinic, Biochemistry, Physiology, Endocrinology, Biomechanics etc.

6.2.6 The Institute of Sport – National Research Institute receives funding from both the Ministry of Science and Higher Education (mainly for its statutory activities) and the Ministry of Sport and Tourism.

6.2.7 The funding of the Department of Anti-Doping Research is secured by the Act of 25 June 2010 on Sport, which, in Article 45 provides as follows:

*“The minister competent for physical culture may award a designated subsidy, in an amount specified in the budget act, to Instytut Sportu [Institute of Sport] in Warsaw, for the implementation of tasks related to maintaining the accreditation of the World Anti-Doping Agency and for the purchase of equipment to be used in anti-doping testing.”*

6.2.8 In accordance with the aforementioned provision of the Act on Sport, the Institute of Sport – National Research Institute receives funding from the Ministry of Sport and Tourism specifically for maintaining WADA’s accreditation i.e., the analysis of the required number of samples (provided by the Polish Commission against Doping in Sport), research and development activities, etc. Moreover, under a separate funding mechanism of the Physical Culture Development Fund (Fundusz Rozwoju Kultury Fizycznej) managed by the Minister of Sport and Tourism, the Minister grants to the Institute a subsidy for the purchase of the necessary analytical facilities and instrumentation to maintain WADA’s accreditation.

6.2.9 Based on the information available in the National Report (under Article 1) the Department of Anti-Doping Research of the Institute of Sport – National Research Institute in the year 2015, received the amount of 4,500,000 PLN (approx. 1,041,305 Euros) for the analysis of samples from the Polish Commission against Doping in Sport and the Polish Equestrian Federation and the amount of 2,500,000 PLN (approx. 578,502 Euros) for instrumentation to maintain WADA’s accreditation. For the year 2016, the Department of Anti-Doping Research has been granted the same amount as in 2015 for the analysis of samples and the amount of 2,850,000 PLN (approximately 659,494 Euros) for instrumentation.

6.2.10 As mentioned in paragraphs 6.2.8 and 6.2.9 (above) as well as in other parts of the Report (see paragraph 8.30.12), the Ministry of Sport and Tourism grants to the Institute of Sport – National Research Institute directly a subsidy for the analysis of a pre-decided number of samples and type of analyses to be performed by the Department of Anti-Doping Research on behalf of the Polish Commission against Doping in Sport. This is based on an annually renewed agreement between the three entities. Additionally, the Ministry grants to the Institute a subsidy for the analysis of samples collected by the Polish Equestrian Federation. For more comments see paragraphs 8.30.12 and 8.30.13.

6.2.11 The Monitoring Team reviewed the anti-doping testing figures by the Department of Anti-Doping Research of the Institute of Sport – National Research Institute as published by WADA<sup>11</sup>. In 2015, the Department of Anti-Doping Research analysed a total 3,931 samples (3,418 urine; 355

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<sup>11</sup> [https://www.wada-ama.org/sites/default/files/resources/files/2015\\_wada\\_anti-doping\\_testing\\_figures\\_report\\_0.pdf](https://www.wada-ama.org/sites/default/files/resources/files/2015_wada_anti-doping_testing_figures_report_0.pdf) (Accessed: 12.12.2016)

blood; and 158 Athlete Biological Passport samples) and reported 47 adverse analytical findings. The total samples analysed in the years 2013 to 2015 are shown in Table 1 of Annex 3. The types of analyses conducted by the Department of Anti-Doping Research are shown in Table 2. The Team notes that the Department of Anti-Doping Research analysed no sample for growth hormone releasing factors (GHRFs), insulin or insulin-like growth factor-1 (IGF-1) in 2015. Even though it is acknowledged that the requests for the analyses to be performed come from the testing authorities, the Team believes that the Department of Anti-Doping Research should encourage and even give incentives (e.g., reduced prices, etc.) to the Polish Commission against Doping in Sport and other anti-doping organisations to request analyses on substances other than the basics. This will help the laboratory to maintain its expertise on these analyses and will increase the effectiveness of testing.

6.2.12 The Department of Anti-Doping Research of the Institute of Sport – National Research Institute analyses samples primarily for the Polish Commission against Doping in Sport and only a very small percentage of the analysed samples come from other anti-doping organisations. For example, in 2014, out of the 3,989 samples analysed by the Department of Anti-Doping Research, there were only 184 samples (4.6%) from anti-doping organisations other than the Polish Commission against Doping in Sport: Lithuanian Anti-Doping Agency: 87 samples; Russian Anti-Doping Agency: 72 samples; Belarus National Anti-Doping Agency: 5 samples; and National Anti-Doping Centre of Ukraine: 20 samples.

6.2.13 It is the opinion of the Monitoring Team that the Department of Anti-Doping Research could become a service provider laboratory to the national anti-doping organisations of the countries in the area, beyond the Polish Commission against Doping in Sport, especially after the suspension of the Moscow anti-doping laboratory. The Team sees this not only as a means of income for the Department of Anti-Doping Research (fee-for-service) but also as an opportunity to limit the Department's dependence on the Polish Commission against Doping in Sport. As mentioned in the Report to WADA on Lack of Effectiveness of Testing Programs<sup>12</sup>, constant use by an anti-doping organisation of a particular laboratory may lead to a level of financial dependence and erosion of independence.

6.2.14 The Department of Anti-Doping Research of the Institute of Sport – National Research Institute performs research in the area of anti-doping. The Monitoring Team was provided with a long list of ongoing or completed research projects with the involvement of the Department as well as a list of publications in peer-reviewed journals and presentations in national and international conferences of the laboratory's research findings.

6.2.15 The Department of Anti-Doping Research of the Institute of Sport – National Research Institute has established collaborations with other WADA-accredited anti-doping laboratories for research and training (e.g., the Laboratoire Suisse d'Analyse du Dopage Centre Hospitalier Universitaire Vaudois et Université de Lausanne, Lausanne, Switzerland, the Seibersdorf Labor GmbH Doping Control Laboratory, Seibersdorf, Austria, etc.). In addition, the Department of Anti-Doping Research collaborates on research with academic institutions in Poland (e.g., the Faculty of Chemistry, Warsaw University of Technology, the Faculty of Chemistry, Gdansk University of Technology, the Medical University in Warsaw Department of Pharmacy, etc.).

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<sup>12</sup> The Report to WADA Executive Committee on Lack of Effectiveness of Testing Programs prepared by Working group Established Following Foundation Board Meeting of 18 May 2012 was published by WADA on 5 December 2013 and is available at: [www.wada-ama.org/en/resources/world-anti-doping-program/lack-of-effectiveness-of-testing-programs](http://www.wada-ama.org/en/resources/world-anti-doping-program/lack-of-effectiveness-of-testing-programs)

### 6.3 Conclusion

6.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 5 of the Anti-Doping Convention of the Council of Europe.

### 6.4 Recommendations

6.4.1 Recommendation no. 17: The Ministry of Sport and Tourism, jointly with the Polish Commission against Doping in Sport and the Department of Anti-Doping Research of the Institute of Sport – National Research Institute should reconsider the financing of the analysis of samples collected by the Commission with the view of allowing the Commission the necessary budgetary flexibility to decide on the number of samples to be collected each year and the type of analyses to be requested as well as the flexibility to send samples in other WADA-accredited laboratories, when necessary; it is meant that, the obligation of the Polish authorities to provide the Department of Anti-Doping Research with the required minimum number of samples, as per the International Standards for the Laboratories, shall be respected at all times.

6.4.2 Recommendation no. 18: The Department of Anti-Doping Research of the Institute of Sport – National Research Institute should find ways to promote its services and increase the number of customers, especially among the national anti-doping organisations of the countries in the area.

6.4.3 Recommendation no. 19: The Department of Anti-Doping Research of the Institute of Sport – National Research Institute should consider conducting an internal and/or independent comprehensive audit covering the laboratory's accredited activities and management system, including the risk of fraud and corruption.



## CHAPTER 7:

### Convention Article 6 – Education

*6.1 The Parties undertake to devise and implement, where appropriate in co-operation with the sports organisations concerned and the mass media, educational programmes and information campaigns emphasising the dangers to health inherent in doping and its harm to the ethical values of sport. Such programmes and campaigns shall be directed at both young people in schools and sports clubs and their parents and at adult sportsmen and sportswomen, sports officials, coaches and trainers. For those involved in medicine, such educational programmes will emphasise respect for medical ethics.*

#### 7.1 Introduction

7.1.1 The Anti-Doping Convention of the Council of Europe acknowledges the importance of education and information for the prevention of doping in sport and requires from both the state parties and the sport organisations to cooperate in that respect. Educational and informational programmes should be comprehensive and be directed mainly to athletes and their support personnel.

7.1.2 Apart from the Convention, the importance of education for the fight against doping in sport is reflected by the World Anti-Doping Code, and the International Convention against Doping in Sport of UNESCO.

7.1.3 The Monitoring Group developed the *Model Guidelines for Core Information/Education Programmes to prevent Doping in Sport*, as a methodological tool, for the development, implementation, delivery, and evaluation of information and education programmes. These Model Guidelines are annexed to the *Recommendation Rec (2011) 1 of the Monitoring Group on the use of the model guidelines for core information/education programmes to prevent doping in sport*.

7.1.4 The Monitoring Group developed also the *Guidelines for anti-doping education for Tertiary Education Institutions*, aiming to support the development, implementation, delivery and evaluation of effective anti-doping education at the university level. These Model Guidelines are annexed to the *Recommendation Rec (2016) 2 of the Monitoring Group on the Guidelines for anti-doping education for Tertiary*.

#### 7.2 Findings

7.2.1 The Polish Government acknowledges the importance of prevention in the fight against doping in Poland and requires from the Polish Commission against Doping in Sport that it engage actively in anti-doping education activities. Article 44.5 of the Act of 25 June 2010 on Sport reads as follows:

*“44.5 The Commission’s tasks shall include, in particular:*

*(...)*

*4) supporting, preparing and implementing education or training programmes concerning the fight against doping in sport.”*

7.2.2 The role of the Polish Commission against Doping in Sport on anti-doping education is reflected in its Anti-Doping Rules (“Anti-Doping Rules for PANDA”). Article 19 of the said Rules provides as follows:

*“PANDA shall plan, implement, evaluate and monitor information, education and prevention programs for doping-free sport on at least the issues listed at Article 18.2 of the Code, and shall support active participation by Athletes and Athlete Support Personnel in such programs.”*

7.2.3 Similarly, Article 16 of the Anti-Doping Rules of the Polish Commission against Doping in Sport contains the following provision regarding anti-doping education by national federations:

*“16.5 All National Federations shall be required to conduct anti-doping education in coordination with PANDA.”*

7.2.4 The National Report (under Article 6) provides a comprehensive overview of the information and education activities carried out by the Polish Commission against Doping in Sport. The Monitoring Team received also information about the Commission’s activities from the 2015 Annual Report available on the Commission’s website<sup>13</sup> and discussed about the work of the Commission on anti-doping information and education during the meetings with the Commission, the National Olympic Committee of Poland, the representatives of the national federations and the athletes. The Team’s main findings are summarised below:

- a. The Commission for the implementation of its information and educational programmes cooperates mainly with the Ministry of Sport and Tourism, the Polish Youth Sports Federation, Polish sport federations, and the National Olympic Committee of Poland;
- b. The Commission's information and educational programmes target the following three groups: (i) high-performance athletes, and their coaches and medical staff; (ii) young athletes, and their coaches and parents; and (iii) lower and upper secondary school students; and
- c. The Commission's information and educational programmes cover mainly the following topics: prohibited substances and methods, anti-doping rule violations and consequences, rights and responsibilities of athletes and athlete support persons, health consequences of doping, doping control procedures, ethics of sport, risks associated with the use of nutritional supplements; and
- d. The Commission's activities include mainly meetings with the target groups, lectures and workshops, e-learning as well as the use of social media and the Commission's website.

7.2.5 The Commission’s main activities in the field of anti-doping information and education in 2015 include:

- a. “SAY NO! TO DOPING” - “AKADEMIA PRAWDZIWYCH MISTRZÓW – CZYSTY SPORT” (Academy of True Champions – Clean Sport): The global anti-doping campaign “SAY NO! TO DOPING”<sup>14</sup> was combined with the Commission’s own educational and

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<sup>13</sup> [http://www.antydoping.pl/upload/2016/ANNUAL\\_REPORT%202015%20EN.pdf](http://www.antydoping.pl/upload/2016/ANNUAL_REPORT%202015%20EN.pdf) (accessed: 26.10.2016)

information programme “AKADEMIA PRAWDZIWYCH MISTRZÓW – CZYSTY SPORT” (Academy of True Champions – Clean Sport). The programme targeted mainly young athletes and their coaches and focused on sending anti-doping lesson plans and handouts to athletes and coaches. It is estimated that, by the end of 2015, the programme has reached out to approximately 2,500 persons. The Commission's contact platform on Facebook, Akademia Prawdziwych Mistrzów, was the most important link of the educational campaigns.

- b. “TRAINING FOR COACHES”: It was launched by the Commission in cooperation with the Youth Sport Federation. It included a series of training sessions for coaches who work with young athletes representing Olympic sports, in addition to the standard conferences and educational visits and campaigns at sport championship schools and at the Youth Olympic Days. The programme aimed at providing coaches working with young athletes with antidoping knowledge. It was delivered in 8 different provinces based on their sport potential and reached out to 321 coaches and instructors and 50 students of the University School of Physical Education in Poznań. The programme continued in 2016 throughout the country.
- c. “ANTIDOPING.PL” – an anti-doping manual: The Manual entitled “antidoping.pl” was produced and published by the Commission in 2015. Targeted at the sport community, the manual contains information on the global and Polish anti-doping system, doping control, disciplinary sanctions, substances and methods prohibited in sport and health consequences of using doping. The “antidoping.pl” manual was distributed to athletes participating in the Youth Olympic Days, training conferences and sport championship school students. Its electronic version is available at the Commission's website;
- d. The Commission produced two short educational films promoting clean sport with the ambassadors of the Commission's antidoping campaign in the main roles; and
- e. The Commission conducted visits to sport championship schools and sport schools during the “School Championship Days” action.

7.2.6 In addition to the programmes listed in paragraph 7.2.5 above, the Commission actively participates in meetings, seminars, workshops, etc., organised at the initiative of Polish sport associations, sport clubs and other sport organisations. In 2015, the Commission participated, and delivered lectures in 39 such occasions. For 2016, the Commission planned to give 50 presentations, for all target groups listed in paragraph 7.2.4.b above.

7.2.7 The Commission operates a telephone Anti-Doping Hotline, providing information on prohibited substances, therapeutic use exemptions, doping control procedures and anti-doping rules.

7.2.8 The Commission operates on its website an online drug database that provides athletes and support personnel with information about the prohibited status of specific medications that are licensed for trade in Poland. In 2015, the database recorded 4,548 visits and 16,600 inquiries.

7.2.9 For its information and educational activities, the Commission receives budget from the Ministry of Sport and Tourism. In 2015, the Commission spent PLN 142,794.19 (approx. 33,042

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<sup>14</sup> Say NO! To Doping is an awareness campaign run by WADA that is designed to unite anti-doping organizations in their support for clean sport. For more information visit <https://www.wada-ama.org/en/what-we-do/education-awareness/say-no-to-doping>

euros) for education which is approximately 7% of the budget that the Commission received in 2015 from the Ministry of Sport and Tourism.

7.2.10 An athlete's committee is in place under the Polish National Olympic Committee. It is well acknowledged that athletes' committees, established by sport organisations or national anti-doping organisations to represent the views and rights of athletes, can play an important role in the fight against doping. Athlete committees' members can assist in raising awareness among athletes about anti-doping and the promotion of the clean sport message; at the same time, athletes' committees can help sport organisations and national anti-doping organisations agencies understand the challenges athletes face and develop strategies to not only detect, but also deter and prevent doping in sport. The Monitoring Team was advised that the collaboration of the Polish National Olympic Committee's athlete committee with the Polish Commission against Doping in Sport and, generally, its role in the fight against doping in Poland, is very limited.

7.2.11 Several anti-doping organisations have in place athlete ambassador programmes. High achieving athletes are usually selected for this role, advocating for the fight against doping in sport and promoting athletes' participation in the anti-doping work. The Polish Commission against Doping in Sport had previously used high profile active and retired athletes as anti-doping ambassadors for its "SAY NO! TO DOPING" programme (see paragraph 7.2.5, above). However, the Commission had no anti-doping ambassadors at the time of the Monitoring Visit.

### 7.3 Conclusion

7.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 6.1 of the Anti-Doping Convention of the Council of Europe; however, the Team is of the opinion that the anti-doping information, education, and prevention programmes could be improved further.

### 7.4 Recommendations:

7.4.1 Recommendation no. 20: The Commission should prepare short, and long-term anti-doping information and education strategies to cover the priorities based on risk assessment rather than on a request basis.

7.4.2 Recommendation no. 21: The Commission should constantly evaluate the implementation and effectiveness of its anti-doping information and education programmes and adapt accordingly.

7.4.3 Recommendation no. 22: The Commission should consider adopting a sport-specific -rather than a more generic- approach to its education and information programmes, based on the characteristics of each sport and the risk evaluation developed as part of a sports categorisation concept. As part of this approach, the methods, tools and resources to be used should be sport-specific and can be developed in cooperation with the national federations concerned.

7.4.4 Recommendation no. 23: The Polish authorities should consider introducing anti-doping education and prevention programmes in schools, in physical education classes in line with Recommendation Rec (2011) 1 on the use of the model guidelines for core information/education programmes to prevent doping in sport, adopted by the Monitoring Group.

7.4.5 Recommendation no. 24: The Polish authorities should advise and encourage the relevant academic institutions in the country to develop, implement and deliver effective anti-doping education in tertiary education, in line with Recommendation Rec (2016) 2 on *Anti-Doping Education Guidelines for Tertiary Education Institutions*, adopted by the Monitoring Group.

7.4.6 Recommendation no. 25: The Polish Commission against Doping in Sport should work closely with the Polish National Olympic Committee athletes' committee or consider establishing its own athlete committee with the view, among others, to promote active participation of athletes in the fight against doping.

7.4.7 Recommendation no. 26: The Polish Commission against Doping in Sport should evaluate the effectiveness of its anti-doping ambassadors programme; and consider appointing one or more athletes as anti-doping ambassadors, if deemed useful.

\* \* \*

***6.2 The Parties undertake to encourage and promote research, in co-operation with the regional, national and international sports organisations concerned, into ways and means of devising scientifically-based physiological and psychological training programmes that respect the integrity of the human person.***

## 7.5 Introduction

7.5.1 Research in the field of anti-doping as well as the physiological and psychological training and the legitimate search of improved performance is of great importance. This is reflected not only by the provisions of the Anti-Doping Convention of the Council of Europe but also the World Anti-Doping Code, and the International Convention against Doping in Sport of UNESCO.

## 7.6 Findings

7.6.1 Article 44.5 of the Law on Sport contains the following regarding research:

*“5. The Commission’s tasks shall include, in particular:*

*(...)*

*3) conducting research which supports the fight against doping in sport.”*

7.6.2 The Polish Commission against Doping in Sport participated in two research projects, as below:

- a. “Strategy for Stopping Steroids”<sup>15</sup>, (2011-2012) a collaboration of five partners aiming to describe the work carried out in all relevant areas relating to the fitness doping issue; and
- b. Survey among marathon runners, examining their knowledge and perceptions towards doping (2010-2012)<sup>16</sup>.

<sup>15</sup> The participants in the Strategy for Stopping Steroids are Anti-Doping Denmark, Dopingautoriteit (Anti-Doping Authority, the Netherlands), Stockholm Prevents Alcohol and Drug Problems, Sweden, Instytut Sportu (Polish Institute of Sport, represented by the Polish Commission Against Doping in Sport) and Cyprus Anti-Doping Authority. The project was conducted the period from 2011-2012 and was funded under the European Commission’s programme on grants Preparatory Action in the Field of Sports.

7.6.3 It is the opinion of the Monitoring Team that the research activity of the Polish Commission against Doping in Sport is very limited. The Team understood that this is partly due to the lack of funding for research; nevertheless, the Team believes that even with the funding limitations, the Commission could get other parties actively involved in doing research in the field of anti-doping and cooperate with them.

7.6.4 Of particular importance for research in the field of sport is the Institute of Sport – National Research Institute in Warsaw. The Institute is supervised by the Minister of Sport and Tourism and funded jointly from the Ministry of Science and Higher Education and the Ministry of Sport and Tourism with a budget of more than 15 million PLN (approx. 3,471,017 Euros) in 2015. The Institute has several departments, including the Department of Anti-Doping Research which is a WADA-accredited laboratory (see also paragraphs 6.2.4-6.2.5). The Institute conducts cutting-edge research in the field of sport and their findings are published in the official journal of the Institute (“Biology of Sport”) or disseminated in many other ways (conferences, publications etc.).

7.6.5 In Poland, there are also several well-established academic institutions, including universities that offer courses on sport science, and it is beyond doubts that these institutions are active in research in the field of sport.

## 7.7 Conclusions

7.7.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 6.2 of the Anti-Doping Convention of the Council of Europe; however, the Team is of the opinion that the research into anti-doping areas as well as into the support of athletes can be improved further.

## 7.8 Recommendations

7.8.1 Recommendation no. 27: The Polish Commission against Doping in Sport should encourage and fund research studies related to anti-doping by academic and other interested institutions in the country.

7.8.2 Recommendation no. 28: The Polish Commission against Doping in Sport and/or the Ministry of Sport and Tourism should play a role on the coordination of the research activities on anti-doping in the country.

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<sup>16</sup> *Wyniki antydopingowych badań ankietowych przeprowadzonych podczas biegów masowych w latach 2010 i 2012.* [Results of anti-doping questionnaire conducted on amateur marathon runners in 2010 and 2012], Tomasz Balcerek, Michał Rynkowski, Przemysław Lutomski, Jerzy Smorawiński, *Medicina Sportiva Practica*, No 1/2013, p. 10-16.

**CHAPTER 8:****Convention Article 7 - Co-operation with sports organisations on measures to be taken by them**

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

## 8.1 Introduction

8.1.1 The Convention, with article 7.1 and a series of other articles (7.2 and 7.3) aims to encourage sport organisations to -within their competence- adopt and implement effective programmes against doping in sport but also to indicate the strong desire for national and international compatibility and harmonization of these programmes between sports and countries.

## 8.2 Findings

8.2.1 The Law of 25 June 2010 on Sport does not contain any particular provisions to encourage sport organisations to -within their competence- take measures against doping in sport. The only reference is found in Article 43(6) which reads as follows:

*“6. Entities which conduct sports activities including, in particular, Polish sports associations shall enforce disciplinary liability for doping in sport, in accordance with their internal rules and regulations.”*

8.2.2 The Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”) under Article 16 (Incorporation of PANDA Anti-Doping Rules and Obligations of National Federations) require all national federations and their members to comply with the said Anti-Doping Rules and incorporate them into each federation’s rules.

8.2.3 As mentioned elsewhere in this Report (see paragraph 8.6.5 below) at the time of the Visit, the Commission’s Anti-Doping Rules were not enforced across all sports in Poland. In accordance with the information provided in the National Report (under Article 7) only 38 national federations had adopted the said Rules and 12 more federations were “willing” to do so.

8.2.4 However, as described in Chapter 13, based on the Act of 11 August 2016 amending the Act of Sport that is now in effect, it is clarified that:

- a. The Commission Against Doping in Sport establishes disciplinary rules relating to doping in sport [Article 44(5)(5)]; and
- b. The Polish sport associations
  - i. Shall set and enforce sports, organizational and disciplinary rules in sports competitions organized by the association with the exemption of disciplinary rules relating to doping in sport [amended Article 13(1)(2)]; and
  - ii. Shall recognize and respect the Commission’s exclusive jurisdiction in the application of the disciplinary rules relating to doping in sport [Article 13(5)].

8.2.5 It is the opinion of the Monitoring Team that, the clauses incorporated in the amended Act on Sport, sufficiently provide for the legal background for national sport federations' obligation to apply the Commission's anti-doping rules for the fight against doping in their sport.

### 8.3 Conclusion

8.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.1 of the Anti-Doping Convention of the Council of Europe.

### 8.4 Recommendations

8.4.1 Recommendation no. 29: The Ministry of Sport and Tourism and the Polish Commission against Doping in Sport should ensure that the Commission (or the Polish Anti-Doping Agency that will replace the Commission) is in place and have the necessary resources to implement the revised Act on Sport and particularly to undertake the Commission's new role (i.e. to establish and apply disciplinary rules across all sports in Poland).

8.4.2 Recommendation no. 30: The Polish Commission against Doping in Sport shall ensure that the provisions of the revised Act on Sport and the amended Anti-Doping Rules are properly communicated to all athletes under the jurisdiction of the Commission.

\* \* \*

***7.2 To this end, they shall encourage their sports organisations to clarify and harmonise their respective rights, obligations and duties, in particular by harmonising their:***

***a. anti-doping regulations on the basis of the regulations agreed by the relevant international sports organisations;***

### 8.5 Introduction

8.5.1 The Convention requires governments which are state parties to the Convention to encourage their sport organisations to have harmonised anti-doping regulations, as a principle of fair justice and due process for all athletes.

8.5.2 The harmonisation of anti-doping regulations of national anti-doping organisations and national and international sport organisations is achieved under the umbrella of the World Anti-Doping Code considering that their anti-doping rules are Code compliant.

### 8.6 Findings

8.6.1 Article 44.1 of the *Act of 25 June 2010 on Sport*, provides that:

*“The fight against doping in sport shall be the responsibility of the Commission Against Doping in Sport”.*



8.6.2 The Polish Commission against Doping in Sport has prepared its Anti-Doping Rules (“Anti-Doping Rules for PANDA”) and, following reviewed by WADA, the said Rules were deemed in line with the 2015 World Anti-Doping Code.

8.6.3 Article 1.2.1 of the Commission’s Anti-Doping Rules provides as follows:

*“1.2 Application to National Federations*

*1.2.1 As a condition of receiving financial and/or other assistance from the Government of Poland and/or the National Olympic Committee of Poland, each National Federation of Poland shall accept and abide by the spirit and terms of Poland’s National Anti-Doping Program and these Anti-Doping Rules, and shall incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules as part of the rules of sport that bind their members and Participants.”*

8.6.4 Similarly, Article 16.1 of the Commission’s Anti-Doping Rules provides as follows:

*“All National Federations and their members shall comply with these Anti-Doping Rules. These Anti-Doping Rules shall also be incorporated either directly or by reference into each National Federation’s rules so that PANDA may enforce them itself directly as against Athletes and other Persons under the National Federation’s jurisdiction.”*

8.6.5 Despite the aforementioned provisions of the Commission’s Anti-Doping Rules, at the time of the Visit, the said Rules were not enforced across all sports in Poland. In accordance with the information provided in the National Report (under Article 7) out of the 71 registered national sport associations, only 38 had adopted the said Rules and 12 more were “willing” to do so.

8.6.6 As described in Chapter 13, after the Monitoring Visit the Polish authorities amended the Act on Sport. Based on the Act of 11 August 2016 amending the Act of Sport that is now in effect, it is clarified that the Polish Commission against Doping in Sport establishes disciplinary rules relating to doping in sport and the Polish sport associations shall recognize and respect the Commission’s exclusive jurisdiction in the application of the disciplinary rules relating to doping in sport. Thus, the Commission’s Anti-Doping Rules are now operational and nationally enforced across all sports.

8.6.7 Although the Anti-Doping Rules of the Polish Commission against Doping in Sport and the rules of international sports federations are Code-based tools, the different sets of rules differ in their application. However, now that the Commission’s Anti-Doping Rules are operational and nationally enforced across all sports in Poland, the harmonization required by the Convention is achieved.

## 8.7 Conclusion

8.7.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.2.a of the Anti-Doping Convention of the Council of Europe.

## 8.8 Recommendations

8.8.1 None.

\* \* \*

***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;***

8.9 Introduction

8.9.1 The required harmonisation on the list of banned pharmacological substances and methods is achieved under the umbrella of the Code and WADA's Prohibited List International Standard that applies to all signatories to the Code including the international federations and national anti-doping organisations.

8.10 Findings

8.10.1 As mentioned under Article 2 in this Report (paragraphs 3.2.6 and 3.2.8), the Act on Sport under Articles 43.3 to 43.5 provides for the definition of prohibited substances and prohibited methods, referring to WADA's Prohibited List International Standard that is annexed to the International Convention against Doping in Sport of UNESCO.

8.10.2 Similarly, the Anti-Doping Rules of the Polish Commission against Doping in Sport under Article 4 refer to WADA's Prohibited List that is incorporated in the said Rules, as stated below:

*“ARTICLE 4 THE PROHIBITED LIST*

*4.1 Incorporation of the Prohibited List*

*These Anti-Doping Rules incorporate the Prohibited List which is published and revised by WADA as described in Article 4.1 of the Code.”*

8.10.3 It is the opinion of the Monitoring Team that the Act on Sport and the Commission's Anti-Doping Rules provide for the required harmonisation on the List of banned substances and banned methods. However, the Team notes that the Polish legislation makes no reference to the List of banned pharmacological classes of doping agents and banned doping methods adopted by the Monitoring Group of the Anti-Doping Convention of the Council of Europe. (For more comments about the List of banned pharmacological classes of doping agents and banned doping methods, see paragraphs 3.2.6 – 3.2.10).

8.11 Conclusion

8.11.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.2.b of the Anti-Doping Convention.

8.12 Recommendations

8.12.1 See Recommendations no. 3 and no. 4 (paragraphs 3.4.2 and 3.4.3).

\* \* \*

*c. doping control procedures;*

8.13 Introduction

8.13.1 The required harmonisation on doping control procedures -in principle- is achieved under the umbrella of the Code and the International Standard for Testing and Investigations.

8.14 Findings

8.14.1 The Act of 25 June 2010 on Sport under Article 44.5 provides as follows:

*“The Commission’s tasks shall include, in particular:  
(...)  
2) conducting anti-doping control during competitions and outside of them;”*

8.14.2 The Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules of PANDA”) are in line with the 2015 Code. Article 5 of the said Rules establishes a detailed doping control procedure consistent with the standards set up in the Code and the International Standard for Testing and Investigations, including the authority to test, test distribution plan, in-, and out-of-competition testing, athlete whereabouts requirements and selection of athletes to be tested.

8.14.3 Despite the aforementioned provisions of the Commission’s Anti-Doping Rules, at the time of the Visit, the said Rules were not enforced across all sports in Poland. In accordance with the information provided in the National Report (under Article 7), out of the 71 registered national sport associations, only 38 had adopted the said Rules and 12 more were “willing” to do so.

8.14.4 As described in Chapter 13, following the developments that took place after the Monitoring Visit, the Act of 11 August 2016 amending the Act of Sport is now in effect. Based on the said Act, it is clarified that the Polish Commission against Doping in Sport establishes disciplinary rules relating to doping in sport and the Polish sport federations shall recognize and respect the Commission’s exclusive jurisdiction in the application of the disciplinary rules relating to doping in sport. Thus, the Commission’s Anti-Doping Rules are now operational and nationally enforced across all sport organisations in Poland.

8.14.5 As mentioned in paragraph 8.14.2 above, the Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules of PANDA”) establish a detailed doping control procedure consistent with the standards set up in the 2015 Code and the International Standard for Testing and Investigations. The Commission’s planning and testing procedures comply with ISO 9001:2008, as certified by the Polish Ship Registration Authority (“Polski Rejestr Statków”). The Monitoring Team was advised that, even though the certificate is valid until the end of 2018, the Commission is planning to move to ISO 9001:2015 in 2017.

8.15 Conclusion

8.15.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in article 7.2.c of the Anti-Doping Convention of the Council of Europe.

8.16 Recommendations

8.16.1 Recommendation no. 31: The Polish Commission against Doping in Sport should implement ISO 9001:2015 for its planning and testing procedures, to comply with the 2015 version of the Code and International Standard for Testing and Investigations.

\* \* \*

- 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;*

## 8.17 Introduction

8.17.1 This article of the Convention requires from state parties to put in place regulations about their disciplinary and appeal procedures that respect the concept of natural justice and due process.

8.17.2 The Monitoring Group of the Anti-Doping Convention (T-DO) during its conference “*Council of Europe and fight against doping – 25 years of the Anti-Doping Convention: from past to future*” (Strasbourg, 4 November 2014)<sup>17</sup> stressed the importance of the following: (a) clear distinction between reporting and disciplinary bodies, (b) independent and impartial disciplinary bodies, free of conflicts of interest; and (c) experienced disciplinary bodies, with members possessing the right skills.

## 8.18 Findings

8.18.1 Article 43.6 of the *Act of 25 June 2010 on Sport* that was in force at the time of the Monitoring Visit provides as follows:

*“6. Entities which conduct sports activities including, in particular, Polish sports associations shall enforce disciplinary liability for doping in sport, in accordance with their internal rules and regulations.”*

8.18.2 The Polish Commission against Doping in Sport, as a Signatory to the Code, prepared its Anti-Doping Rule (“Anti-Doping Rules for PANDA”) in line with the Code. Article 8 of the said Rules provides for the establishment of the Commission’s disciplinary panel which carries out proceedings and takes decision in first and second instance. Even though the Anti-Doping Rules of the Commission came into effect on 1 January 2015, the Commission’s disciplinary panel started its operations on 1 July 2015.

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<sup>17</sup> “Council of Europe and fight against doping – 25 years of the Anti-Doping Convention: from past to future” [T-DO (2014) 30 rev1]: Draft Summary. Prepared by Mr Anders Solheim, Chair of the Monitoring Group of the Anti-Doping Convention.

8.18.3 The National Report (under Article 7) provides the following explanation regarding the need for the establishment of the Commission's disciplinary panel:

*“(...) the Act (on Sport) stipulates that Polish sports associations are responsible for enforcing disciplinary liability for doping. However, given the fact that many associations issue rulings on doping cases only incidentally, and that they may not have sufficient experience in such cases, pursuant to the Polish Anti-Doping Rules a disciplinary panel has been established which acts under the auspices of the Commission Against-Doping in Sport.”*

8.18.4 Article 8 of the Commission's Anti-Doping Rules describes the disciplinary procedures. In particular, Article 8.2 determines the principles for fair hearing, including the right to a timely hearing (Article 8.2.1), as well as the fairness and impartiality of the hearing panel (Article 8.2.4) and the right of all parties to the proceedings to be represented (Article 8.2.3).

8.18.5 As mentioned in other parts of this Report (see paragraph 8.6.5) at the time of the Visit, the Commission's Anti-Doping Rules were not enforced across all sports in Poland. In accordance with the information provided in the National Report (under Article 7) out of the 71 registered national sport associations, only 38 had adopted the said Rules and 12 more were “willing” to do so. Moreover, only 27 national federations have accepted the jurisdiction of the Commission's disciplinary panel and the remaining of the federations refer any cases of possible anti-doping rule violations to their respective disciplinary panels.

8.18.6 The Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”) under Article 13 provide for the appeal procedures. However, at the time of the Visit the procedures described in the said Rules were applicable to the sport federations that have adopted the Rules and/or have transferred jurisdiction to the disciplinary panel of the Commission against Doping in Sport, only.

8.18.7 In particular, at the time of the Visit, the following procedures were in place: For sport federations that have transferred jurisdiction to the disciplinary panel of the Polish Commission against Doping in Sport, appeals were examined by the Commission's disciplinary panel (second instance) whereas the sport federations that hear the cases before their own disciplinary panel, appeals were examined by either the designated appeal body or the board of the federation. In any case, an athlete or other person who was not satisfied with the outcome of his/her appeal has the right to appeal to the Polish Olympic Committee's Court of Arbitration for Sport. Depending on his/her status (as national or international level athlete), the athlete had the right to appeal to the Court of Arbitration for Sport (CAS)<sup>18</sup>; however, CAS was not generally recognized as last instance jurisdiction for all anti-doping cases as the Polish Supreme Court could be the last instance jurisdiction.

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<sup>18</sup> The Court of Arbitration for Sport (CAS) is an independent institution, based in Lausanne, Switzerland, involved in resolving legal disputes in the field of sport through arbitration and mediation. The CAS jurisdiction is recognised by WADA and all Olympic sports federations. ([www.tas-cas.org](http://www.tas-cas.org))

8.18.8 The Monitoring Team is of the opinion that the disciplinary procedures that were in place in Poland at the time of the visit were complicated, with athletes having to appear before several panels and go through not well-clarified procedures. Moreover, it is the opinion of the Team that the disciplinary procedures did not meet the requirement of the Convention for harmonized procedures across all sports in Poland (since most of the sport federations followed their own procedures). Finally, the Team finds that the disciplinary procedures that were in place contradicted the principle of the Convention that requires the reporting and disciplinary bodies to be distinct from one another which cannot be the case when both the reporting and the deciding bodies are linked with the national federation or when the members of both the first and second instance disciplinary panels (deciding bodies) are appointed by the Polish Commission against Doping in Sport (which is the reporting body).

8.18.9 In addition, the Monitoring Team reviewed the list of all cases of anti-doping rule violations opened by the Polish Commission against Doping in Sport between the years 2012 to 2015. Out of the 184 cases on the list, there were 171 cases before the first instance panel of the respective national federation and 12 cases before the disciplinary panel of the Commission. The decision rendered by the first instance panels of the respective national federations was appealed in 16 cases (approximately 10% of the cases) by the Polish Commission against Doping in Sport (in 5 cases) and WADA (in 11 cases) in order to impose the appropriate sanction. It is the opinion of the Monitoring Team that the abovementioned figures indicate the need for a review of the disciplinary procedures in place with view of the protection of clean athletes.

8.18.10 Following review of the Anti-Doping Rules of the Polish Commission against Doping in Sport by WADA, it was found that there was no general recognition of the Court of Arbitration for Sport (CAS) as last instance jurisdiction for all anti-doping cases (as required by the Code) as the Polish Supreme Court can be the last instance jurisdiction. Moreover, WADA's review showed that the timelines to appeal set forth in the Code were not complied with, and the right of appeal has not been granted to all entities having such right in accordance with the corresponding provisions of the Code<sup>19</sup>.

8.18.11 The Polish authorities reacted to WADA's findings and decision and adopted the Act of 11 August 2016 amending the Act of Sport, with which it is now clarified that the Polish Commission against Doping in Sport establishes disciplinary rules relating to doping in sport and the Polish sport associations shall recognise and respect the Commission's exclusive jurisdiction in the application of the disciplinary rules relating to doping in sport including the procedures before the first and second instance disciplinary panel of the Polish Commission against Doping in Sport.

8.18.12 Moreover, the Polish authorities are in the process of adopting an Act on the fight against doping in sport. The draft version of the said Act that the Team received (version 4; dated 30 September 2016) includes provisions about the Disciplinary Panel, the most important of which are:

*“1. The Disciplinary Panel, (...) hereinafter referred to as “the Panel”, shall operate under the auspices of the Agency;*

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<sup>19</sup> WADA, Matter for WADA Executive Committee and Foundation Board, 11-12 May 2016, Agenda Item #: 10.3

*2. The Panel shall adjudicate, in an impartial manner, on cases relating to disciplinary liability for doping in sport, in accordance with the principles of the World Anti-Doping Code, pursuant to the Convention (against Doping in Sport of UNESCO);*

*3. The Panel shall carry out its proceedings and take decisions in two instances: the first instance and the second instance;*

*(...)*

*7. Members of the Panel shall be appointed by the minister competent for physical culture after consulting with the Agency Council;*

*8. Membership in the Panel may not be combined with any function in a governing body of a Polish sports association;*

*(...)*

*15. Support to the Panel, including financial support, shall be provided by the Agency.”*

8.18.13 It is the opinion of the Monitoring Team that the aforementioned provisions of the draft Act on the fight against doping in sport and particularly the appointment of the members of the disciplinary panels by the Minister of Sport and Tourism instead of the President of the Polish Commission against Doping in Sport (as specified in the version of the Commission’s Anti-Doping Rules in force) is a step in the right direction to take. However, the Team is of the opinion that the said Act should include a clear definition of conflicts of interest, applicable for the members of the disciplinary panels and all other persons involved in the fight against doping in Poland.

#### 8.19 Conclusion

8.19.1 The Monitoring Team concludes that Poland fulfilled the commitments described in article 7.2.d of the Anti-Doping Convention of the Council of Europe.

#### 8.20 Recommendations

8.20.1 Recommendation no. 32: The Ministry of Sport and Tourism shall ensure that the Polish Commission against Doping in Sport and the Disciplinary Panel, first and second instance, are independent, impartial and their members, employees or volunteers are free of organisational and individual conflicts of interest, secured by law or other legislative act, as necessary.

8.20.2 Recommendation no. 33: The Polish authorities should consider introducing a definition of conflicts of interest applicable to the members, employees or volunteers of the disciplinary panels and the Polish Commission against Doping in Sport.

\* \* \*

*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;*

#### 8.21 Introduction

8.21.1 The involvement of athlete support persons (i.e., coaches, trainers, team staff, team officials, medical and paramedical personnel and other persons working with, or treating an athlete) in doping of athletes is not uncommon. Thus, this Article of the Convention requires state parties to have procedures in place allowing the imposition of effective penalties against those who are associated with doping infringements. This provision of the Convention includes also the veterinary doctors in order to ensure that they can be sanctioned in cases of doping in animals competing in sport.

## 8.22 Findings

8.22.1 According to Article 1.3 of the Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”), the said Rules apply to “Athlete Support Personnel” and introduced the Code-based definition of “Athlete Support Personnel” which is broader than the scope of this Article of the Convention and reads as follows:

*“Athlete Support Personnel: Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other Person working with, treating or assisting an Athlete participating in or preparing for sports Competition.”*

8.22.2 The Commission’s Anti-Doping Rules, in line with the Code, introduced disciplinary sanctions (i.e., ineligibility for participation in sport, in any capacity) against the Athlete Support Personnel. Moreover, article 10.3.3 of the Rules include the below provisions regarding violations involving Athlete Support Personnel that allow for additional sanctions by the competent administrative, professional or judicial authorities:

*“(…) significant violations of Article 2.7 (Trafficking of Prohibited Substances or Methods) or 2.8 (Administration of Prohibited Substances or Methods) which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.*

*[Comment to Article 10.3.3: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organizations is generally limited to Ineligibility for accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]”*

8.22.3 Apart from the Commission’s Anti-Doping Rules, Article 50 of the Act of 25 June 2010 on Sport provides for criminal liability in cases of administration of doping substances to a minor in sport or use of a prohibited method in respect to a minor in sport. Similarly, the said Act provides for criminal liability in cases of administration of doping substances to any athlete or use of a prohibited method in respect to an athlete without his/her knowledge. Any person convicted of an offence under the aforementioned Article is liable of a fine, restriction of liberty or imprisonment for a term up to two years.



8.22.4 The Commission and the Police have in place an agreement on cooperation against doping in sport which allows the Commission to report to Police information “*on cases that give rise to the suspicion of offence or crime*” including on athlete support persons committing doping offences.

8.22.5 The Monitoring Team notes that even though the Commission’s Anti-Doping Rules provide for sport sanctions for any anti-doping rule violation by an athlete support person, the Act of 25 June 2010 on Sport provides for criminal sanctions only in cases of administration of prohibited substance or prohibited method and not for the possession of prohibited substance or prohibited method, trafficking of prohibited substance or prohibited method, tampering with any part of doping control or complicity involving an anti-doping rule violation.

8.22.6 Notwithstanding the above, the Polish authorities are in the process of adoption of the Act on the fight against doping in sport developed after the Monitoring Visit. In accordance with the draft version of the said Act that the team has received (version 4; dated 30 September 2016) the Polish authorities propose to introduce criminal liability additionally for trafficking of doping substances or methods.

8.22.7 The Monitoring Team also notes that the Commission’s Anti-Doping Rules do not include any provisions about sanctioning veterinary doctors involved in doping of animals competing in sport (e.g., in Polish Equestrian Federation).

## 8.23 Conclusion

8.23.1 The Monitoring Team concludes that Poland fulfilled the commitments described in Article 7.2.e of the Anti-Doping Convention of the Council of Europe.

## 8.24 Recommendations

8.24.1 Recommendation no. 34: The Polish Commission against Doping in Sport should have policies and procedures in place for reporting to the competent administrative or professional authorities of any cases of doping rule violations committed by Athlete Support Persons.

8.24.2 Recommendation no. 35: In cases of doping rule violations committed by Athlete Support Persons, the administrative or professional authorities concerned should adopt rules allowing the imposition of administrative, non-sporting sanctions.

\* \* \*

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

## 8.25 Introduction

8.25.1 The Convention under this article introduces elements of consistency between sports and between nations to ensure that sanctions imposed for doping rule violations are mutually recognised and not seeking alternative jurisdictions.

8.25.2 Mutual recognition of sanctions is one of the principles of the World Anti-Doping Code.

8.25.3 The principle of mutual recognition of sanctions is enhanced and reinforced by the Additional Protocol to the Anti-Doping Convention that entered into force in 2002.

## 8.26 Findings

8.26.1 Article 15 of the Anti-Doping Rules of the Polish Commission against Doping in Sport (“Anti-Doping Rules for PANDA”) incorporates the Code provisions about the mutual recognition of sanctions, as follows:

### *“ARTICLE 15 APPLICATION AND RECOGNITION OF DECISIONS*

*15.1 Subject to the right to appeal provided in Article 13, Testing, hearing results or other final adjudications of any Signatory which are consistent with the Code and are within that Signatory’s authority shall be applicable worldwide and shall be recognized and respected by PANDA and all National Federations.*

*15.2 PANDA and all National Federations shall recognize the measures taken by other bodies which have not accepted the Code if the rules of those bodies are otherwise consistent with the Code.*

*15.3 Subject to the right to appeal provided in Article 13, any decision of PANDA regarding a violation of these Anti-Doping Rules shall be recognized by all National Federations, which shall take all necessary action to render such decision effective.”*

8.26.2 The Monitoring Team finds that the above provisions in the Commission’s Anti-Doping Rules cover the requirements under the Convention.

## 8.27 Conclusion

8.27.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.2.f of the Anti-Doping Convention of the Council of Europe.

## 8.28 Recommendations

8.28.1 None.

\* \* \*

### **7.3 Moreover, the Parties shall encourage their sports organisations:**

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

## 8.29 Introduction

8.29.1 Under this article, the Convention requires from State Parties to organise doping control testing, and sets certain elements of the testing programmes: on an effective scale, in-, and out-of-competition, and without advance notice.

8.29.2 In addition to the aforementioned elements, the Convention requires testing to be “equitable for all sportsmen and sportswomen”. For this to be achieved, it is important for the organisation responsible for testing and those persons involved, to be independent, impartial and free from any conflicts of interest.

8.29.3 In addition to the Convention, the World Anti-Doping Code requires Code-signatories to conduct testing in conformity with the provisions of the International Standard for Testing and Investigations (ISTI)<sup>20</sup>. Among the purposes of the ISTI is, to plan for intelligence and effective testing, both in-competition and out-of-competition. To that end, the ISTI establishes mandatory standards among others, for test distribution planning (including collection and use of athlete whereabouts information) and the conduct of sample collection.

## 8.30 Findings

8.30.1 The Act of 25 June 2010 on Sport, under Article 44.1 provides that:

*“The fight against doping in sport shall be the responsibility of the Commission against Doping in Sport, hereinafter referred to as the ‘Commission’”*

8.30.2 The Act of 25 June 2010 on Sport under Article 44.5 clarifies that:

*“44.5 The Commission’s task shall include, in particular:*

*(...)*

*3) Conducting anti-doping control during competitions and outside of them.”*

8.30.3 The Polish Commission against Doping in Sport as a Signatory to the World Anti-Doping Code has prepared its Anti-Doping Rules (“Anti-Doping Rules for PANDA”), in line with the Code. In the Introduction of the said Rules, it is stated that:

*“(...) PANDA has the necessary authority and responsibility for:*

- Planning, coordinating, implementing, monitoring and advocating improvements in Doping Control;”*

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<sup>20</sup> The World Anti-Doping Code International Standard for Testing and Investigations (ISTI) is a mandatory International Standard developed as part of the World Anti-Doping Programme. The purposes of the ISTI are to plan for intelligent and effective Testing, both In-Competition and Out-of-Competition, the efficient and effective gathering, assessment and use of anti-doping intelligence and the efficient and effective conduct of investigations into possible anti-doping rule violations.

8.30.4 The Commission's authority to conduct testing is detailed under Article 5.2 of its Anti-Doping Rules and includes both in-, and out-of-competition testing, over all of the athletes falling within the scope of the Rules.

8.30.5 The National Report (which is an Appendix to this Report) and the Annual Reports of the Polish Commission against Doping in Sport (available on the Commission's website)<sup>21</sup> contain comprehensive statistical information on the Commission's testing programme. The testing figures for the years 2013-2015 as provided by the Polish authorities in the National Report are presented in Table 1 (below).

Table 1. Testing figures for the years 2013-2015 where the Polish Commission against Doping in Sport is the testing authority. (Source: National Report)

Year	Samples		Tests		Total	AAFs
	Urine	Blood	IC	OOO		
2013	3220	281	1851	1650	3501	50
2014	2780	320	1518	1582	3100	34
2015	2650	450	1557	1543	3100	39

Abbreviations: IC; In-competition; OOC: out-of-competition; AAF: Adverse Analytical Finding.

8.30.6 The Testing programme of the Polish Commission against Doping in Sport is based on risk assessment, in accordance with the International Standard for Testing and Investigation<sup>22</sup> and the Technical Document for Sport Specific Analysis<sup>23</sup>. In support of its testing programme, the Commission develops its Test Distribution Plan, establishes its Registered Testing Pool (RTP) and collects whereabouts from the athletes included in the RTP. It is worth mentioning that the Commission shares its Test Distribution Plan with WADA for review. The Monitoring Team finds this initiative of importance showing the openness of the Commission as well as the commitment for running an effective testing programme.

8.30.7 The Commission is implementing the haematological and steroidal modules of the Athlete Biological Passport programme and uses the Anti-Doping Administration and Management System (ADAMS) for the evaluation of the profiles, with the support of expert panels that the Commission has established in that respect.

8.30.8 The Polish Commission against Doping in Sport has an extensive testing programme in place with the number of samples collected in each year to be steadily increasing since 2003.

8.30.9 In 2015, the Commission's Registered Testing Pool includes 80 athletes from individual sports. The Commission established also a separate pool for team sports (football, handball and basketball).

<sup>21</sup> [http://www.anty doping.pl/en/download\\_center/annual\\_rapports](http://www.anty doping.pl/en/download_center/annual_rapports)

<sup>22</sup> See footnote no. 19.

<sup>23</sup> See footnote no. 26.

8.30.10 In 2015, the Commission collected 3,100 samples from athletes representing 38 different sports federations, including Olympic and non-Olympic sports. The Commission tests both in-, and out-of-competition and collects urine and blood samples. In 2015, 1,557 samples (50.2%) were collected from testing in-competition and 1,543 samples (49.8%) from testing out-of-competition. Out of the 3,100 samples collected, there were 2,650 urine samples, 150 blood samples as part of the blood module of the Athlete Biological Programme and 300 blood samples for the detection of growth hormone.

8.30.11 The Monitoring Team is of the opinion that the testing programme in place in Poland is in line with the principles of the Convention: on an effective scale, in-, and out-of-competition, without advance notice, and equitable for all sportsmen and sportswomen.

8.30.12 As mentioned in more detail under Article 4.3.a (see paragraphs 5.10.2 to 5.10.6), the Polish Commission against Doping in Sport receives funding from the state budget for its operations, including testing with the exemption of the costs of the analysis of samples which is covered by a subsidy from the Ministry of Sport and Tourism directly to the Institute of Sport – Department of Anti-Doping Research. In practice, each year the Commission negotiates with the Institute of Sport – Department of Anti-Doping Research the number of samples and the type of the analyses to be performed under the subsidy from the Ministry. The number of samples to be collected is decided by the Commission, at the beginning of each calendar year, based on its Test Distribution Plan. Similarly, the agreement provides for the type of analyses to be performed, based on the decision of the Commission, in accordance with the requirements of the Technical Document for Sport Specific Analysis of WADA. The said agreement provides flexibility on the number of samples or the analyses to be performed but to a limited extent. In addition, the agreement does not allow the Commission to send samples to WADA-accredited laboratories other than the Department of Anti-Doping Research. It is the opinion of the Monitoring Team that the Commission should have the financial and administrative flexibility to carry out its testing programme, and be able to revise its plans as necessary.

8.30.13 Relevant to the above, it has been observed that the constant use by an anti-doping organisation of a particular laboratory may lead to a level of financial dependence and erosion of independence and has been acknowledged by WADA as a possible reason of the ineffectiveness of testing<sup>24</sup>. The Monitoring Team is of the opinion that this should be taken into account by the Polish Commission against doping in Sport and the Institute of Sport of the Department of Anti-Doping Research as well as the Ministry. (See also paragraph 6.2.13)

## 8.31 Conclusion

8.31.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.3.a of the Anti-Doping Convention of the Council of Europe.

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<sup>24</sup> The Report to WADA Executive Committee on Lack of Effectiveness of Testing Programs prepared by Working Group Established Following Foundation Board Meeting of 18 May 2012 was published by WADA on 5 December 2013 and is available at: [www.wada-ama.org/en/resources/world-anti-doping-program/lack-of-effectiveness-of-testing-programs](http://www.wada-ama.org/en/resources/world-anti-doping-program/lack-of-effectiveness-of-testing-programs)

### 8.32 Recommendations

8.32.1 See Recommendations no. 12 and no. 17 (paragraphs 5.12.1 and 6.4.1, respectively)

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*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;*

### 8.33 Introduction

8.33.1 Under this article of the Convention the Parties are required to establish agreements (as necessary) with other organisations for testing their athletes when training in other countries.

8.33.2 The lack of testing of athletes when training in other countries has been identified as one of the reasons why the drug testing programmes have been generally ineffective in detecting dopers.<sup>25</sup>

### 8.34 Findings

8.34.1 As described in more detail in paragraphs 5.22.1 to 5.22.5, even though the Act on Sport and the Anti-Doping Rules of the Polish Commission Against Doping in Sport (“Anti-Doping Rules of PANDA”) have provisions allowing for the Commission to authorise other entities to conduct testing, in-, and out-of-competition, no tests on Polish athletes out of the country have been conducted at the request of the Commission.

8.34.2 The Monitoring Team was informed that the aforementioned lack of testing of Polish athletes by other organisations when they are training or competing out of the country, at the request of the Commission, is due to funding limitations since the Commission does not have its own budget for the analysis of samples in a WADA-accredited laboratory other than the Polish anti-doping laboratory at the Institute of Sport.

### 8.35 Conclusion

8.35.1 The Monitoring Team concludes that Convention Article 7.3.b is not implemented.

### 8.36 Recommendations

8.36.1 See Recommendation no. 16 (paragraph 5.24.1).

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

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<sup>25</sup> Ibid.

### 8.37 Introduction

8.37.1 Out-of-competition testing, and in particular testing in the lead up of major sport events, is one of the most important elements of a comprehensive testing programme. It assists anti-doping organisations to detect those athletes who may choose to use prohibited substances or methods in order to enhance their performance in competition. In addition, if athletes are aware of the possibility to be tested when they are preparing for competitions, out-of-competition testing has a strong deterrent effect.

8.37.2 At the international level, major event organisations (like, for example, the International Olympic Committee) and international federations encourage national anti-doping organisations to test their athletes prior to their participation in international events. Similarly, at the national level, the national anti-doping organisation should test the athletes under its jurisdiction prior to their participation in national events, based on a risk assessment analysis and with the support of the interested national sport organisation.

### 8.38 Findings

8.38.1 The Ministry of Sport and Tourism gives particular attention and provides support for the athletes of national teams preparing for participation in international events. Article 29.1a of the Act of 25 June 2010 on Sport, provides as follows:

*“29.1.a (...) the minister competent for physical culture may grant (...) a designated subsidy from the state budget resources at his or her disposal, for carrying out public tasks related to ensuring organizational, economic and technical conditions for sports training, with regard to:*

*(...)*

*2) preparation of the national team to participate in Olympic Games, Paralympics Games, Deaflympics, World Championships or European Championships.”*

8.38.2 The Polish Commission Against Doping in Sport intensifies its anti-doping measures in the lead up to major international events. In addition to its anti-doping information and education programmes for the members of the national teams, the Commission intensifies its testing programme based on its test distribution plan as well as on a risk assessment and intelligence for target testing. However, the Monitoring Team notes that the testing programme of the Commission is limited due to the inability of the Commission to request testing of Polish athletes who are training out of the country (as described in paragraphs 8.34.1 – 8.34.2).

### 8.39 Conclusion

8.39.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.3.c of the Anti-Doping Convention of the Council of Europe.

### 8.40 Recommendations

8.40.1 None.

\* \* \*

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

8.41 Introduction

8.41.1 Several international federations run anti-doping information and educational programmes for those athletes who are included in their registered testing pool or competing in their events.

8.41.2 The World Anti-Doping Agency and many international sports organisations (like, for example, the International Olympic Committee (IOC), the International Paralympic Committee (IPC) and international federations) establish their athlete committee, with aim to serve as the voice of clean athletes, encouraging integrity and fairness for sport and athletes. Moreover, the participating athletes act as ambassadors for the fight against doping worldwide.

8.42 Findings

8.42.1 The Monitoring Team was advised that Polish athletes who are included in the Registered Testing Pool (RTP) of their international federation participate in the international federation's anti-doping information and education programmes. Similarly, many young athletes from Poland attend information and education programmes organised by their international federations during competitions or training camps.

8.42.2 The Monitoring Team is also aware of the case of Ms Katarzyna Rogowiec, one of the country's most decorated Paralympic athlete who actively participates in the anti-doping work of the IPC as a member of the IPC's Anti-Doping Committee, having previously served as a member of IPC's Athlete Committee. Ms Rogowiec has also served as member of WADA's Athlete Committee and member of WADA's Independent Observers to the 2010 Commonwealth Games in New Delhi, India.

8.42.3 Other than the case of Ms Katarzyna Rogowiec (above), the Monitoring Team is not aware of any other Polish athletes who are actively participating in the anti-doping work of international sport organisations or how the Polish authorities encourage their athletes to do so.

8.43 Conclusion

8.43.1 The Monitoring Team concludes that Poland has not fully fulfilled the commitments described in Article 7.3.d of the Anti-Doping Convention of the Council of Europe.

8.44 Recommendations

8.44.1 Recommendation no. 36: The Polish authorities should encourage and provide the necessary support to Polish athletes to participate in the anti-doping work of international sport organisations (e.g., IOC, IPC, international federations) and thus contribute to the fight against doping worldwide

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- 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;*

#### 8.45 Introduction

8.45.1 The analysis of samples for the purpose of anti-doping testing by the WADA-accredited laboratories is constantly evolving with strengthening of the existing analytical methods, as well as the development and implementation of new and more sophisticated methodologies. The Convention under Article 7.3.e requires from the Parties to make full and efficient use of the analytical capacities of the laboratories.

8.45.2 In accordance with the Code, anti-doping organisations may store samples for up to ten years for re-analysis at a later stage using improved analytical techniques developed in the meantime. This action has proved to be very effective on uncovering doped athletes and has a strong deterrent effect.<sup>26</sup>

#### 8.46 Findings

8.46.1 As mentioned under Convention Article 5, all samples collected by the Polish Commission against Doping in Sport with the Commission as the Results Management Authority are analysed at the Department of Anti-Doping Research, Institute of Sport which is a WADA-accredited laboratory.

8.46.2 The Polish Commission against Doping in Sport collects both urine and blood samples. For the urine samples, the Commission requests from the Laboratory to be analysed for the standard menu of analysis and additionally for erythropoiesis stimulating agents (e.g. EPO), Isotope Ratio Mass Spectrometry (IRMS) or other tests, based on risk assessment of the sport and discipline or the athlete from whom the sample is collected. Blood samples are collected and analysed either for the blood module of the Athlete Biological Passport programme or for the detection of prohibited substances (e.g., growth hormone) or prohibited methods (e.g., homologous blood transfusions, Haemoglobin Based Oxygen Carrier). However, based on the 2015 Anti-Doping Testing Figures published by WADA, the Commission did not request any samples to be analysed for the detection of growth hormone releasing factors, insulin or insulin-like growth factor-1 although these tests can be performed by the Department of Anti-Doping Research of the Institute of Sport or other WADA-accredited laboratories.

8.46.2 Taking into account the above, the Monitoring Team is of the opinion that the Polish Commission Against Doping in Sport could make even more efficient use of the capacities of the Polish laboratory (Department of Anti-Doping Research, Institute of Sport) to detect doping in sport,

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<sup>26</sup> See, for example, the Press Releases from WADA regarding reanalysis of samples from Beijing 2008 and London 2012 Olympic Games by the International Olympic Committee in the lead up of the Rio 2016 Games. (<https://www.wada-ama.org/en/media/news/2016-05/wada-statement-regarding-re-testing-of-2008-beijing-olympic-samples> and <https://www.wada-ama.org/en/media/news/2016-05/wada-statement-regarding-reanalysis-of-2012-london-olympic-samples>, respectively; accessed: 14.11.2016).

and request more tests, as required by the Convention (Article 7.3.e) and WADA's Technical Document for Sport Specific Analysis.<sup>27</sup>

8.46.3 The Department of Anti-Doping Research of the Institute of Sport is a well-established WADA-accredited laboratory and the Monitoring Team has no doubts that it can support the Commission's testing programme. However, WADA-accredited laboratories may differ in analytical equipment and procedures, as well as their experience and expertise. Therefore, the Team is of the opinion that the Polish Commission against Doping in Sport should have the budgetary and administrative flexibility to send samples in other WADA-accredited laboratories, if needed.

8.46.4 Article 6.5 of the Anti-Doping Rules of the Polish Commission against Doping in Sport ("Anti-Doping Rules of PANDA") provides for storage and re-analysis of samples. However, the Monitoring team understood that the Commission has not developed such a storage and re-analysis strategy.

#### 8.47 Conclusion

8.47.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.3.e of the Anti-Doping Convention of the Council of Europe; however, it is the opinion of the Team that the Polish Commission against Doping in Sport could expand its testing programme further.

#### 8.48 Recommendations

8.48.1 Recommendation no. 37: The Polish Commission against Doping in Sport should have the budgetary and administrative flexibility to send samples to any WADA-accredited laboratory, if needed.

8.48.2 Recommendation no. 38: The Polish Commission against Doping in Sport should develop a storage and re-analysis strategy as part of the development of its test distribution plan and publish this strategy, in order to maximize the deterrent effect.

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

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<sup>27</sup> The Technical Document for Sport Specific Analysis (TDSSA) is prepared by WADA and aims to ensure that the Prohibited Substances within the scope of the TDSSA that are deemed to be at risk of abuse in certain sports/disciplines are subject to an appropriate and consistent level of analysis by all ADOs that conduct Testing in those sports/disciplines. A Minimum Level of Analysis (MLA) is specified for the Prohibited Substances within the scope of the TDSSA for each sport/discipline, expressed as a percentage of the total number of eligible Tests and based on a Physiological Risk Assessment of that sport or discipline. Currently, the Prohibited Substances that are within the scope of the TDSSA are: (a) Erythropoiesis Stimulating Agents (ESAs); (b) Growth Hormone (GH); and (c) Growth Hormone Releasing Factors (GHRFs) including Growth Hormone Releasing Hormone (GHRH) and its analogues, Growth Hormone Secretagogues (GHS) and Growth Hormone Peptides (GHRPs). Compliance with the TDSSA is mandatory under the 2015 World Anti-Doping Code.

#### 8.49 Introduction

8.49.1 This article of the Convention is a further reflection of the concern expressed in Article 6.2, namely that athletes need to be provided with scientifically prepared guidelines to support their training and protect them from unnecessary harm, and also to prevent them from doping.

#### 8.50 Findings

8.50.1 As mentioned in more detail in paragraph 7.6.4, the Institute of Sport – National Research Institute conducts cutting-edge research in the field of sport (e.g., sports medicine, nutrition, physiology, biomechanics, psychology, etc.). The results of the research projects are disseminated for the support of the athletes.

#### 8.51 Conclusion

8.51.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 7.3.f of the Anti-Doping Convention of the Council of Europe.

#### 8.52 Recommendations

8.52.1 None.

## CHAPTER 9:

### Convention Article 8 - International co-operation

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

*8.2 The Parties undertake:*

- a. to encourage their sports organisations to operate in a manner that promotes application of the provisions of this Convention within all the appropriate international sports organisations to which they are affiliated, including the refusal to ratify claims for world or regional records unless accompanied by an authenticated negative doping control report;*
- b. to promote co-operation between the staffs of their doping control laboratories established or operating in pursuance of Article 5; and*
- c. to initiate bilateral and multilateral co-operation between their appropriate agencies, authorities and organisations in order to achieve, at the international level as well, the purposes set out in Article 4.1.*

*8.3 The Parties with laboratories established or operating in pursuance of Article 5 undertake to assist other Parties to enable them to acquire the experience, skills and techniques necessary to establish their own laboratories.*

#### 9.1 Introduction

9.1.1 Articles 8.1 and 8.2.c of the Convention emphasise the importance of coordination and cooperation among states parties to the Convention at the international level.

9.1.2 A main channel for such cooperation is the Monitoring Group set up by virtue of Convention Article 10 as well as the Advisory Groups and the ad hoc groups of experts established by virtue of Convention Article 11.2 to support the work of the Monitoring Group.<sup>28</sup>

9.1.3 Another important channel of cooperation under the Council of Europe is the Ad hoc European Committee for the World Anti-Doping Agency (CAHAMA) which is responsible for the coordination of the positions of all Parties to the European Cultural Convention, with regard to questions relating to WADA.

9.1.4 Outside the structures of the Council of Europe, cooperation in the field of anti-doping can be achieved in many fora, like WADA, UNESCO and the Conference of Parties to the International

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<sup>28</sup> In accordance with the revised Rules of Procedures of the Monitoring Group of the Anti-Doping Convention, the Monitoring Group is assisted in its work by four permanently functioning Advisory Groups: a. Advisory Group on Compliance (T-DO COMP); b. Advisory Group on Education (T-DO ED); c. Advisory Group on Legal Issues (T-DO LI); and d. Advisory Group on Science (T-DO SCI). In addition, the Monitoring Group establishes ad hoc expert groups to undertake specific tasks that cannot be performed by any of the Advisory Groups.

Convention against Doping in Sport, and the Institute of National Anti-Doping Organisations (iNADO).<sup>29</sup>

9.1.5 Article 8.2.a refers to a regulation that is in place by many international sports organisations based on which they ratify records only if accompanied by a negative doping control. As it is clarified in the Explanatory Report to the Anti-Doping Convention:<sup>30</sup>

*“(...) The drafters discussed the desirability of obliging national record claims to be subject to a similar requirement, but the practical difficulties of having a doping control team at every event, in every sport at which a national record might be claimed would be too great. In some countries where the emphasis is on out-of-competition controls, it would also be retrograde. However, the drafters considered that it was important that this explanatory report should mention the desirability of having such a condition, where practical, for national records, at least in high profile sports or events.”*

## 9.2 Findings

9.2.1 Poland signed the Anti-Doping Convention of the Council of Europe on 16 November 1989 and ratified it on 7 September 1990. Poland also signed and ratified the Additional Protocol to the Anti-Doping Convention of the Council of Europe on 18 June 2004. It is worth mentioning that the Additional Protocol was adopted at the 802nd Meeting of the Committee of Ministers, on 3 July 2002, and opened for signature, in Warsaw, Poland, on 12 September 2002, on the occasion of the 16th Informal Meeting of Council of Europe Ministers responsible for Sport.

9.2.2 Poland accessed the International Convention against Doping in Sport of UNESCO on 17 January 2007.

9.2.3 The Polish Commission against Doping in Sport signed the World Anti-Doping Code Acceptance Form on 8 April 2004.

9.2.4 Representatives of the Ministry of Sport and Tourism and the Polish Commission against Doping in Sport regularly attend the meetings of the Monitoring Group of the Anti-Doping Convention (T-DO) and its four Advisory Groups as well as the meetings of the Ad hoc European Committee for the World Anti-Doping Agency (CAHAMA). A representative from Poland (Mr. Rafal Piechota, Deputy Director, Office of the Minister, Ministry of Sport and Tourism) is currently the Chair of CAHAMA<sup>31</sup>.

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<sup>29</sup>The Institute of National Anti-Doping Organisations (iNADO), established in 2012, is the international member body for National Anti-Doping Organisations (NADOs). [www.inado.org](http://www.inado.org)

<sup>30</sup> Explanatory Report to the Anti-Doping Convention, Strasbourg, 16.XI.1989, paragraph 78.

<sup>31</sup> Mr. Rafal Piechota was voted in as Chair of CAHAMA following formal elections on May 2015 and re-elected on May 2016 for a two-year term. With CAHAMA being the body in which officials from European states prepare European positions on political issues to be decided by WADA, Mr. Piechota's position is of particular importance for the development of the European and global anti-doping policy.

9.2.5 Poland attends the Conference of Parties to the International Convention against Doping in Sport of UNESCO.

9.2.6 The Polish Commission against Doping in Sport is a member of the Institute of National Anti-Doping Organisations (iNADO) since 2014.

9.2.7 The Department of Anti-Doping Research of the Institute of Sport is a member of the World Association of Anti-Doping Scientists (WAADS).<sup>32</sup>

9.2.8 In addition to the aforementioned fora, the Polish Commission against Doping in Sport collaborates with many international federations, mainly for testing services in international events that are held in Poland.

9.2.9 Since 2015, the Polish Commission against Doping in Sport cooperates with the Azerbaijan Anti-Doping Organization and WADA with the aim to adapt the Azerbaijan Anti-Doping Program to the standards of WADA's World Anti-Doping Program. Within the framework of this 3-year partnership cooperation agreement (2015-2018), the Polish Commission against Doping in Sport will share its experience and good practices on agency management, implementation of the doping control program and educational activities.

9.2.10 Regarding the regulation based on which sport organisations ratify records only if accompanied by a negative doping control (Convention Article 8.2.a), the Monitoring Team understood that several national federations in Poland have such requirements in place and that the Polish Commission against Doping in Sport is assisting them on the ratification of records process, if needed.

### 9.3 Conclusion

9.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 8 of the Anti-Doping Convention of the Council of Europe.

### 9.4 Recommendations

9.4.1 None.

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<sup>32</sup> The World Association of Anti-Doping Scientists is established by anti-doping laboratories with the aim to collaborate and interact within their own group as well as to provide assistance to others for the fight against doping in sport. (<https://waads.org/>)

**CHAPTER 10:****Convention 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.*

## 10.1 Introduction

10.1.1 The Convention requires Parties to exchange information and experiences between Parties and observers about issues related to the implementation of the Convention. The meetings of the Monitoring Group of the Convention serve as a suitable occasion for providing and exchanging such information.

## 10.2 Findings

10.2.1 Representatives of the Polish authorities (Ministry of Sport and Tourism, Polish Commission against Doping in Sport) attend the meetings of the Monitoring Group and report to the Monitoring Group on the legislative and other measures taken for the purpose of the implementation of the provisions of the Convention as well as on any developments made at the national level for the fight against doping in Poland.

10.2.2 The Polish authorities regularly reply to the annual questionnaire that is set up by the Monitoring Group providing information about the implementation of the Convention.

## 10.3 Conclusion

10.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 9 of the Anti-Doping Convention of the Council of Europe.

## 10.4 Recommendations

10.4.1 Recommendation no. 39: The Polish authorities should continuously provide information to the Monitoring Group on the legislative and other measures they take for the purpose of the implementation of the provisions of the Convention and the developments, at the national level, for the fight against doping in Poland.

## CHAPTER 11:

### Additional Protocol Article 1 – Mutual recognition of doping controls

*1 Bearing in mind the provisions of Articles 3.2, 4.3.d and 7.3.b of the Convention, the Parties shall mutually recognise the competence of sports or national anti-doping organisations to conduct doping controls on their territory, in compliance with the national regulations of the host country, on sportsmen and women coming from other Parties to the Convention. The result of such controls shall be communicated simultaneously to the national anti-doping organisation and national sports federation of the sportsman or sportswoman concerned, to the national anti-doping organisation of the host country, and to the international sports federation.*

*2 The Parties shall take such measures as are necessary for the conduct of such controls, which may be in addition to those carried out by virtue of a previous bilateral or other specific agreement. In order to ensure compliance with internationally recognised standards, the sports or national anti-doping organisations shall be certified to the ISO quality standards for doping control recognised by the Monitoring Group, set up by virtue of Article 10 of the Convention.*

*3 The Parties shall similarly recognise the competence of the World Anti-Doping Agency (WADA) and of other doping control organisations operating under its authority to conduct out-of-competition controls on their sportsmen and women, whether on their territory or elsewhere. The results of these tests shall be communicated to the national anti-doping organisation of the sportsmen and women concerned. Any such controls shall be carried out, in agreement with the sports organisations referred to in Article 4.3.c of the Convention, in accordance with regulations in force and with the provisions of national law of the host country.*

#### 11.1 Introduction

11.1.1 As explained in the preamble of the Additional Protocol to the Anti-Doping Convention, “a general agreement on the mutual recognition of the anti-doping controls (...) would increase the effectiveness of these controls by contributing to the harmonisation, the transparency and the efficiency of existing and future bilateral or multilateral doping agreements reached in this area and by providing the necessary authority for such controls in the absence of any agreement on the matter.”

11.1.2 The principle of mutual recognition of doping controls is found in the World Anti-Doping Code. Article 15 of the Code reads as follows:

*“ARTICLE 15 APPLICATION AND RECOGNITION OF DECISIONS*



*15.1 Subject to the right to appeal provided in Article 13, testing, hearing results or other final adjudications of any Signatory which are consistent with the Code and are within that Signatory's authority, shall be applicable worldwide and shall be recognized and respected by all other Signatories.*

*15.2 Signatories shall recognize the measures taken by other bodies which have not accepted the Code if the rules of those bodies are otherwise consistent with the Code.”*

11.1.3 The importance of adoption of ISO standards by anti-doping organisations is reflected in the Additional Protocol to the Anti-Doping Convention of the Council of Europe. ISO certification represents a tool for achieving harmonisation of standards and procedures in doping control. In addition, ISO certification helps to enhance the level of confidence that athletes have in the doping control system.

## 11.2 Findings

11.2.1 As mentioned in paragraph 8.26.1, the Polish Commission against Doping in Sport incorporates in its Anti-Doping Rules (Article 15) the Code provisions about the mutual recognition of sanctions which cover the requirement of the Convention.

11.2.2 Poland imposes no restrictions to international federations conducting doping tests of Polish athletes in Poland. The results of such tests are recognised by the Polish Commission against Doping in Sport and the national federations, in accordance with the Code and the Anti-Doping Rules of the Commission.

11.2.3 As mentioned in paragraph 8.14.5, the Polish Commission against Doping in Sport complies with ISO 9001:2008, as certified by the Polish Ship Registration Authority (“Polski Rejestr Statków”) for its planning and testing procedures. The Monitoring Team was advised that, even though the certificate is valid until the end of 2018, the Commission is planning to move to ISO 9001:2015 in 2017.

## 11.3 Conclusion

11.3.1 The Monitoring Team concludes that Poland has fulfilled the commitments described in Article 1 of the Additional Protocol to the Anti-Doping Convention of the Council of Europe.

## 10.4 Recommendations

10.4.1 See Recommendation no. 31 (paragraph 8.16.1 )

## **CHAPTER 12:**

### **Overview of the Monitoring Team's Recommendations**

#### Convention Article 1: Aim of the Convention

Recommendation no. 1: The Polish authorities should indicate in the respective legislation that the fight against doping in the country shall respect and governed by the Anti-Doping Convention of the Council of Europe.

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

Recommendation no. 2: The Polish authorities should consider introducing a comprehensive and exhaustive definition of "athlete" in their legislation, so as to ensure that they cover the respective definitions of the Council of Europe's Anti-Doping Convention and the Code.

Recommendation no. 3: The Polish authorities should ensure that the List of banned pharmacological classes of doping agents and banned doping methods in force in Poland is the one adopted by the Monitoring Group; it does not mean, however, that it cannot be the WADA Prohibited List since the two Lists are identical.

Recommendation no. 4: The Polish authorities should publish the List of banned pharmacological classes of doping agents and doping methods in the Journal of Law (Dziennik Ustaw), prior to its entry into force.

#### Convention Article 3: Domestic coordination

Recommendation no. 5: The Polish authorities should ensure adequate structures and practices for efficient cooperation and coordination between the Ministry of Sport and Tourism, the Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) and other departments and public agencies for the fight against doping at the national level.

Recommendation no. 6: The Ministry of Sport and Tourism should ensure that the Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) is independent on its operations (including budget) and decisions and free of organisational and individual conflicts of interest.

Recommendation no. 7: The health authorities should include the fight against doping in their scope of activities, especially the control of availability of doping substances and methods as well as the prevention of doping in society; and cooperate, collaborate and coordinate with the Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will be established) as the competent authority, including sharing of information.

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

Recommendation no. 8: The Polish authorities shall adopt comprehensive legislative measures to control the trafficking of doping substances; these measures should include, as a minimum, the list of substances to be controlled, the agencies to be involved, and the applicable sanctions.

Recommendation no. 9: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should establish cooperation agreements with as many law enforcement bodies and other agencies as necessary, including information sharing, to control the availability of doping substances and methods.

Recommendation no. 10: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should consider expanding the scope of the cooperation agreement with the Police to cover more classes of prohibited substances (e.g., S0. Non-approved substances, and S4. Hormone and metabolic modulators) and prohibited methods (e.g., blood transfusions (M1.1), and intravenous blood manipulation (M1.3)).

Recommendation no. 11: The Ministry of Sport and Tourism should introduce criteria related to anti-doping for the funding of Polish sport associations allowing withholding of public funds from those sport associations that do not effectively apply anti-doping regulations.

Recommendation no. 12: The Polish Commission against Doping in Sport (and the Polish Anti-Doping Agency that will replace the Commission) should have the budgetary and administrative flexibility to decide on the number of samples to be collected each year and the analyses to be performed and to be able to send samples to other WADA-accredited laboratories apart from the Department of Anti-Doping Research of the Polish Institute of Sport, if necessary.

Recommendation no. 13: The Ministry of Sport and Tourism should consider revising the Act on Sport and/or the Regulation of the Minister of Sport and Tourism on Sports Grants for members of Polish national teams to explicitly mention anti-doping rule violation as a reason to withhold or cancel sport grants and/or producing a document explaining the said provision in laid language, for better clarity and maximising its deterrence effect.

Recommendation no. 14: The Ministry of Sport and Tourism should adopt and enforce (as necessary) a policy regulating the reporting by the Polish Commission against Doping in Sport to the Ministry of Sport and Tourism and the national federation concerned of any anti-doping rule violation not involving a reduced sanction; and the withhold by the Ministry of Sport and Tourism and the national federation of some concerned of all sport-related financial support or other related benefits received from such person.

Recommendation no. 15: The Polish authorities should reconsider the payment model for doping tests and other services provided by the Polish Commission against Doping in Sport to international federations or anti-doping organisations with the view to facilitate such services.

Recommendation no. 16: The Polish Commission against Doping in Sport should enter into agreements with other anti-doping organisations or private sample collection companies for testing of Polish athletes when training in other countries; and the Ministry of Sport and Tourism should provide the Polish Commission against Doping in Sport with the necessary funds and administrative flexibility for such agreements.

#### Convention Article 5: Laboratories

Recommendation no. 17: The Ministry of Sport and Tourism, jointly with the Polish Commission against Doping in Sport and the Department of Anti-Doping Research of the Institute of Sport – National Research Institute should reconsider the financing of the analysis of samples collected by the Commission with the view of allowing the Commission the necessary budgetary flexibility to decide on the number of samples to be collected each year and the type of analyses to be requested as well as the flexibility to send samples in other WADA-accredited laboratories, when necessary; it is meant that, the obligation of the Polish authorities to provide the Department of Anti-Doping Research with the required minimum number of samples, as per the International Standards for the Laboratories, shall be respected at all times.

Recommendation no. 18: The Department of Anti-Doping Research of the Institute of Sport – National Research Institute should find ways to promote its services and increase the number of customers, especially among the national anti-doping organisations of the countries in the area.

Recommendation no. 19: The Department of Anti-Doping Research of the Institute of Sport – National Research Institute should consider conducting an internal and/or independent comprehensive audit covering the laboratory's accredited activities and management system, including the risk of fraud and corruption.

#### Convention Article 6: Education

Recommendation no. 20: The Commission should prepare short, and long-term anti-doping information and education strategies to cover the priorities based on risk assessment rather than on a request basis.

Recommendation no. 21: The Commission should constantly evaluate the implementation and effectiveness of its anti-doping information and education programmes and adapt accordingly.

Recommendation no. 22: The Commission should consider adopting a sport-specific -rather than a more generic- approach to its education and information programmes, based on the characteristics of each sport and the risk evaluation developed as part of a sports categorisation concept. As part of this approach, the methods, tools and resources to be used should be sport-specific and can be developed in cooperation with the national federations concerned.

Recommendation no. 23: The Polish authorities should consider introducing anti-doping education and prevention programmes in schools, in physical education classes in line with Recommendation Rec (2011) 1 on the use of the model guidelines for core information/education programmes to prevent doping in sport, adopted by the Monitoring Group.

Recommendation no. 24: The Polish authorities should advise and encourage the relevant academic institutions in the country to develop, implement and deliver effective anti-doping education in tertiary education, in line with Recommendation Rec (2016) 2 on *Anti-Doping Education Guidelines for Tertiary Education Institutions*, adopted by the Monitoring Group.

Recommendation no. 25: The Polish Commission against Doping in Sport should work closely with the Polish National Olympic Committee athletes' committee or consider establishing its own athlete

committee with the view, among others, to promote active participation of athletes in the fight against doping.

Recommendation no. 26: The Polish Commission against Doping in Sport should evaluate the effectiveness of its anti-doping ambassadors programme; and consider appointing one or more athletes as anti-doping ambassadors, if deemed useful.

Recommendation no. 27: The Polish Commission against Doping in Sport should encourage and fund research studies related to anti-doping by academic and other interested institutions in the country.

Recommendation no. 28: The Polish Commission against Doping in Sport and/or the Ministry of Sport and Tourism should play a role on the coordination of the research activities on anti-doping in the country.

#### Convention Article 7: Cooperation with sports organisations and measures to be taken by them

Recommendation no. 29: The Ministry of Sport and Tourism and the Polish Commission against Doping in Sport should ensure that the Commission (or the Polish Anti-Doping Agency that will replace the Commission) is in place and have the necessary resources to implement the revised Act on Sport and particularly to undertake the Commission's new role (i.e. to establish and apply disciplinary rules across all sports in Poland).

Recommendation no. 30: The Polish Commission against Doping in Sport shall ensure that the provisions of the revised Act on Sport and the amended Anti-Doping Rules are properly communicated to all athletes under the jurisdiction of the Commission.

Recommendation no. 31: The Polish Commission against Doping in Sport should implement ISO 9001:2015 for its planning and testing procedures, to comply with the 2015 version of the Code and International Standard for Testing and Investigations.

Recommendation no. 32: The Ministry of Sport and Tourism shall ensure that the Polish Commission against Doping in Sport and the Disciplinary Panel, first and second instance, are independent, impartial and their members, employees or volunteers are free of organisational and individual conflicts of interest, secured by law or other legislative act, as necessary.

Recommendation no. 33: The Polish authorities should consider introducing a definition of conflicts of interest applicable to the members, employees or volunteers of the disciplinary panels and the Polish Commission against Doping in Sport.

#### Convention Article 8: International cooperation

No recommendations.

#### Convention Article 9: Provision of information

Recommendation no. 34: The Polish Commission against Doping in Sport should have policies and procedures in place for reporting to the competent administrative or professional authorities of any cases of doping rule violations committed by Athlete Support Persons.

Recommendation no. 35: In cases of doping rule violations committed by Athlete Support Persons, the administrative or professional authorities concerned should adopt rules allowing the imposition of administrative, non-sporting sanctions.

Additional Protocol Article 1: Mutual recognition of doping controls

[See Recommendation no. 31, above]

**CHAPTER 13:****Post-Monitoring Visit Developments**

13.1 The aim of this chapter is to describe certain developments regarding the fight against doping in Poland that took place after the Monitoring Visit and prior to the adoption of this Report.

13.2 As part of the its compliance programme, WADA, in April 2016, became aware of amendments to the Polish Act on Sport that have been adopted without WADA's involvement in the process, and the revised version of the Act which entered into force was not in line with Articles 2 and 13 of the Code.

13.3 Based on WADA's document "*Matter for WADA Executive Committee and Foundation Board, 11-12 May 2016, Agenda Item #: 10.3*" the following issues from the Act of 25 June 2010 on Sport have been identified as problematic and not in line with the Code:

- a. Definition of Doping: Article 2.10 of the Code (Prohibited Association) has not been incorporated; and
- b. Appeals (Article 13): (i) there is no general recognition of the Court of Arbitration for Sport (CAS) as last instance jurisdiction for all anti-doping cases (and instead the Polish Supreme Court can be the last instance jurisdiction); (ii) the timelines to appeal set forth in the Code are not complied with; and (iii) the right of appeal has not been granted to all entities having such right in light of the corresponding provisions of the Code.

13.4 The Polish Commission against Doping in Sport was given a deadline of three months to resolve the aforementioned issues and avoid be declared non-compliant.

13.5 The Polish authorities reacted to WADA's findings and decision and proceeded with the following:

- a. adoption of the Act of 11 August 2016 amending the Act on Sport; and
- b. amendment of the Anti-Doping Rules of the Polish Commission against Doping in Sport.

13.6 Based on the Act of 11 August 2016 amending the Act on Sport and the amended Anti-Doping Rules of the Polish Commission against Doping in Sport that came into effect on 11 August 2016:

- a. the definition of doping has been amended to incorporate Code Article 2.10 (Prohibited association) in line with the Code;
- b. the Commission Against Doping in Sport establishes disciplinary rules relating to doping in sport;
- c. sport federations recognise and respect the Commission's exclusive jurisdiction in the application of the disciplinary rules relating to doping in sport;
- d. sport federations' right to enforce disciplinary liability for doping in sport, in accordance with their internal rules and regulations is cancelled;
- e. the Court of Arbitration for Sport (CAS) is recognised as the last instance jurisdiction for all anti-doping cases and jurisdiction of the Polish Supreme Court as the last instance jurisdiction is not applicable for doping issues;
- f. the timelines to appeal have been amended to be in line with the deadlines set forth in the Code; and
- g. the right of appeal has been granted to all entities having such right in light of the corresponding provisions of the Code.

13.7 In the meantime, the Polish authorities are in the process of adoption of the Act on the fight against doping in sport which provides for the establishment of the Polish Anti-Doping Agency (which will replace the Polish Commission against Doping in Sport as the country's national anti-doping agency), enlarged domestic coordination with the cooperation between the Polish Anti-Doping Agency and the Border Guard, the Military Police and the public prosecutors' offices for sharing of information related to the fight against doping, as well as the minister competent for health issues with the aim to inform the public of the risks of doping and to ensure correct labelling of medicinal products and other measures and it is beyond doubts that will strengthen the country's anti-doping programme even further.



## **Annex 1: Composition of the Monitoring Team**

### EXPERTS

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**Annex 2: Programme of the Monitoring Visit**

30 March 2016

Meeting with Mr. Ryszard Szuster, Undersecretary of State in the Ministry of Sport and Tourism (responsible for anti-doping)

9:00-9:30, Ministry of Sport and Tourism

- Ryszard Szuster, Undersecretary of State in the Ministry of Sport and Tourism
- Ryszard Krzeszowiak, Chief of the Political Cabinet
- Joanna Żukowska-Easton, Director of the Office of the Minister
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with Mr. Witold Bańka, Minister of Sport and Tourism

9:30-9:50, Ministry of Sport and Tourism

- Witold Bańka, Minister of Sport and Tourism
- Ryszard Krzeszowiak, Chief of the Political Cabinet
- Joanna Żukowska-Easton, Director of the Office of the Minister
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the representatives from the Ministry of Health, the Ministry of Interior and Administration (including Police), the Ministry of Finance (including Customs) and Chief Sanitary Inspection

10:00-11:00, Ministry of Sport and Tourism

- Dagmara Korbasińska, Director of the Department of Mother and Child (Ministry of Health)
- Monika Zagrajek, Director of the Department of Functional Food (Chief Sanitary Inspectorate)
- Tomasz Kosiec, Ministry of the Interior and Administration
- Michał Witkowski, Polish Police Headquarters
- Tomasz Michalak, Customs Service
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Paweł Pachol, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Polish Commission against Doping in Sport

11:15-11:45, Ministry of Sport and Tourism

- Jerzy Smorawiński, President of the Polish Commission against Doping in Sport
- Wojciech Gawroński, Member of the Polish Commission against Doping in Sport
- Paweł Kaliszewski, Member of the Polish Commission against Doping in Sport
- Renata Żurowska, Member of the Polish Commission against Doping in Sport
- Robert Wysoczański, Member of the Polish Commission against Doping in Sport
- Tomasz Michalak, Member of the Polish Commission against Doping in Sport
- Michał Witkowski, Member of the Polish Commission against Doping in Sport
- Andrzej Zięba, Member of the Polish Commission against Doping in Sport

- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Commission against Doping in Sport: staff and DCOs  
11:45-13:45, Ministry of Sport and Tourism

- Michał Rynkowski, Chief Executive of the Polish Commission against Doping in Sport
- Dariusz Błachnio, Polish Commission against Doping in Sport
- Piotr Wójcik, Polish Commission against Doping in Sport
- Jarosław Gargol, doping control officer, Polish Commission against Doping in Sport
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Central Disciplinary Panel and representatives of the disciplinary panels acting within sports federations

15:00-16:00, Ministry of Sport and Tourism

- Katarzyna Kaczmarczyk, Disciplinary Panel, Polish Commission against Doping in Sport
- Robert Czapliński, Polish Handball Federation
- Sławomir Wasilewski, Tauron BasketLiga (Basketball)
- Wojciech Robiński, Tauron BasketLiga (Basketball)
- Rafał Grązawski, Polish Weightlifting Federation
- Izabela Kącka, Polish Weightlifting Federation
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Paweł Pachoł, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the TUE Committee of the Commission against Doping in Sport

16:00-16:30, Ministry of Sport and Tourism

- Katarzyna Szmigielska, Chairman of the TUE Committee
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with representatives from sports federations

16:30-17:30, Ministry of Sport and Tourism

- Piotr Piertrasik, Polish Swimming Federation
- Uta Kühn, Polish Canoe Federation
- Robert Zaborski, Polish Rowing Federation
- Robert Małolepszy, Polish Rugby Federation
- Maciej Sokołowski, Polish Karate Federation
- Bohdan Włostowski, Polish Ice Hockey Federation
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

31 March 2016

Meeting with the Director of the Institute of Sport

09:00-09:15, Institute of Sport

- Bartosz Krawczyński, Director of the Sports Institute
- Piotr Żmiejewski, Deputy Director of the Sports Institute
- Maciej Olszewski, Deputy Director of the Sports Institute
- Dorota Kwiatkowska, Head of the Laboratory
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Paweł Pachol, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Anti-Doping Research Unit and short visit to the lab

9:15-10:15, Institute of Sport

- Dorota Kwiatkowska, Head of the Laboratory
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism

Meeting with the Polish Olympic Committee officials

10:30-11:15, Polish Olympic Committee

- Andrzej Kraśnicki, POC President
- Adam Krzesiński, POC Secretary General
- Hubert Krzysztofiak, Chairman of the POC Medical Commission
- Marzenna Koszewska, Director of Olympic Logistics and International Relations (POC)
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Paweł Pachol, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Polish Court of Arbitration for Sport

11:15-12:00, Polish Olympic Committee

- Zbigniew Cwiąkałski, Chairman of the Polish Court of Arbitration for Sport
- Piotr Graczyk, Member of the Polish Court of Arbitration for Sport
- Piotr Nowaczyk, Member of the Polish Court of Arbitration for Sport
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Paweł Pachol, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with athletes

14:15-15:00, Ministry of Sport and Tourism

- Marcin Kaczmarek, AZS AWF Warszawa (Swimming)
- Adam Ginter, Polish Canoe Federation
- Rafał Struś, CWKS Legia Warszawa (Weightlifting)
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Sum-up meeting with Minister Ryszard Szuster

15:00-15:30, Ministry of Sport and Tourism

- Ryszard Szuster, Undersecretary of State in the Ministry of Sport and Tourism
- Ryszard Krzeszowiak, Chief of the Political Cabinet
- Joanna Żukowska-Easton, Director of the Office of the Minister
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

Meeting with the Commission on Physical Culture, Sport and Tourism of the Polish Parliament

15:45-17:00, Sejm (Polish Parliament)

- Ireneusz Raś, Chairman of the Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Szymon Ziółkowski, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Tomasz Kucharski, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Adam Korol, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Marek Ruciński, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Małgorzata Niemczyk, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Elżbieta Duda, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Jacek Falfus, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Grzegorz Matusiak, Commission on Physical Culture, Sport and Tourism of the Polish Parliament; Member of the Polish Parliament
- Rafał Piechota, Deputy Director of the Office of the Minister
- Hubert Dziudzik, Expert in the Ministry of Sport and Tourism
- Joanna Wykrętowicz, interpreter

**Annex 3: Anti-Doping Testing Figures by the Department of Anti-Doping Research**

Table 1: Total samples analysed by the Department of Anti-Doping Research (2013-2015)

Year	Urine			Blood			Total % AAF	ABP Samples	Total Samples
	Sample	ATF	AAF	Sample	ATF	AAF			
2013	3,909	37	88	24	0	0	2.24%	581	4,514
	(200,820)	(2,026)	(2,529)	(6,689)	(1)	(11)		(23,845)	(231,354)
2014	3,543	16	43	44	0	1	1.23%	402	3,989
	(207,571)	(490)	(2,281)	(9,834)	(1)	(6)		(22,578)	(239,983)
2015	3,418	81	47	355	2	0	1.25%	158	3,931
	(213,961)	(1,897)	(2,517)	(15,440)	(8)	(5)		(24,718)	(254,119)

\* Numbers in brackets represent the totals from all WADA-accredited laboratories

Terms and Abbreviations:

IC: In- Competition;

OOC: Out- of- Competition;

Sample: Any biological material collected for the purposes of Doping Control;

AAF: Adverse Analytical Finding;

ATF: Atypical Findings.

Table 2: Tests conducted by the Department of Anti-Doping Research in 2015

Tests	Total samples	Total AAFs	% AAFs
<b>Urine</b>			
GC/C/IRMS	70 (5578)	1 (176)	1% (3.2%)
ESAs (including recombinant EPOs and analogues)	934 (32999)	- (45)	0% (0.1%)
GHRF (GHS/GHRP)	- (21622)	- (14)	0% (0.1%)
GHRF (GHRH)	- (105)	- -	0% (0%)
GnRH	4 (2533)	- -	0% (0%)
Insulin (urine)	- (700)	- (1)	0% (0.1%)
IGF- I (urine)	- (415)	- -	0% (0%)
<b>Blood</b>			
ESAs (including recombinant EPOs and analogues)	30 (3219)	- (1)	0% (0.03%)
Insulin (blood)	- (51)	- -	0% (0%)
IGF- I (blood)	- (2)	- -	0% (0%)
hGH Isoforms	340 (11082)	- (4)	0% (0.04%)
hGH Biomarkers	- (2176)	- -	0% (0%)
HBT (Transfusion)	15 (771)	- -	0% (0%)
HBOCs	301 (2646)	- -	0% (0%)

\* Numbers in brackets represent the totals from all WADA-accredited laboratories

Abbreviations:

GC/C/IRMS: Gas Chromatograph/Carbon/Isotope Ratio Mass Spectrometry (e.g. "IRMS")

ESA: Erythropoiesis Stimulating Agent [Including recombinant erythropoietins (i.e. epoetins) and their analogues (e.g. darbepoetin, pegserpoetin, peginesatide, CERA, EPO- Fc)]

hGH Isoforms: Human Growth Hormone Isoform Differential Immunoassay

hGH Biomarkers: Human Growth Hormone Biomarkers

GHRF(GHS/GHRP): Growth Hormone Releasing Factors (Growth Hormone Secretagogues/GH-Releasing Peptides)

GHRF(GHRH): Growth Hormone Releasing Factors (Growth Hormone Releasing Hormone)

GnRH: Gonadotrophin Releasing Hormones

HBT: Homologous Blood Transfusion

HBOC: Haemoglobin Based Oxygen Carrier

IGF- 1: Insulin- like Growth Factor- 1 (and its analogues);



**Appendix 1: National Report**

**Anti-Doping Convention (CETS No. 135)**

**Auto-evaluation report  
on compliance with the commitments under the Convention**

*The report provides background information and an overview on the application and implementation of the provisions of the Anti-Doping Convention in Poland.  
The document was prepared by the Ministry of Sport and Tourism.*

**18th March 2016  
Warsaw, Poland**

### **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.*

#### **Signatures and ratifications**

Poland is a party to the Anti-Doping Convention of the Council of Europe, which it signed on 16 November 1989 and ratified on 7 September 1990, and a party to its Additional Protocol signed and ratified by Poland on 18 June 2004.

Poland is also a party to the International Convention Against Doping in Sport, done in Paris on 19 October 2005 (the date of deposit of the instrument of ratification is 17 January 2007) and a signatory of the World Anti-Doping Code. The Code acceptance form was signed on 8 April 2004 by Jerzy Smorawiński, Chairman of the Polish Commission Against Doping in Sport.

#### **Legal framework**

The main legislative act relating to sport in Poland is the Act of 25 June 2010 on Sport (consolidated text: Dz. U. [Journal of Laws] of 2016, item 176). Chapter 9 of the Act relates to the fight against doping in sport (articles 43 through 45). The Act contains a definition of doping in sport, provides a framework for action for the Commission Against Doping in Sport, and establishes the principles of financing tasks carried out by the Institute of Sport (the financing of analysis and purchase of equipment for the Department of Anti-Doping Research which is an organizational unit of the Institute of Sport).

The law on sport also contains criminal law provisions, including Article 50 which provides that anyone who administers a prohibited substance to a minor who participates in or prepares for a sports competition, or uses a method in respect of a minor, prohibited within the meaning of the regulations concerning the fight against doping in sport, shall be liable on conviction to a fine, restriction of liberty or imprisonment for a term not exceeding 2 years (paragraph 1). Anyone who administers a prohibited substance to an athlete who participates in or prepares for a sports competition, or uses a method in respect of an athlete, prohibited within the meaning of the regulations concerning the fight against doping in sport, without the knowledge of the athlete, shall be liable on conviction to the same punishment (paragraph 2).

To a limited extent (with regard to the control over production, possession, sale and import of prohibited substances to Poland), the fight against doping in sport is also covered by the provisions of the following legislation: the Act of 6 September 2001 - Pharmaceutical Law (consolidated text: Dz. U. of 2008, no. 45, item 271, as amended), the Act of 29 July 2005 on counteracting drug addiction (consolidated text: Dz. U. of 2016, item 224), the Act of 6 June 1997 - Penal Code (Dz. U. no. 88, item 553, as amended) and the Act of 20 May 2010 on medical devices (consolidated text: Dz. U. of 2015, items 876 and 1918). For more details, see: comments on Article 4 of the Convention.

The most comprehensive regulations on the fight against doping in sport are the Polish Anti-Doping Rules adopted by the Commission Against Doping in Sport (the Commission Resolution No. 8/2014 of 23 October 2014.). The Rules, developed pursuant to WADA Model Anti-Doping Rules for National Anti-Doping Organizations, do not have, however, the status of generally applicable (binding) regulations. Therefore, for them to be applicable to a specific Polish sports association, a resolution of a general meeting of members or delegates of the association is required. The Polish Anti-Doping Rules have, in part, the nature of disciplinary regulations. Pursuant to Article 9(7) of the Act on Sport, the adoption of disciplinary regulations of a given sports association is the sole power of a general meeting of its members or delegates.

Most of the Polish sports associations have followed this requirement. For more details, see: comments on Article 7.

It should also be mentioned that by the end of 2016, the adoption of a separate Act on the fight against doping in sport is expected. The bill is currently being drafted by the Ministry of Sport and Tourism. The subject matter of the Act will cover inter alia: reorganization and a change of the legal form of the Commission Against Doping in Sport (problems related to the current legal form are discussed in more detail below); updating the definition of doping in sport; taking into account the powers of the Commission Against Doping in Sport to establish Polish Anti-Doping Rules and to resolve doping disputes by an independent disciplinary panel (established under the auspices of the Commission); an amendment of the criminal-law provisions of the Act (so that criminalization of administering prohibited substances is restricted to substances that are most dangerous to human health); the introduction of separate criminal-law provisions relating to the production, sale and import to Poland of prohibited substances most dangerous to human health; the introduction of the concept of “public interest” in the context of anti-doping tests carried out by the Commission; and granting to the Commission’s doping control officers the status of public officials. It is also planned to change the Commission’s name to “the Polish Anti-Doping Agency”.

In the works on the bill, recommendations following the monitoring visit of the Council of Europe will also be taken into account.

### **Strategic framework**

The currently binding strategic document in the field of sport is the Sport Development Programme until 2020. It was adopted by Resolution no. 150 of the Council of Ministers of 31 August 2015 (Monitor Polski, item 989). The programme, under objective 2 (using the potential of sport to build social capital), priority 2.2 (counteracting negative phenomena in sport and promoting positive values developed by sport), provides for a separate direction of intervention 2.2.2 entitled "Combating doping in sport."

The key measures under the said direction of intervention include:

- maintaining WADA accreditation by the Department of Anti-Doping Research of the Institute of Sport;
- the continuation of the national programme against doping in sport, coordinated by the Commission Against Doping in Sport, with the intention to optimize the scale of doping controls (to the level of 4500 samples in 2020) and take into account the qualitative approach to work;
- developing cooperation with relevant services (Police, Customs Service) with the aim to limit the availability, use, and sale of prohibited substances and methods, and developing inter-ministerial cooperation to ensure better effects of measures taken in the field of anti-doping education (the Ministry of Health, the Ministry of National Education);
- taking measures to fight against doping in recreational sport and grassroots sport, including through educational campaigns;
- the continuation of prevention measures using available forms of communication.

By the end of March 2016, the Minister of Sport and Tourism is expected to adopt an Implementing Document containing a catalogue of tools for implementing the Sport Development Programme.

By the end of 2016, the adoption by the Commission Against Doping in Sport of a strategic document in line with the objectives of the Sport Development Programme is also planned.

### **Structures and funding**

The national government body responsible for coordinating state policy in the field of the fight against doping in sport is the Minister of Sport and Tourism. The Minister is responsible for two sectors of government administration: physical culture and tourism. Supervision over the Police Service is the responsibility of the Minister of Internal Affairs and Administration, and supervision over the Customs Service is the role of the Minister of Finance. The Minister of Health also plays a role in the fight against doping in sport, in the context of its impact on public health.

The role of Poland's National Anti-Doping Organization (NADO) has been assigned to the Commission Against Doping in Sport; support to the Commission is provided by the Commission Office. The principles of operation and the scope of tasks of the Commission are set out in Article 44 of the Act on Sport. The Commission is a body responsible for the fight against doping in sport. It comprises a president and 10 members, who are appointed and dismissed by the minister competent for physical culture from among professionals who work in the fields of medicine, sport, ethics, biology or law, and who guarantee the proper fulfilment of the Commission's tasks. The term of the Commission's president and members is 4 years.

The detailed scope of work of the Commission is laid down in its statute established by the Minister of Sport and Tourism by Ordinance no. 4 of 12 February 2013 (Official Journal of the Ministry of Sport and Tourism, item 4).

The Commission is supported by the Commission Office which operates as a state budget entity and manages the budget for implementing the tasks of the Commission. However, the current legal form of the Commission Office causes certain problems. A state budget entity covers its expenditures directly from the state budget, but its income (revenue) has to be paid to the state budget too. This means that a state budget entity makes use of the state budget funds to cover its expenditures, but if it generates any income, it should be paid in full to the state budget as its revenue. During numerous international sporting events held in Poland the event organizers request the Commission to carry out, at their sole expense, doping controls during the competitions. Yet, in the current legal situation the Commission refuses to carry out the controls. This is due to the fact that any amounts paid for the controls by the event organizers would have to be paid to the state budget as its revenue, and the costs of the controls would, in practice, have to be covered from the Commission Office's own funds. In such situations, the Commission Office acts as an intermediary in the conclusion of contracts directly between the controllers (who run their own sole proprietor companies) and the sporting event organizers. This solution potentially undermines the credibility of the Polish anti-doping system.

The detailed scope of work of the Commission Office is laid down in its statute established by the Minister of Sport and Tourism by Ordinance no. 6 of 5 March 2013 (Official Journal of the Ministry of Sport and Tourism, item 6).

The obligation to establish the statute of the Commission, and the obligation to establish the statute of the Commission Office, have two different legal bases. The establishment of the statute of the Commission by the Minister of Sport and Tourism is required under the Act on Sport. The establishment of the statute of the Commission Office, as a state budget entity, by the Minister of Sport and Tourism is required under the Act of 27 August 2009 on Public Finance (consolidated text: Dz. U. of 2013, item 885, as amended).

The supervision of the Ministry of Sport and Tourism covers only the Office of the Commission Against Doping in Sport.

The director of the Commission Office is a so-called “state budget authorizing officer class three”. This means that the budgetary appropriations for the Commission Office (for the implementation of the tasks of the Commission) are allocated directly in the state budget. The annual allocations to the implementation of the Commission's tasks in the years 2011 to 2016 are indicated in the table below. These amounts do not include the costs of analysis which are covered by the Ministry of Sport and Tourism under a separate agreement with the Institute of Sport.

Year	2011	2012	2013	2014	2015	2016
Amount (in PLN)*	1 735 000	1 736 000	1 965 000	2 007 000	2 077 000	2 094 000

\* average rate of exchange on 9 March 2016: 1 EURO = 4.3215 PLN

In Poland, there is also an anti-doping laboratory accredited by WADA. It is a part of the Institute of Sport, and operates as its organizational unit (named the Department of Anti-Doping Research). The Institute of Sport is a research institute within the meaning of the Act of 30 April 2010 on Research Institutes (consolidated text: Dz. U. of 2015, item 1095, as amended). The Institute is supervised by the Minister of Sport and Tourism. It receives a subsidy for its statutory activities from the Ministry of Science and Higher Education, and a subsidy under Article 45 of the Act on Sport, granted by the Minister of Sport and Tourism for maintaining the WADA accreditation in a given year (which includes e.g. scientific research in the area of doping in sport, staff employment and qualifications improvement, and carrying out a specific number of analysis of samples provided by the Commission Against Doping in Sport). The Minister of Sport and Tourism, pursuant to Article 45 of the Act on Sport, and under a separate funding mechanism of the Physical Culture Development Fund (Polish: Fundusz Rozwoju Kultury Fizycznej - FRKF) managed by the Minister, grants to the Institute a subsidy for the purchase of equipment necessary to maintain WADA accreditation. The Institute may also receive some funding for this purpose from the Ministry of Science and Higher Education within grants for research infrastructure (this was the case in 2012).

The table below presents funds allocated to the task of maintaining the WADA accreditation by the Department of Anti-Doping Research (in short: funds for testing) in the years 2011-2016, and the expenditures on equipment purchase from the funds allocated by the Ministry of Sport and Tourism (jointly from the state budget and the FRKF) in the same years.

Year	2011	2012	2013	2014	2015	2016
Funds for testing in PLN*	3 480 000	3 601 000	3 866 000	3 750 000	4 500 000	4 500 000
Funds for equipment in PLN*					2 500 000	1 900 000**

\* average rate of exchange on 9 March 2016: 1 EURO = 4.3215 PLN, \*\* not yet approved

The Commission Against Doping in Sport and the Institute of Sport are financed separately from each other by the Minister of Sport and Tourism but they cooperate with each other based on an annually renewed agreement between two entities, the Minister of Sport and Tourism, and the Polish Equestrian Federation (as every year about 20 analysis are conducted on samples coming from horses).

## **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.*

### **Definition of doping in sport**

The definition of doping in sport is included in Article 43(1) and (2) of the Act on Sport. According to the first part of this definition, the following is considered to be doping in sport:

- 1) the presence of a prohibited substance or its metabolites or markers in a sample from a person who participates in or prepares for a sports competition;
- 2) the use or attempted use, assistance in or encouraging the use of a prohibited method or substance by a person who participates in or prepares for a sports competition;
- 3) possessing a prohibited substance or tools that make it possible to use a prohibited method in connection with participating in or preparing for a sports competition;
- 4) administering or trying to administer a prohibited substance, or participation in preparing or using a prohibited method in connection with participating in or preparing for a sports competition;
- 5) hindering or pre-empting anti-doping control, or manipulating its course;
- 6) marketing the prohibited substances, or tools that make it possible to use a prohibited method, or participation in such marketing.

The second, negating part of the definition indicates that behaviours referred to in paragraph 1(1) through (4) shall not constitute doping if they are justified by therapeutic purposes, and the athlete has been granted permission to use the specified prohibited substance or prohibited method concerned, in accordance with the principles set out in Annex 2 to the International Convention against Doping in Sport, done in Paris on 19 October 2005 (Dz. U. of 2007 r. No. 142, item 999, Dz. U. of 2013, item 1243 and Dz. U. of 2014 item 343); in addition, behaviour referred to in paragraph 1(6) shall not be considered doping if it concerns medicinal devices allowed in the market under the provisions of the Act of 6 September 2001 - Pharmaceutical Law. This definition follows the International Convention Against Doping in Sport and is adjusted to the wording used in the Polish legislative system. However, it does not take into account the Code amendments which came into force on 1 January 2015.

Notwithstanding the above, the Polish Anti-Doping Rules also contain a definition of doping in sport. Doping is defined therein as a violation of one or more of the following anti-doping rules contained in Articles 2.1 through 2.10:

- 2.1. the presence of a prohibited substance, its metabolites or markers in an athlete's sample;
- 2.2. use or attempted use by an athlete of a prohibited substance or a prohibited method;
- 2.3. evading, refusing, or failing to submit to sample collection;
- 2.4. whereabouts failures;
- 2.5. tampering, or attempted tampering, with any part of doping control;
- 2.6. possession of a prohibited substance or a prohibited method;
- 2.7. trafficking or attempted trafficking in any prohibited substance or prohibited method;

- 2.8 administration or attempted administration to any athlete in-competition of any prohibited substance or prohibited method, or administration or attempted administration to any athlete out-of-competition of any prohibited substance or prohibited method that is prohibited out-of-competition;
- 2.9 complicity, which means assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, attempted anti-doping rule violation or violation of Article 10.12.1 by another person;
- 2.10 prohibited association.

The above definition is based on the one adopted in the Code and applicable from 1 January 2015.

### **List of prohibited substances and methods**

The definitions of a prohibited substance and a prohibited method, included in Article 43 paragraphs 3 through 5 of the Act on Sport relate directly to the list of prohibited substances and methods, attached as Appendix 1 to the International Convention against Doping in Sport.

The Act does not define, however, the role of the Monitoring Group of the Anti-Doping Convention in approving the list.

In addition, the Polish Anti-Doping Rules, in Article 4.2.1, contain a standard clause relating to the list of prohibited substances and methods. According to the clause, unless provided otherwise in the Prohibited List and/or a revision, the Prohibited List and revisions shall go into effect under these Anti-Doping Rules three months after publication of the Prohibited List by WADA without requiring any further action by the Commission Against Doping in Sport.

The list is published annually in Dziennik Ustaw [Journal of Laws] which is the official journal of laws of Poland. The publication of the list, however, requires its prior entry into force as an appendix to the International Convention Against Doping in Sport. Accordingly, the list is published after 1 January of a given year.

### **Definition of an sportsmen and sportswomen**

The Act uses the term "athlete" but includes no definition of the term. The context of the provisions of the Act suggests, however, that the term relates both to able-bodied athletes and athletes with disabilities, as well as women and men, and that the term is not limited only to athletes who take part in sports competitions organized by Polish sports associations.

Notwithstanding the above, in the context of its anti-doping provisions (the definition of doping included in Article 43(1)), the Act employs the term "person who participates in or prepares for a sports competition", the said term should be understood as a definition of an athlete, adopted for the purposes of these anti-doping provisions.

Also, the Polish Anti-Doping Rules contain a "Code-based" definition of an athlete. An athlete is any person who competes in sport at international level (as defined by each International Federation) or national level (as defined by each National Anti-Doping Organization). An Anti-Doping Organization has discretion to apply anti-doping rules to an athlete who is neither an International-level athlete nor a national-level athlete, and thus to bring them within the definition of "athlete." In relation to athletes who are neither international-level nor national-level athletes, an Anti-Doping Organization may elect to: conduct limited testing or no testing at all; analyse samples for less than the full menu of prohibited substances; require limited or no whereabouts information; or not require advance TUEs. However, if an Article 2.1, 2.3 or 2.5

anti-doping rule violation is committed by any athlete over whom an Anti-Doping Organization has authority who competes below the international or national level, then the consequences set forth in the Code (except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any person who participates in sport under the authority of any signatory, government, or other sports organization accepting the Code is an athlete.

### **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.*

#### **Tasks and structure of the Commission**

The body responsible for the fight against doping in sport is the Commission Against Doping in Sport, which plays the role of Polish National Anti-Doping Organization (NADO).

The Commission was established in 1988 as “the Anti-Doping Commission”. In 1991 -1993 it operated under the name “the Council for Fighting Doping in Sport”, and in 1993 it was renamed to “the Commission Against Doping in Sport”.

The Commission is a collective body composed of a president and members appointed individually by the Minister of Sport and Tourism (who in the Act on Sport is referred to as the minister responsible for physical culture). The Commission members are experts in sports medicine, law, representatives of the Customs Service, the Police or the Ministry of Health, as well as former athletes.

The tasks of the Commission, according to Article 44(5) of the Act on Sport, include:

- 1) maintaining a list of prohibited substances and methods;
- 2) conducting doping control during competitions and outside of them;
- 3) conducting research which supports the fight against doping in sport;
- 4) supporting, preparing and implementing education or training programmes concerning the fight against doping in sport.

In addition to these tasks, Article 3 of the statute of Commission assigns the following tasks to the Commission:

- issuing opinions on draft objectives of legislative acts, on draft legislative acts as such, and on legislative and non-legislative documents of the EU, insofar as they relate to the fight against doping in sport;
- submitting to the minister responsible for physical culture, by 31 March, a report on the implementation of the plan of doping controls and the education programmes on the fight against doping in sport in the preceding calendar year;
- approving annual plans of doping controls, and setting out the principles and procedure of doping controls;
- notifying entities involved in sports, in particular Polish sports associations, about detected cases of use by an athlete of a prohibited substance or prohibited method in sport;

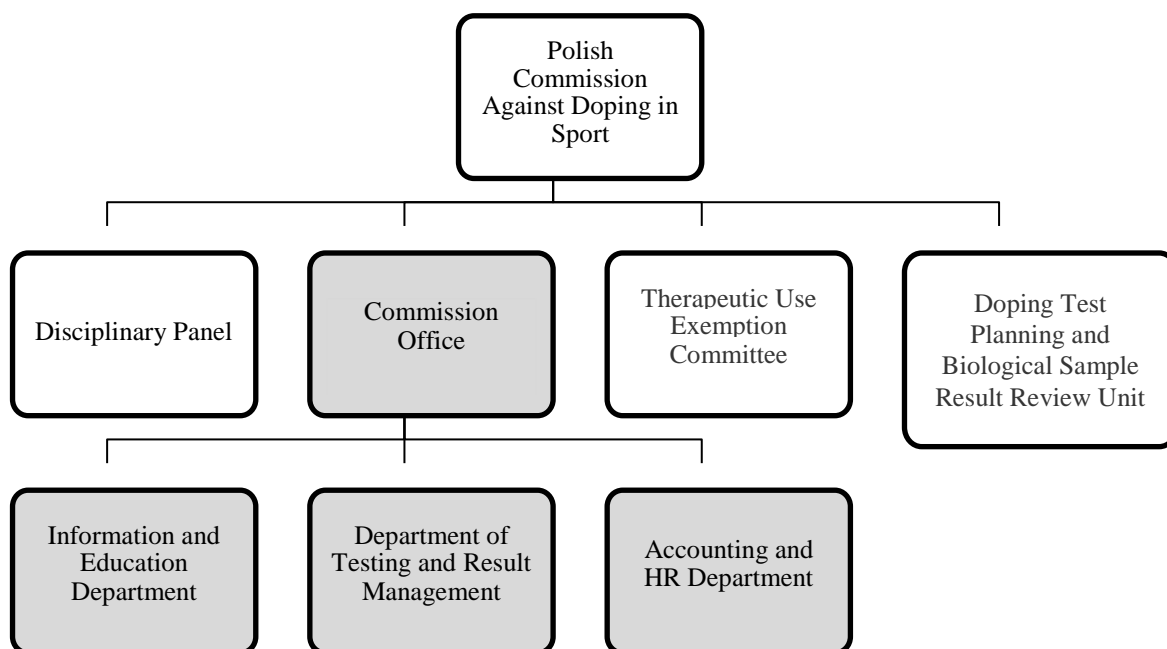


- determining the tasks, organization and system of work of the Commission's executive units;
- cooperation with international organizations responsible for the fight against doping in sport.

The bodies of the Commission are the President, and the Presidium composed of the President, Vice President and two other elected members of the Commission (Article 6 of the Commission statute).

To carry out its tasks, the Commission may, by way of a resolution, establish its executive units. There exist two standing executive units: Doping Test Planning and Biological Sample Result Review Unit, and the Therapeutic Use Exemption Committee. The disciplinary panel which takes decisions in doping-related proceedings conducted by certain sports associations also works as an executive unit of the Commission.

### Structure of the Commission



The Commission is supported by the Commission Office whose tasks, according to the Commission Office statute, include:

- 1) supporting the Commission in the implementation of its tasks;
- 2) implementing the anti-doping policy determined by the Commission, in particular in cooperation with relevant foreign organizations;
- 3) tasks relating to the drafting and implementation of the financing plan;
- 4) implementation of resolutions adopted by the Commission and its bodies;
- 5) implementation of decisions and orders of the President of the Commission;
- 6) organizing meetings of the Commission, the Commission Presidium, the Doping Test Planning and Biological Sample Result Review Unit, and the Therapeutic Use Exemption Committee.

Currently, the Commission has 50 trained doping control officers (DCOs), including 4 Blood Control Officers (BCOs) who are doctors or nurses by profession. Most DCOs are administrative employees or scientists representing Physical Education Universities. The DCOs work in four regional teams located in Warsaw, Kraków, Poznań and Gdańsk. The DCOs are not employed

full time but are paid for specific actions i.e. services provided to the Commission Against-Doping in Sport.

### **The Commission's cooperation with the Police and the Customs Service**

The Commission Against Doping in Sport concluded, on 5 February 2014, an agreement with the Polish National Police Headquarters on cooperation in the fight against doping in sport. The cooperation covers: exchange of relevant information; mutual notification about issued reports and publications and organized trainings, and mutual support of initiatives aimed at adopting effective legislation relating to the fight against doping in sport.

The Commission is also a party to a cooperation agreement with the Customs Service, aimed at ensuring effective and efficient fulfilment of measures taken to reduce illegal international trade in substances that may illegally contribute to the improvement of sports results. The agreement was concluded on 4 June 2014. The cooperation under the agreement covers: exchange of information on cases of trading in prohibited substances; mutual notification about issued reports and publications and organized trainings, and taking efforts to ensure coherent interpretation of legislation on trade in prohibited substances.

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

1. *The Parties shall adopt where appropriate legislation, regulations or administrative measures to restrict the availability (including provisions to control movement, possession, importation, distribution and sale) as well as the use in sport of banned doping agents and doping methods and in particular anabolic steroids.*
2. *To this end, the Parties or, where appropriate, the relevant non-governmental organisations shall make it a criterion for the grant of public subsidies to sports organisations that they effectively apply anti-doping regulations.*
3. *Furthermore, the Parties shall:*
  - a. *assist their sports organisations to finance doping controls and analyses, either by direct subsidies or grants, or by recognising the costs of such controls and analyses when determining the overall subsidies or grants to be awarded to those organisations;*
  - b. *take appropriate steps to withhold the grant of subsidies from public funds, for training purposes, to individual sportsmen and sportswomen who have been suspended following a doping offence in sport, during the period of their suspension;*
  - c. *encourage and, where appropriate, facilitate the carrying out by their sports organisations of the doping controls required by the competent international sports organisations whether during or outside competitions; and*
  - d. *encourage and facilitate the negotiation by sports organisations of agreements permitting their members to be tested by duly authorised doping control teams in other countries.*
4. *Parties reserve the right to adopt anti-doping regulations and to organise doping controls on their own initiative and on their own responsibility, provided that they are compatible with the relevant principles of this Convention.*

### **Legislation restricting the use and availability of prohibited substances and methods**

Apart from the provisions of the Act on Sport, referred to above, Poland has the following other legislative acts aimed at restricting the use and availability of prohibited substances and methods:

1) *the Act of 6 September 2001 - Pharmaceutical Law*

The Act applies to prohibited substances contained in medicinal products.

Article 124 of the Act provides that “whoever markets, or stores in order to market, a medicinal product without having obtained a permit to market it on the territory of the Republic of Poland, shall be punishable by a fine, limitation of liberty or imprisonment for up to 2 years”.

2) *the Act of 29 July 2005 on prevention of drug addiction*

The provisions of the Act apply to prohibited substances that have narcotic properties.

3) *the Act of 6 June 1997 - Penal Code*

The provisions of the Penal Code are applicable to acts which involve administration of a prohibited substance to another person, if such acts pose a risk to human life or health.

Article 160.1 of the Code provides that “whoever exposes a human being to an immediate danger of loss of life, a serious bodily injury or a serious impairment of health, shall be subject to the penalty of deprivation of liberty for up to 3 years”.

4) *the Act of 20 May 2010 on medical devices*

According to Article 92 of the Act, “anyone who places on the market, puts into service, distributes, delivers or makes available devices whose names, markings or instructions of use are misleading, as specified in Article 8(1), shall be subject to a fine, restriction of liberty or deprivation of liberty for up to 3 years. Anyone who disseminates misleading information or promotional materials on devices or presents devices in a way which is misleading, shall be subject to the same penalties”.

In addition, the Ministry of Health has the power to apply administrative measures in relation to placing on the market of, and trading in, pharmaceutical products. Similar powers are held by certain services subordinate to the Minister of Health, for example by the State Sanitary Inspectorate in relation to food supplements, pursuant to the provisions of the Act of 25 August 2006 on food and nutrition safety (consolidated text: Dz. U. of 2015, item 594, as amended).

### Measures to reduce the use and availability of prohibited substances and methods

The Police services do not keep separate statistics for measuring the effectiveness of actions limiting the availability and use of prohibited substances. The data in the table below relate to offences which involved the violation of provisions of the Act on medical devices, the Act on food and nutrition safety, or the Pharmaceutical Law (as discussed above). Yet, they do not provide any information on the number of proceedings relating specifically to prohibited substances.

Act	Article number	2013		2014		2015	
		Proceedings initiated	Proceedings concluded	Proceedings initiated	Proceedings concluded	Proceedings initiated	Proceedings concluded
Act on medical devices	Article 92	2	2	3	4	3	3
Act on food and nutrition safety	Article 96(1)	11	11	11	13	9	13
	Article 96(2)	4	4	3	3	4	6
	Article 96(3)	1	1	1	1		
	Article 97(1)	43	43	19	29	19	20
	Article 97(2)	2	2			1	0
	Article 98(1)	9	9	8	7	15	14
	Article 98(2)	2	2	1	1	3	3
The Pharmaceutical Law	Article 124	537	537	644	567	724	635

In connection with the results of conducted doping controls, the Commission, pursuant to the provisions of the Act on Sport and the agreement concluded between the Commission and the Police, in 2014 notified of 34 cases of a suspected crime, and in 2015 of 39 cases of a suspected crime. The notifications related to offences provided for under Article 50 of the Act on Sport

(administering a prohibited substance or using a prohibited method without the knowledge of the athlete or in respect of a minor). In none of the cases, however, were investigation proceedings initiated.

As for the operation of the Customs Service, it has statistical data only for 2013. According to the information received, in 2013 the Service carried out 72 actions in which it seized medicinal products illegally imported to the country; these were mainly anabolic-androgenic steroids. The substances' countries of origin were China, Egypt and India. Also, some consignments posted in Poland were seized.

### **Criteria for subsidizing Polish sports associations and athletes**

In determining the size of subsidies granted by the Minister of Sport and Tourism from the state budget funds and the Physical Culture Development Fund (Polish: Fundusz Rozwoju Kultury Fizycznej - FRKF) for the activities of Polish sports associations, account is not taken of the associations' compliance with anti-doping regulations and of additional circumstances such as the number of violations of anti-doping rules by individual associations.

As regards subsidies for athletes, according to the Act on Sport, the Minister of Sport and Tourism may cancel a sports grant awarded to an athlete – being a member of the national team if the athlete, despite his/her earlier declaration, fails to follow a preparatory programme for the Olympic Games, the Paralympic Games, the Deaflympics or a preparatory programme for the World Championships or the European Championships, developed by the relevant Polish sports association (Article 32(4)(1) of the Act). Paragraph 5 stipulates that the award, withholding and cancellation of a sports grant should take the form of a decision. Detailed procedures for the award, withholding and cancellation of sports grants for national team members are determined by the minister responsible for physical culture by way of the Minister's regulation.

Article 9(1) of the Regulation of the Minister of Sport and Tourism of 15 October 2012 on sports grants for national team members stipulates that the Minister may withhold or cancel a sports grant for a member of the national team at the written request of the competent Polish sports association or on his/her own initiative.

The Minister, on his/her own initiative, may cancel a sports grant for a member of the national team if the member fails to follow a preparatory programme for the Olympic Games, the Paralympic Games, the Deaflympics or a preparatory programme for the World Championships or the European Championships.

Therefore, any final disciplinary decision confirming a violation of anti-doping regulations and resulting in the athlete's non-participation in sports competitions, following a disciplinary action of the competent Polish sports association, entails the athlete's inability to follow his/her preparatory programme. Thus, it should be considered a reason for initiating administrative proceedings to cancel the athlete's sports grant.

### **Doping control**

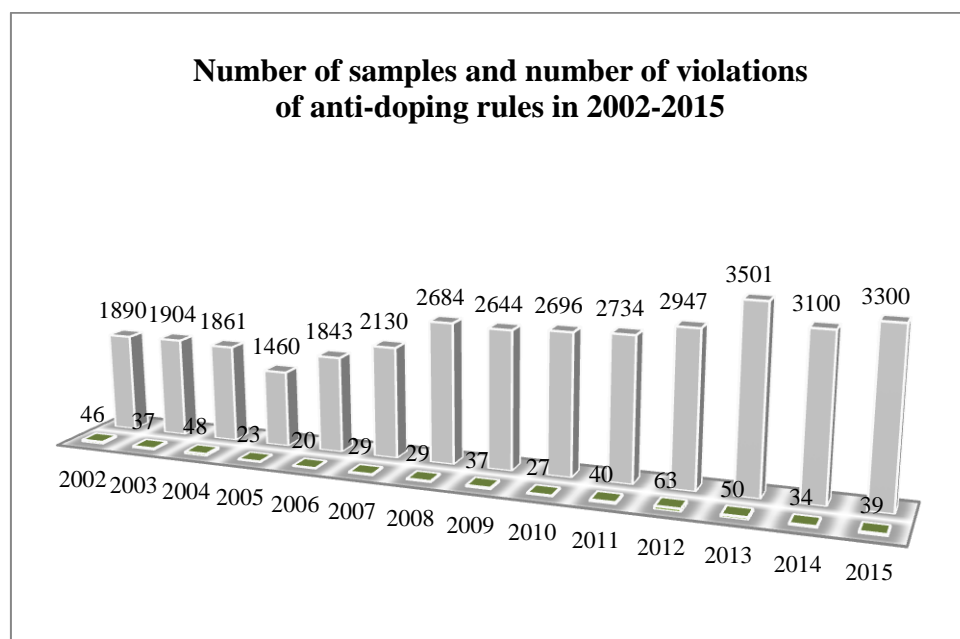
The Commission Against Doping in Sport has been the body responsible for implementing the Anti-Doping Testing Programme since 2002. In that period, the Commission has collected in total 32604 doping samples, of which 17125 were in-competitions and 15 479 were out-of-competitions. Detailed annual data are shown in the table below. At present, the testing programme is implemented in accordance with the International Standard for Testing and Investigations and World Anti-Doping Agency guidelines. In addition, the Commission Against

Doping in Sport complies with the standard ISO 9001:2008 with regard to the planning and implementation of anti-doping testing.

The number of samples collected by the Commission Against Doping in Sport in the years 2003 to 2015 is indicated in the table below.

Year	Total number of samples	Number of in-competition samples (IC)	Number of out-of-competition samples (OOC)
2003	<b>1904</b>	1126	778
2004	<b>1861</b>	1122	739
2005	<b>1460</b>	729	731
2006	<b>1843</b>	882	961
2007	<b>2130</b>	1086	1044
2008	<b>2684</b>	1534	1150
2009	<b>2644</b>	1383	1261
2010	<b>2696</b>	1392	1304
2011	<b>2734</b>	1456	1278
2012	<b>2947</b>	1489	1458
2013	<b>3501</b>	1851	1650
2014	<b>3100</b>	1518	1582
2015	<b>3100</b>	1557	1543
Total	<b>32604</b>	17125	15479

The chart below indicates the number of samples collected by the Commission Against Doping in Sport in relation to the given anti-doping rule violations (2002-2015).



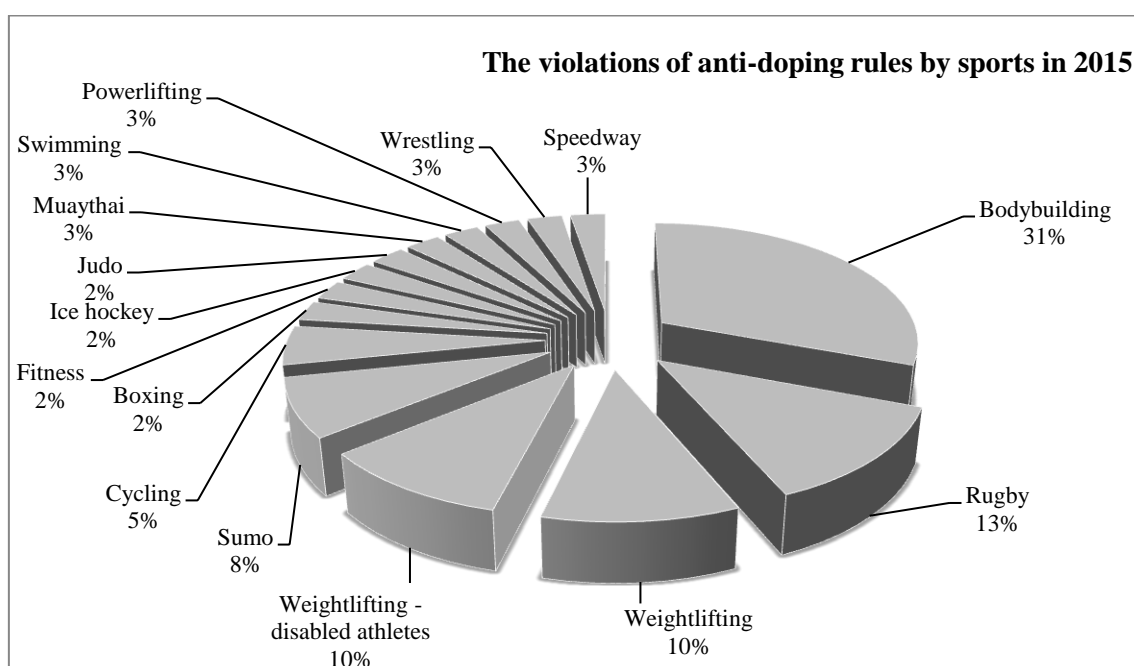
The following table indicates the number of samples collected by the Commission Against Doping in Sport by sport and types of analysis (2013-2015).

Year		2015			2014			2013		
No.	Sport	Urine samples	Blood samples		Urine samples	Blood samples		Urine samples	Blood samples	
			hGH	ABP		hGH	ABP		hGH	ABP
1.	Badminton	9			8			8		
2.	Biathlon	53	6	11	32		13	65		16
3.	Boxing	95	10		104			113	13	
4.	Gymnastics	32			8			14		
5.	Ice hockey	71	7		70			72		
6.	Field hockey	22	2		14			26		
7.	Judo	80	8		94	11		67		
8.	Canoeing	151	14	39	191		56	255		55
9.	Karate	16	2		8					
10.	Kickboxing	20	2		15			20		
11.	Cycling	164	16	12	176	7	42	250		26
12.	Basketball	123	12		122			150		
13.	Bodybuilding and Powerlifting	39	1		37			56		
14.	Athletics	300	39	21	334	5	32	328	5	16
15.	Archery	14			16			8		
16.	Speed skating	104	10	21	83		21	118		44
17.	Muaythai	8			18			8		
18.	Skiing	60	9	14	42		11	106		8
19.	Water skiing	4								
20.	Modern pentathlon	30	2		66			42	4	
21.	Football	124	12		151		40	178	6	
22.	Handball	120	12		140			127	5	
23.	Swimming	112	9	1	101			160		
24.	Weightlifting	260	76		310	27	5	265	29	
25.	Rugby	80	10		85			110	8	
26.	Volleyball	121	6		119			142		
27.	Paralympic sports	42			25			43		
28.	Shooting	8			8			8		
29.	Sumo	8			6			9		
30.	Fencing	30	2		31			31		
31.	Taekwondo Olympic	8	2		8			16		
32.	Tennis	20	2		13			21		
33.	Table Tennis	14			8			13		
34.	Triathlon	20			18			12		
35.	Rowing	135	17	31	150		50	162		36
36.	Wrestling	110	12		107			134	10	

37.	Sailing	6						5		
38.	Speedway	37			18			18		
39.	Acrobatics				8			17		
40.	Billiards				7					
41.	Kendo				6					
42.	Skeleton				9					
43.	Snowboard				1			1		
44.	Taekwondo ITF				5			15		
45.	Unihockey				3					
46.	Wakeboard				5					
47.	Mountaineering							10		
48.	Karate (traditional)							16		
49.	MMA							1		
<b>Total</b>		<b>2650</b>	<b>300</b>	<b>150</b>	<b>2780</b>	<b>50</b>	<b>270</b>	<b>3220</b>	<b>80</b>	<b>201</b>

### Anti-doping tests conducted in 2015

The statistics below relate to anti-doping tests carried out in 2015. The planning and implementation of the tests were based on the annual test distribution plan (DTP) that takes into account the assessment of doping risk in individual sports. In 2015, 3100 urine and blood samples were collected (1557 in-competition and 1543 out-of-competition). All the analysis was commissioned and conducted by the Department of Anti-Doping Research of the Institute of Sport in Warsaw. In order to collect the samples, 408 control actions were carried out across the country. The tests were conducted among athletes representing 38 Polish sports associations. The costs of collecting the 3100 doping samples were covered in full by funds from the Ministry of Sport and Tourism. Out of the 3100 samples, 2650 were collected for standard urine analysis, 900 for EPO, 300 for hGH in blood, 70 with the use of the IRMS method, and 15 for blood transfusion. Based on the analysis, 39 violations of anti-doping rules were detected in 41 initiated proceedings. In addition, two athletes received warnings in connection with not giving whereabouts data or giving incorrect whereabouts data to the monitoring system.



In 2015, similarly to previous years, the Commission Against Doping in Sport did not conduct any tests in Polish athletes abroad. In 2015, the Commission Against Doping in Sport took 433 doping samples at the requests of external entities: sport event organizers, international sports federations and national anti-doping organizations. The requesting entities included: EHF, FIA, FIS, FISA, FIVB, IBU, IAAF, ICF, ISU, IWF UCI, UEFA, UWW, WR, NADO SWISS and USADA.

### **Article 5 – Laboratories**

- 1. Each Party undertakes:*
- a. either to establish or facilitate the establishment on its territory of one or more doping control laboratories suitable for consideration for accreditation under the criteria adopted by the relevant international sports organisations and approved by the monitoring group under the terms of Article 11.1.b; or*
  - b. to assist its sports organisations to gain access to such a laboratory on the territory of another Party.*
- 2. 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.*

Poland's accredited anti-doping laboratory is located at the Institute of Sport and operates as its organizational unit named the Department of Anti-Doping Research.

The history of the anti-doping laboratory in Poland dates back to 1987 when a Doping Control Laboratory was established within the Institute of Sport in Warsaw. In 1995, the unit was renamed the Department of Anti-Doping Research.

In March 1997, the Department of Anti-Doping Research received an ISO accreditation which it still maintains (currently, the Department holds a Research Laboratory Accreditation Certificate valid until February 2019 and confirming its compliance with the standard PN-EN ISO/IEC 17025: 2005).

The scope of the ISO accreditation covers anti-doping testing not only in humans but also in horses, as since 2001 the Department has held the accreditation of the Association of Official Racing Chemists (AORC) in the field of anti-doping testing in animals.

Of key importance is the fact that since 2004, the Department has maintained its WADA accreditation.

The table below provides information on the numbers of samples analysed by the Department of Anti-Doping Research in the period 2009-2014, broken down into Olympic sports and non-Olympic sports (for urine tests) and into test types (for blood tests).



Year	Number of samples urine	Number of samples in Olympic sports urine	Number of samples in non-Olympic sports urine	ABP hematologic passport blood	hGH human growth hormone blood	HBT blood transfusion blood	Total
2009	3334	2996	338	0	0	0	<b>3334</b>
2010	3140	2783	357	0	13	0	<b>3153</b>
2011	3245	2938	307	0	41	0	<b>3286</b>
2012	3494	3303	191	235	369	56	<b>4154</b>
2013	3909	2209	276	581	13	6	<b>4509</b>
2014	3543	2164	1379	408	52	15	<b>4018</b>

The table below provides information on the numbers of samples analysed for various National Anti-Doping Organizations (except of the Commission Against Doping in Sport).

Years	LTU Lithuania NADO		RUSADA Russia		BNADA Belarus		NADC Ukraine		Total
	Number of samples urine	Number of samples blood	Number of samples urine	Number of samples blood	Number of samples urine	Number of samples blood	Number of samples urine	Number of samples blood	
2012	131	5	0	0	0	0	0	0	136
2013	198	11	0	0	0	0	0	0	209
2014	74	13	72	0	5	0	20	0	184

In 2015, the Department of Anti-Doping Research conducted the following anti-doping analysis:

No.	Test type	For the Commission Against Doping in Sport	For entities other than the Commission	Total
1	Standard tests (urine)	2650	743	3393
2	EPO	900	47	947
3	IRMS	70	9	79
4	hGH	300	40	340
5	Biological passport	150	14	164
6	Blood transfusion	15	0	15
7	Doping analysis in horses	20	18	38
8	B-samples analysis	5	1	6

Training of personnel is one of the key requirements for maintaining the accreditation. Employees of the anti-doping laboratory are required to participate in lifelong learning. Their training covers both the requirements of ISO 17025, and the technical aspects of work of anti-doping laboratories and the fight against doping in sport. In addition, the employees take part in traineeships in other laboratories accredited by WADA.

Employees of the Department of Anti-Doping Research also implement research projects financed by the Minister of Science and Higher Education under a collective project entitled "Detecting the use of prohibited pharmacological substances in athletes". Moreover, the Department implements projects funded on annual basis by the Minister of Sport and Tourism (in 2016, one of the projects will be "Testing nutritional and dietary supplements for substances prohibited in sport"). Also, in 2016 a grant application was submitted to WADA and is currently under consideration for a project entitled "Usage of  $\beta$ -agonists in fish as potential source for an unintentional adverse analytical finding in doping control".

The Department of Anti-Doping Research also coordinates two expert panels on the Athlete Biological Passport: the steroid module and the haematology module. As a result of the talks held, Polish candidates for the expert panels were identified, who were approved by WADA in August 2014; WADA also recommended its own experts. In advance, foreign experts were also identified for the steroid panel at the Department of Anti-Doping 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 Commission Against Doping in Sport implements an educational programme in the field of doping in sport. In this area, it cooperates inter alia with the Ministry of Sport and Tourism, the Polish Youth Sports Federation, Polish sport associations and other organizations that support the agenda of the Commission. The Commission's educational offer is targeted at three groups: firstly, high-performance athletes, their coaches and medical staff; secondly, young athletes whose carrier paths are not yet fully planned, their coaches and parents; and thirdly, the largest group – lower and upper secondary school students who are particularly exposed to the risk of using prohibited substances and improper use of dietary supplements.

The educational activities cover the following thematic areas: information on the rights and obligations of athletes; the list of prohibited substances and methods; effects of using prohibited substances and methods; risks related to the use of dietary supplements; the doping control procedures; ethics in sport, and information on the anti-doping system.

In the last 6 years, the Commission carried out two information and education campaigns: "Be Aware, Be Clean" and "Say NO! to Doping". In both cases, in order to increase the public interest and reach of the projects, it was decided to involve campaign ambassadors (former athletes), social media and film spots. The main target group of the campaigns were young athletes aged 12-20. In 2016, the Commission launched a new campaign entitled "Fair Play – I Play Clean".

The information activities are carried out through meetings held directly with target group representatives, as well as e-learning, a dedicated website and social media.

#### **Anti-Doping Hotline**

The Commission operates a telephone Anti-Doping Hotline which is a contact point providing information on prohibited substances, therapeutic use exemptions, doping control procedures and anti-doping rules.

#### Database of prohibited drugs and substances

Since 2011, the Commission website has included a database of drugs and substances prohibited in sport. The tool works as a browser of medicinal products that are admitted for trading in Poland and contain prohibited substances. The database contains the following product categories: prohibited at all times, prohibited in-competition, and prohibited in selected sports. In 2015, the database recorded 16600 inquiries concerning drugs or substances prohibited in sport.

#### Website and social media

The Commission website is the main source of information on the fight against doping in sport in Poland. In 2015, the website recorded 50 thousand unique users and a total number of almost 80 thousand visits.

The Commission Against Doping in Sport has a Facebook profile which contains, inter alia, press information relating to the fight against doping in sport, a statement of the Commission representatives, and information on prohibited substances and methods. In 2015, the Facebook profile of the Commission recorded 1672 likes.

#### Information and education activities implemented by 2015

In 2015, education activities within the global anti-doping campaign "SAY NO! TO DOPING" were continued. The Commission combined the activities under the campaign with a dedicated national programme entitled "TRUE CHAMPIONS' ACADEMY – CLEAN SPORT", addressed mainly to the young generation. The key element of the programme was the possibility to download anti-doping materials; such "lesson packages" were available for athletes (the athlete module) and for coaches (the coach module). By the end of 2015, about 2,500 persons took part in the initiative. The main element of the educational activity was a dedicated Facebook profile: the True Champions' Academy.

In 2015, apart from routine information and education activities (visits to Schools of Sports Championship, involvement in the Polish Youth Olympic Days, participation in conferences), the Commission launched a new project in cooperation with the Polish Youth Sports Federation: in October and November 2015, it carried out a series of training meetings for coaches working with young athletes in Olympic sports. The main objective of the programme was to reach coaches who work with young athletes – members of regional teams, under the programmes funded by the Ministry of Sport and Tourism. Within this cooperation, the Commission representatives travelled to 8 of the 16 regions of the country, selected according to their current sports potential. The programme managed to reach 321 sports trainers and instructors who work with young athletes on a daily basis.

Another new activity in 2015 was the development and publication of an anti-doping manual entitled "anty doping.pl" which is addressed to the whole sports community. It complements the implemented mailing programme and contains all the key information on global and Polish anti-doping systems, doping controls, disciplinary sanctions, prohibited substances and methods, health consequences of using doping, and other aspects important for athletes. The issuing of the manual was accompanied by two educational films promoting clean sport and featuring the anti-doping campaign ambassadors as the main actors.

The tasks in the field of education were supported, as each year, with the campaign gadgets provided by the Commission and distributed among athletes during the campaign meetings. The gadgets included bracelets, wallets, cosmetic bags, pens, caps and T-shirts.

In 2015, 39 direct meetings with athletes were also held in the form of lectures or outreach actions.

### **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.*
- 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.*
- 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.*

### **Anti-doping rules of sports organizations**

The Commission Against Doping in Sport adopted, in 2014, the Polish Anti-Doping Rules. Some of the Polish sports associations adopted the Rules pursuant to a resolution of a general meeting of members or delegates of the relevant association. The table below shows the status of implementation of the Polish Anti-Doping Rules by individual Polish sports associations (with particular emphasis on transferring the jurisdiction to resolve doping-related disciplinary disputes to the disciplinary panel established under the Rules).

No.	Name of the association	Implementation status of the Polish Anti-Doping Rules*	Jurisdiction transfer to the disciplinary panel (YES = PANEL)
1.	Polish Rugby Union	resolution of the general meeting	PANEL
2.	Polish Yachting Association	resolution of the general meeting	PANEL
3.	<i>Traditional Karate Federation of Poland</i>	resolution of the general meeting	PANEL
4.	Polish Automobile and Motorcycle Association	resolution of the general meeting	PANEL
5.	Polish Modern Pentathlon Association	resolution of the general meeting	PANEL
6.	Polish Volleyball Federation	resolution of the general meeting	PANEL
7.	Polish Hockey Association	resolution of the general meeting	PANEL
8.	Polish Association of Bodybuilding, Fitness and Powerlifting	resolution of the general meeting	PANEL
9.	Polish Chess Federation	resolution of the general meeting	PANEL
10.	Polish Association of Wushu	resolution of the general meeting	PANEL
11.	Polish Billiards Association	resolution of the general meeting	PANEL
12.	Polish Biathlon Association	resolution of the general meeting	PANEL
13.	Polish Diver's Association	resolution of the general meeting	PANEL
14.	Polish Sport Shooting Federation	resolution of the general meeting	PANEL
15.	Polish Rowing Associations	resolution of the general meeting	PANEL
16.	Polish Judo Association	resolution of the general meeting	PANEL
17.	Polish Tennis Association	resolution of the general meeting	PANEL
18.	Polish Gymnastic Association	resolution of the general meeting	PANEL
19.	Polish Association of Roller Sports	resolution of the general meeting	PANEL
20.	Polish Swimming Federation	resolution of the general meeting	PANEL
21.	Polish Taekwondo Federation	resolution of the general meeting	PANEL
22.	<i>Polish Floorball Federation</i>	resolution of the general meeting	PANEL
23.	Polish Badminton Association	resolution of the general meeting	PANEL
24.	<i>Polish Taekwon-Do Association</i>	resolution of the general meeting	PANEL
25.	Polish Canoe Federation	resolution of the general meeting	
26.	<i>Polish Basketball Federation</i>	resolution of the general meeting	
27.	Polish Wrestling Federation	resolution of the general meeting	
28.	Polish Weightlifting Federation	resolution of the general meeting	
29.	Polish Association of Sports Toboggan	resolution of the general meeting	
30.	Polish Golf Union	resolution of the general meeting	
31.	Polish Association of Sumo	resolution of the general meeting	
32.	Polish Speed Skating Association	resolution of the general meeting	
33.	Polish Association of Muaythai	resolution of the general meeting	
34.	Poland Handball Federation	resolution of the general meeting	
35.	Polish Equestrian Federation	resolution of the general meeting	
36.	Polish Association of Kickboxing	resolution of the general meeting	
37.	Polish Association of Sled Dog Sports	resolution of the general meeting	
38.	Polish Sports Bridge	resolution of the general meeting	

	Association		
39.	Polish Athletics Federation	resolution of the Board	PANEL
40.	Polish Karate Association	resolution of the Board	
41.	Polish Association of Boxing	resolution of the Board	
42.	Polish Ski Federation	resolution of the Board	
43.	Polish Korfball Association	resolution of the Board	
44.	Polish Angling Association	resolution of the Board	
45.	Polish Association of Table Tennis	resolution of the Board	
46.	Polish Fencing Association	resolution of the Board	
47.	Polish Figure Skating Association	resolution of the Board	
48.	Polish Dance Sport Association	resolution of the Board	PANEL
49.	Aero Club of Poland	resolution of the Board	
50.	Polish Football Association		
51.	Polish Association of Baseball and Softball		
52.	Polish Draughts Federation		
53.	Polish Association of Curling		
54.	Polish Ice Hockey Federation		
55.	Polish Association of Ju-Jitsu		
56.	Polish Association of Fudokan Karate		
57.	Polish Association of Kendo		
58.	Polish Cycling Federation		
59.	Polish Association of Bowling		
60.	Polish Association of Motorboat and Water Ski		
61.	Polish Association of Skibobbing		
62.	Polish Association of Snooker and English Billiards		
63.	Polish Association of Triathlon		
65.	Polish Alpine Climbing Association		
66.	Polish Association of Bobsleigh and Skeleton		
67.	Polish Association of Bocce		
68.	Polish Archery Federation		
69.	Polish Orienteering Association		
70.	Polish Tug of War Association		
71.	Polish Sports Association for the Deaf	resolution of the Board	PANEL

\* “resolution of the general meeting” means that the Rules have been adopted by a given Polish sports association; “resolution of the Board” means that the association is willing to adopt the Rules but they are not yet binding for it; a blank space in the column means that the association has not yet taken any action or has responded negatively to the idea of adopting the Rules

The Polish sports associations that chose not to adopt the Polish Anti-Doping Rules apply their own rules which are, however, mostly limited to disciplinary regulations and do not cover the whole broad scope of the Rules.

### **Disciplinary procedures**

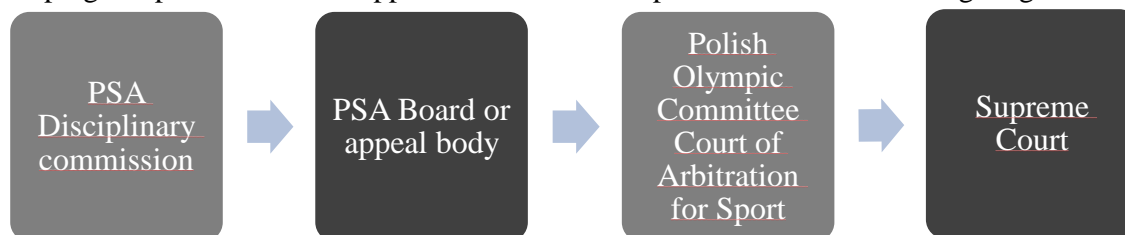
According to Article 43(6) of the Act on Sport, entities which conduct sports activities, including, in particular, Polish sports associations enforce disciplinary liability for doping in sport, in accordance with their internal rules and regulations. Thus, the Act stipulates that Polish sports associations are responsible for enforcing disciplinary liability for doping. However, given the fact that many associations issue rulings on doping cases only incidentally, and that they may not have sufficient experience in such cases, pursuant to the Polish Anti-Doping Rules a disciplinary panel has been established which acts under the auspices of the Commission Against-Doping in Sport.

According to the assumptions, the disciplinary panel of the Commission Against Doping in Sport carries out proceedings and takes decisions in two instances; in both instances, the panel is composed of three members. The disciplinary panel is, by nature, independent of the Office of the Commission Against Doping in Sport and of the Commission's other executive units such as the Doping Test Planning and Biological Sample Result Review Unit and the Therapeutic Use Exemption Committee. According to the statute, the only body superior to all executive units of the Commission is the Commission Against Doping in Sport as a plenary body. Members of the disciplinary panel should have qualifications in the field of law, medicine, pharmacy or pharmacology. In the event of a conflict of interest, the concerned member or chairman of the panel is excluded from work on the case. The participation of a representative of a relevant Polish sports association is guaranteed. The representative has the right to express an opinion on the doping case, including an assessment of the facts, the legislative situation and the size of possible sanctions to be imposed on the athlete. The opinion of the representative of the Polish sports association has the same status as the opinion of any other member of the panel. However, the representative of the association is not formally a member of the panel and thus he/she may not participate in the consultation meeting assessing the doping case. In the case of a tied vote, the chairman of the panel has the casting vote.

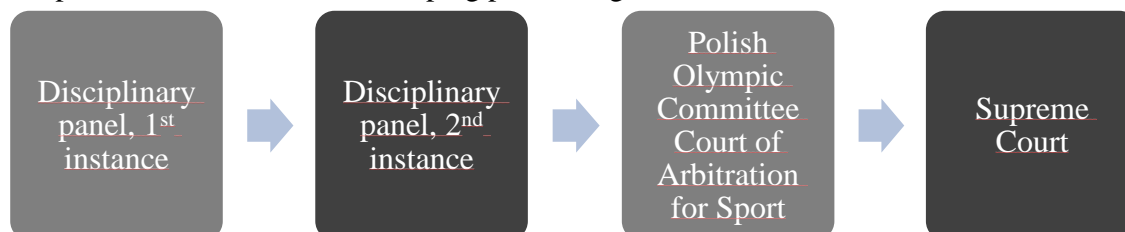
The disciplinary panel of the Commission Against Doping in Sport started to operate on 1 July 2015. In 2015 it took decisions on 4 cases relating to rugby players and bodybuilders.

There are two models of disciplinary proceedings, as shown in the diagrams below.

The first model is applied when the Polish sports association (PSA) has not transferred the powers to carry out anti-doping proceedings to the disciplinary panel of the Commission Against Doping in Sport. The model applied in such cases is presented in the following diagram.



The second model is applied when the Polish sports association (PSA) has transferred the powers to carry out anti-doping proceedings to the disciplinary panel of the Commission Against Doping in Sport, which carries out anti-doping proceedings in two instances.



It should be emphasized that pursuant to Article 13 of the Polish Anti-Doping Rules, an athlete, depending on his/her status (national or international) has the right to appeal against the decision of any national disciplinary body or of the Polish Olympic Committee's Court of Arbitration for Sport to the Court of Arbitration for Sport (CAS). A verdict of the Polish Supreme Court may not be appealed against to CAS.

### **Mutual recognition of sanctions**

Mutual recognition of sanctions is covered by Article 15.1 of the Polish Anti-Doping Rules. It stipulates that subject to the right of appeal under Article 13, the examination procedure and the results of the proceeding, or the final decision of any signatory, taken in accordance with the Code and within the powers of that signatory, shall be recognized and respected by the Commission Against Doping in Sport and by all Polish sports associations.

### **Sanctions against an athlete's support personnel**

According to Article 1.3 of the Polish Anti-Doping Rules, they apply also to members of an athlete's support personnel as defined in the annex to the Rules. Sanctions on members of an athlete's support personnel are provided for under the Polish Anti-Doping Rules, in particular Articles 10.3 through 10.7 thereof. The solutions are the same as those provided for in the World Anti-Doping Code.

## **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.*

Poland carries out extensive international cooperation in the area of fighting against doping in sport. Both the Ministry of Sport and Tourism and the Commission Against Doping in Sport take part in the works of the Council of Europe, including meetings of the Monitoring Group (T-DO) and the European Ad hoc Committee for WADA (CAHAMA) , as well as in the works of UNESCO and WADA.

Moreover, since 2014 the Commission Against Doping in Sport has been a member of the Institute of National Anti-Doping Organizations (iNADO). The Department of Anti-Doping Research of the Institute of Sport takes part in the works of the World Association of Anti-Doping Scientists (WAADS).

### **Additional information**

#### **Work of the Therapeutic Use Exemption Committee**



The following table indicates the number of applications for therapeutic use exemptions handled by the Therapeutic Use Exemption Committee (2011-2015).

<b>Year</b>	2011	2012	2013	2014	2015
<b>Number</b>	55	26	29	46	39

Information on RTP

Number of athletes in 2015 RTP: from 83 to 94.

**Attachments:**

- the Act on Sport,
- the Polish Anti-Doping Rules,
- the statute of the Commission,
- the statute of the Commission Office,
- the current composition of the Commission.

## Appendix 2: Comments by the Polish authorities

  
**MINISTER  
SPORTU I TURYSTYKI**  
*Witold Bańka*  
**BM-WS.4801.1.2016.49.  
2017-29767**

Warsaw, 10 April 2017

**Ms Marja Ruotanen**  
**Director of Human Dignity and Equality**  
Directorate General of Democracy  
Council of Europe

*Dear Ms Ruotanen,*

In reference to the draft report of the monitoring visit to Poland dated on 3 March 2017, I have great pleasure to extend our thanks to the Council of Europe's monitoring team for its efforts put in the visit itself and then in the preparation of the report. The Ministry of Sport and Tourism invited the team whose visit was aimed at the better implementation of the Anti-Doping Convention of the Council of Europe.

The recommendations and suggestions presented by the monitoring team in the draft report are very valuable and will be used by the Polish authorities to better shape the functions of the Polish Anti-Doping Agency, which is to be created on the basis of the new Anti-Doping Law. The recommendations of the monitoring team will also assist the Republic of Poland in improving its anti-doping system.

Taking this opportunity, I would like also to declare the outstanding commitment of the Ministry of Sport and Tourism and all the stakeholders involved in the fight against doping in sport in Poland to fulfil the recommendations made by the Council of Europe, in order to provide an environment for a doping free sport.

*Yours sincerely*



CC: Mr Sergey Khrychikov, Head of Unit, Sport Conventions Division- Council of Europe