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Rethinking the anti-doping strategy

Report[1]
Committee on Culture, Science, Education and Media
Rapporteur: Mr André SCHNEIDER, France, Group of the European People's Party

Summary

Doping undermines sports ethics and destroys the image of sport, and of sportsmen and women. Despite the efforts of various stakeholders, cases of proven doping by high-level athletes continue to emerge. Worse still, doping is taking on huge proportions in amateur sport and sports practised by millions of young people. Doping is not only a serious violation of sports ethics, but it engenders major public health risks and helps to enrich criminal groups.

To be more effective in the fight against this scourge, various lines of enquiry would be worth exploring, including increased harmonisation of national legislation, improved co-ordination between various State services, increased investigative resources available to police forces responsible for combating doping and enhanced police co-operation, training of specialised magistrates, together with increased co-operation between the authorities and sports organisations and pooling of information.

Preventive work with young amateur and semi-professional athletes and the fight against trafficking should be among the priorities of the anti-doping strategy. States should adopt national doping prevention programmes and, in particular, develop information and awareness actions in the context of national education at all levels, seeking to collaborate with sports organisations.

Sports associations and federations should develop information and awareness-raising programmes and actions aimed in particular at young people, and take action in primary and secondary schools, alongside the authorities, to raise awareness among young people about the risks of doping and help them to develop a sporting culture based on respect for values and sports ethics.

1. Reference to committee: Doc. 13534, Reference 4054 of 27 June 2014.

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A. Draft resolution[2]

1. The Parliamentary Assembly highlights the importance of safeguarding sporting values and ensuring that the highest possible standards for the protection of these values are properly implemented. Doping is one of the scourges which undermines sports ethics and destroys the image of sport, and of sportsmen and women. The Council of Europe has been working in the anti-doping field for many years; the Assembly welcomes the fact that the Organisation has had a positive influence on the revision of the World Anti-Doping Code and that it plays an active role in the World Anti-Doping Agency.

2. The Assembly welcomes the efforts of various national, European and international stakeholders to make anti-doping systems more efficient: important advances have been made with regard to the recognition of athletes' rights; progress on testing for new substances and the introduction of biological passports have improved the relevance and effectiveness of controls on athletes; major sports organisations are taking increasing steps to improve information on the risks linked to doping and on the anti-doping rules in force; co-operation between police forces is beginning to be organised at European and international level.

3. Unfortunately, despite these efforts, cases of proven doping by high-level athletes continue to emerge and those who develop new doping substances or procedures seem to be one step ahead of those who attempt to track down this type of sports fraud. Worse still, doping is taking on huge proportions in amateur sport and sports practised by millions of young people.

4. The Assembly is worried about the threat that doping poses to sports ethics, but it is even more alarmed by the major public health risks it engenders and the fact that trafficking in doping substances helps to enrich organised crime. It believes that preventive work with young amateur and semi-professional athletes and the fight against trafficking should be among the priorities of the anti-doping strategy.

5. The Assembly firmly believes that only a joint effort involving all the stakeholders can yield positive results. Various lines of enquiry would be worth exploring in this connection, including increased harmonisation of national legislation regarding the definition of offences and the severity of penalties, improved co-ordination between various State services and enhanced police co-operation, together with increased co-operation between the authorities and sports organisations and pooling of information. In connection with the latter point, sharing and comparing the information held by various stakeholders could help to organise more precisely targeted, well-timed controls.

6. Therefore, the Assembly recommends that member States:

6.1. review and harmonise national legislation bearing in mind the need to reconcile the imperatives of protecting athletes' rights with the effectiveness of measures to control, prosecute and penalise offences against the anti-doping legislation and, in this context:

6.1.1. ensure better adaptation of penalties to the actual situations;

6.1.2. increase the investigative resources available to police forces responsible for combating doping by allowing recourse to the "special investigative techniques" used in the fight against organised crime;

6.1.3. give the national anti-doping organisations the necessary authorisation to:

6.1.3.1. perform surprise controls on amateur and semi-professional athletes following modalities similar to those for professional athletes, where there is serious presumption of doping;

6.1.3.2. investigate not only the athletes but also the backup staff;

6.1.3.3. establish call numbers for whistle-blowers;

6.2. strengthen co-ordination and information exchange between the various State services involved in the fight against doping and develop inter-State co-operation in the fields of controls and investigation of offences against the anti-doping legislation, as well as in combating production of and trafficking in doping substances and the crime rings that derive profit from it;

6.3. train, in each European country, specialised magistrates who could deal with doping and other sports questions, for example with cases of corruption or of tampering with sports results, and look into the possibility of giving them jurisdiction at the national level.

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2. Draft resolution adopted unanimously by the committee on 25 June 2015.

6.4. adopt national doping prevention programmes and, in this context:

6.4.1. introduce awareness-raising about doping (hazards linked to the use of doping substances, to self-medication and to dietary supplements) into school syllabi (for example through the agency of physical education and sports teachers) and, in the context of national education at all levels, develop information and awareness actions, seeking to collaborate with other partners, in particular sports organisations and associations, including to promote sports ethics and values;

6.4.2. set up an observatory of accidents linked with doping, develop a policy on epidemiological research (particularly in respect of young people and amateurs) and improve biological profiling methods;

6.4.3. support the anti-doping training of the health professionals working in direct contact with athletes;

6.4.4. set up mentoring agencies at the regional or the local level, with staff trained in anti-doping tasked to encourage:

6.4.4.1. the development of preventive actions by local and regional sports clubs;

6.4.4.2. awareness-raising and training for doctors, pharmacists and other health professionals directly involved with physical and sporting activities;

6.5. ratify without delay the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (CETS No. 211).

7. The Assembly recommends that national and international sports associations and federations:

7.1. ensure the provision of exhaustive information about anti-doping standards and mechanisms and develop information and awareness-raising programmes and actions aimed in particular at young people, including as regards the dangers involved in the use of dietary supplements, especially if bought outside the official circuit;

7.2. develop strategies for “intelligent” targeting of controls, including controls directed at non-winners and not just at the best, building on the knowledge gained about doping practices and more specific information upstream;

7.3. facilitate pooling of information with the police authorities and the national anti-doping bodies;

7.4. establish numbers for whistle-blowers to call;

7.5. consider sports calendars, bearing in mind the risks of athletes and teams being overloaded; think also about the possibility of limiting the number of competitions in which athletes are allowed to participate over a specific period;

7.6. promote, in co-operation with the relevant public authorities, the certification of sports halls and the dissemination of codes of conduct ruling out marketing or any other form of encouragement for people to consume doping substances with the aim of enhancing physical performance;

7.7. take action in primary and secondary schools, alongside the authorities, to raise awareness among young people about the risks of doping and help them to develop a sporting culture based on respect for values and sports ethics and not on winning at all costs.

B. Explanatory memorandum by Mr Schneider, rapporteur

1. Aim of the report

1. Despite the progress made in the anti-doping field, this scourge has unfortunately not been contained. Doping cases involving high-level athletes regularly hit the sporting news headlines. However, doping is not something that concerns professional sports alone: doping is making its presence felt on a huge scale — albeit less conspicuously, away from the media spotlight – in amateur sport and sport as practised by millions of young people. This was confirmed by the expert who helped me draft this report[3] and by the experts whom we heard at the hearings on 12 March 2015 in The Hague[4] and on 2 June 2015 in Paris.[5]

2. I am concerned by the fact that doping, as an extremely serious violation of sports ethics, corrupts the beauty of sport by the unlawful distortion of results. But I am also alarmed by the fact that we are facing a major public health risk and the fact that trafficking in doping substances feeds the financial flows which help enrich criminal groups.

3. Sport today attaches considerable importance to winners and records; this is also a consequence of the fact that sport has been transformed into a business. But sport is much more than a search for “the best”. Sport requires all athletes to comply with a set of rules – those governing the arrangements of sports competitions and those corresponding to what we term the “sporting spirit”.

4. Sport is therefore not limited to competitions governed by official regulations: sporting activity is linked to “values”, to a code of honour, a sporting ethic involving fair play, respect for one’s opponent, solidarity among team members and respect for one’s body and health. Becoming a champion through doping, in other words through “cheating”, is in violation of the very ethics of sport. It also destroys the role model which professional athletes – especially those at a high level – represent for young athletes and young people in general: true champions should transmit the values of sport. Those who cheat compromise not only their own image and career, but the image of sport as a whole and its role as a vehicle of social values.

5. The aim of the fight against doping is to ensure “clean sport”. However, this fight is also essential in order to protect “healthy” sport, actually the health of millions of Europeans engaging in sport, especially adolescents and young people. Indeed, sport is mostly a non-professional activity in which large numbers of people take part.

6. Associated with this practice of sport as a leisure activity is one – perhaps the most important – of the priority aims of promoting sport through public policies: such activities, carried out regularly and not to excess, can improve one’s general physical (and mental) condition and help keep people in good health. For those with problems of obesity, high blood pressure, stress, depression, etc., sport can help reduce the consumption of medicines. The healthier lifestyle resulting from engaging in sport will also contribute to this. For example, the fact of joining a club, working as a team and taking part in sports events nurtures a sense of community and better relationships with others. It also helps foster a better quality of life and, consequently, a better physical and mental condition.

7. Bearing this in mind, it is paradoxical that so many young people, under the delusion of becoming better in the sport they engage in, ply themselves with products – more often than not of questionable composition and with no guarantee regarding the manufacturing conditions – or medicines used for purposes other than those for which they are designed. Taking medicines to artificially enhance performance is in sharp contrast to the aims of the sport we wish to see, as something that will help to give structure to life in society.

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3. Mr Mickaël Heidmann – PhD in Sports Science at the University of Strasbourg – who consulted various anti-doping specialists, including Mr Jean-Pierre Verdy, Testing Director of the French Anti-Doping Agency (AFLD).

4. On 12 March 2015, the committee held a hearing with: Ms Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe; Mr Anders Solheim, Chairperson of the Monitoring Group of the Anti-Doping Convention, Council of Europe; Mr Michel Rieu, former scientific counsellor to the French Anti-doping Agency (AFLD); Mr Herman Ram, Director of the Dutch Anti-doping Authority; Mr Chris Vansteenkiste, Senior Specialist of the Operations Department, Europol.

5. On 2 June 2015, the committee held a hearing with: Ms Gabriella Battaini-Dragoni; Mr Martin Gibbs, Director General of the Union Cycliste Internationale (UCI); Mr Olivier Niggli, Legal Director of the World Anti-Doping Agency (WADA); Dr Richard Budgett, Medical and Scientific Director, International Olympic Committee (IOC); Colonel Nicolas Duvinage, Deputy to the Head of the Central Office on the Fight against Threats to Environmental and Public Health (OCLAESP, France).

8. To sum up, doping is a threat to sports ethics and to health, sport and society. The purpose of my report is therefore to explore new lines of effective action and to encourage the Council of Europe and its member States to work on these in order to step up the fight against doping, at both European and global level. The Council of Europe, which was behind the work leading to the drafting of UNESCO's International Convention against Doping in Sport 2005, should have a leading role in this field.

9. In this connection, I have identified some avenues to explore:

– understanding better the phenomenon of doping, its extent and impact;

– strengthening the current testing mechanisms;

– harmonising legislation and more effective collaboration between stakeholders;

– establishing control of the trade in potentially doping substances and ensuring the latter's traceability;

– improving prevention, in particular through awareness-raising of athletes and educating young people.

10. In the following sections, I start by dealing with the issue of doping as a threat to public health; I then provide a few details of the current anti-doping framework, highlighting its multiple components and some of its limits. Finally, I provide some examples of preventive measures.

2. Doping and its harmful effects on public health[6]

11. During the hearing on 12 March 2015 in The Hague, the experts stressed the difference between "doping" in the legal sense and "doping behaviour"; the latter can be defined as "substance consumption to face or overcome an obstacle, whether real or perceived by the user or by those around him, with an aim of performance".

12. The definition of doping in sport corresponds to infringement of the rules set forth in the World Anti-Doping Code (see paragraph 35 below) which, besides use or attempted use by an athlete of a prohibited substance or a prohibited method, also sanctions other eventualities such as trafficking in or administering prohibited substances, evading controls, or tampering with any part of doping control and various instances of complicity, including encouragement of consumption.

13. To understand the spread of doping behaviour, it needs to be remembered that the use of doping products or methods makes it possible, as the case may be, to increase mental capacities (alertness, resistance to stress, cancelling out the symptoms of fatigue for example),[7] aerobic capacities (transport of oxygen in the blood and its utilisation by the skeletal muscle fibres)[8] or muscular mass, hence muscular strength.[9] These physical, physiological or mental capabilities are fundamental to performance in sport.

14. The influence of doping on athletes' performance differs depending on the discipline; this may account for greater frequency of established irregularities in certain sports.[10] Sports of endurance, strength and/or speed are statistically the most affected by doping. Nonetheless, certain more technical sports (archery and marksmanship, for example) are not immune.

15. The advantages afforded by doping in terms of performance can be understood by referring to the case of the forced, systematic doping organised and financed by the German Democratic Republic (GDR) between 1969 and 1989, which was responsible for this country's extraordinary success in sport.[11] But such practices, as condemned in the study by Giselher Spitzer, had dire consequences for the athletes' health. The study,

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6. This section builds on the contribution by professor Rieu (included in document AS/Cult/Inf (2015) 05); I take up here many of his explanations and ideas.

7. The doping substances typically used for this are stimulants (particularly amphetamine derivatives), narcotics (morphine derivatives, cocaine, cannabis) and glucocorticoids.

8. In that respect, besides transfusion, especially self-administered, the following substances are used: erythropoietin Rh, biosimilars and mimetic peptides; diaspirin crosslinked haemoglobin; allosteric haemoglobin modifiers and metabolic modulators.

9. For that purpose, use is made especially of anabolic steroids (A.S.), beta2-agonists (clenbuterol) and growth hormone (GH).

10. In France, for the year 2010, the "infringement ratios" (that is the number of infringements in a given sport to the number of controls performed in that sport) were as follows: 11% in athletics, 10% in weightlifting and bodybuilding, 9% in cycling and 8% in rugby. In 2013, the most affected sports were reportedly weightlifting and bodybuilding (14.8%), followed by cycling (12.8%), athletics (10.7%), rugby (8.1%) and football (4.7%).

which has the advantage of the hindsight necessary to assert a definite link between doping and health hazards, shows that of the 10 000 or so athletes subjected to systematic doping between 1972 and 1989, 5% were afflicted with severe permanent disorders and 10% to 15% had less severe or non-permanent disorders.

16. The public may have a vague knowledge of the risks of cardiovascular diseases (linked for instance – but not exclusively – to the use of anabolic steroids), but alas the dangers pinpointed in many scientific articles are far more numerous: development of cancer; disorders of the immune system, the endocrine glands and the metabolism; diseases and infections of the blood; mental and psychiatric disorders (for example, dependence); morphological alterations; heightened risks of damage to muscles and tendons and traumatic injuries (for example, stress fractures), and still others.

17. Quality of life but also life expectancy are at stake; a statistically abnormal incidence of cases of "non-traumatic sudden death" of athletes is a tragic confirmation of the fact: Professor Rieu referenced, for France, some 800 deaths per year (2.2 per day) on sports grounds, 95% of the victims being men without any history of cardiovascular disorder and aged 46 years on average. He also condemned the absence of probing investigations and systematic autopsy, the reason why 78% of these accidents remain of undetermined origin.

18. Even if the general public hears about (and we talk about) doping chiefly in the wake of scandals with high media exposure involving sports stars and linked with major sports events, doping concerns not only the small population of top-class players. To realise this, suffice it to recall that 58% of European Union citizens engage in physical or sporting activity, and 41% do so at least once a week.[12] In France, there are 16 million participants, including 7 million minors. Combating doping is a major public health concern with regard to this population.

19. Where doping among adults is concerned, its prevalence is thought to range between 5% and 15%. It is reportedly higher among young males (20-25 years) in competition, particularly at top level.[13] Another study[14] showed that among Europe's bodybuilding population, 22% of the men and 7% of the women had recourse to substances for "improving" performance.

20. I would like to insist on the extent of the doping phenomenon among minors: in this respect, the results of most studies[15] converge: among girls, the percentage who use or have used doping substances is approximately 1.5% (0.6%-2.8% depending on the studies); among boys the percentage is 3.7% (2.6%-5.1%). Consumption may begin very young (between 9 and 13 years) and increases with age. At school, 4% of young athletes have experienced the temptation of doping.

21. In France, according to a study by the University of Reims conducted in schools in 2004, on the basis of the replies given by 6 402 adolescents (average age 16):

– 4% of these young people had been confronted with doping;

– 2% were already users of a prohibited substance;

– the "inciters" were often parents, doctors and educators;

– for 21% of the children, it was impossible to become a top-level athlete without doping.

22. We cannot ignore the seriousness of this situation regarding young people who are urged on by adults close to them and who have their trust, to adopt doping behaviour and consequently become convinced that it is not possible to achieve well in sport without a pharmaceutical aid.

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11. Spitzer G. (1998), Doping in der DDR. Ein historischer Überblick zu einer konspirativen Praxis, *Sport und Buch Strauss Köln*, 3rd edition 2004. In French, see Spitzer G., Treutlein G. and Pigeassou C., Approche historique du dopage en République démocratique allemande: description et analyse d'un système de contraintes étatiques, published in Staps, 2005/4 (No. 70); this article can be consulted on the site: www.cairn.info/zen.php?ID_ARTICLE=STA_070_0049.

12. European Commission, Eurobarometer on Sport and Physical Activity, 2014.

13. Aeberhard P. and Brechat P.-E., Activités physiques et sportives, santé publique, prévention des conduites dopantes: Chap. III: Epidémiologie, sport dopage conduites addictives et santé; pp. 71-98, Ed. UNSP Rennes, 2003; Laure P., Epidemiologic approach of doping in sport. A review, *J. Sports Med. Phys. Fitness*, 1997; 37(3); pp. 218-224.

14. Reding V., Dopingbekämpfung in Kommerziell geführten Fitnessstudios; Report of the European Commission "Sport ensemble"; Brussels, 20 March 2002.

15. See, for example, *Le dopage chez les jeunes, Revue Toxibase*, No. 10, June 2003; Laure P., Lecerf T., Friser A., Binsinger C., Drugs, recreational drug use and attitudes towards doping of high school athletes, *Int. J. Sports Med,* 2004; 25(2):133-138; Laure P. and Binsinger C., Doping prevalence among preadolescent athletes: a 4-year follow-up, *Br J. Sports Med,* 2007, 41, pp. 660-663; Levy J. and Thoer C., Usage des médicaments à des fins non médicales chez les jeunes adolescents et les jeunes adultes: perspectives empiriques, *Drogues santé et société* 2008, Vol. 7, No. 1, pp. 153-189.

23. Often athletes, before they get to the stage of infringing the doping regulations, follow a sequence that starts with a given doping behaviour. The doping phenomenon also has psychological foundations. The context of self-medication and use of products (dietary supplements,[16] energy drinks or others) with sometimes unclear compositions (and in some cases outside official trade) favours – perhaps unknowingly – the first ingestion of substances for artificially improving sports performance, especially if the substances in question are easy to obtain or to purchase in a pharmacy, on line, at home, through a friend or through the coach.[17]

24. In this connection, several experts, including Professor Michel Rieu and Dr Richard Budgett, drew our attention to the misuse of dietary supplements. Many professional and amateur sportsmen and women have become big consumers and use them in particular to help develop their muscle mass. They may also be encouraged to do so by advertising, which exaggerates the beneficial effects of these products, which actually have very little effect on performance.[18]

25. In August 2013, Mr Michel Marle, Chair of the Anti-Doping Committee at the French Athletics Federation, told *Le Monde* that "dietary supplements are like a societal doping process". The World Anti-Doping Agency (WADA) recommends extreme caution in using these supplements; many countries do not have strict production and labelling rules and, as a result, athletes who use them run the risk of unknowingly ingesting undeclared substances which are banned by anti-doping rules, such as amphetamines or anabolic steroids. In fact, a large number of positive test results have been put down to misuse of these supplements because athletes think that the risk is not the same as with drugs and are less careful.

26. The conviction that certain products help reach a higher standard brings about a state of psychological dependence which with time can escalate from occasional to regular use, from milder to harder products, and prompt clearly illicit practices: taking medicines with an active principle that impacts cardiovascular, hormonal or endocrine functions, or even using specific medical techniques and apparatus (blood transfusions or gene doping for example) under the control of "complicit" specialists to avoid traceability.

27. I should point out, however, that I do not claim that all the promising youngsters in sport who use energy drinks or overdo the painkillers to carry on training despite the pain of the sports injuries sustained will one day be doped athletes.

28. I assert nonetheless that all doped athletes presumably started one day with something other than a hard doping agent and that incitement to use initially more innocuous substances, coupled with glorification in the media of only the winners, is a seedbed later conducive to use of substances which are more "effective" as regards immediate sporting performance and also more dangerous as regards health hazards, and also the stamping ground of the organised doping rings for illicit sale of products, themselves prohibited in many cases.

3. The multi-component framework of the fight against doping

29. At present, the fight against doping is carried out by means of a set of standard-setting instruments, mechanisms and prevention, testing and penalties devised at various levels – local, national, continental and international – by States (including the judicial and law-enforcement authorities) and by sports institutions (and their disciplinary bodies). The table in the appendix offers a simplified overview.

3.1. The Council of Europe's Anti-Doping Convention

30. At European level, historically, doping was the first of the Council of Europe's concerns in sport. The Anti-Doping Convention (ETS No. 135) was opened for signature on 16 November 1989 and entered into force on 1 March 1990. To date, it has been ratified by 52 States.[19]

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16. The athlete's diet is an important element in the search to optimise performance. Dietary or nutritional supplements are often used in addition to the year-round diet; they generally provide nutritional elements which the body needs in very small quantities (such as vitamins and minerals), but some contain essential nutritional elements such as glucose or proteins.

17. S. Borloz et al., Dopage chez les sportifs amateurs, *Schweizerische Zeitschrift für Sportmedizin und Sporttraumatologie* 61 (1), 21–22, 2013.

18. For example, proper hydration by itself can have a greater impact on performance, because dehydration negatively affects muscle contraction.

19. This is a convention open to non-member States of the Council of Europe. Australia, Belarus, Canada, Morocco and Tunisia have acceded to it. For further information, see www.coe.int/t/dg4/sport/doping/default_EN.asp?.

31. The main objective of the convention is to promote the national and international harmonisation of the measures to be taken against doping. The Contracting Parties undertake to:

– create a national co-ordinating body;

– reduce the trafficking of doping substances and the use of banned doping agents;

– reinforce doping controls and improve detection techniques;

– support education and awareness-raising programmes;

– guarantee the efficiency of sanctions taken against offenders;

– collaborate with sports organisations at all levels, including at international level;

– use accredited anti-doping laboratories.

32. A Monitoring Group was set up in order to monitor its implementation and periodically re-examine the list of prohibited substances and methods which can be found in an appendix to the main text. An Additional Protocol to the Convention (ETS No. 188) entered into force on 1 April 2004 with the aim of ensuring the mutual recognition of anti-doping controls and of reinforcing the implementation of the convention using a binding control system.

3.2. The World Anti-Doping Agency, the World Anti-Doping Code and the International Convention against Doping in Sport

33. At international level, the World Anti-Doping Agency, set up in 1999, is the agency co-ordinating and monitoring the fight against doping. A Global Anti-Doping Programme[20] was drawn up to ensure the consistency of anti-doping rules and practices among sports organisations and governments and the World Anti-Doping Code[21] is the core document harmonising anti-doping policies, rules and regulations within sports organisations and among public authorities.

34. In this Code, doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Articles 2.1 to 2.10 of the Code. These are:

– presence of a prohibited substance or its metabolites or markers in an athlete's sample;

– use or attempted use by an athlete of a prohibited substance or a prohibited method;

– evading, refusing or failing to submit to sample collection;

– whereabouts failures;

– tampering or attempted tampering with any part of doping control;

– possession of a prohibited substance or a prohibited method (unless the athlete establishes that the possession is consistent with a Therapeutic Use Exemption (TUE));

– trafficking or attempted trafficking in any prohibited substance or method;

– administration or attempted administration to any athlete in-competition of any prohibited substance or method;

– complicity (assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation);

– prohibited association.

35. Since 2004, WADA has been responsible for drawing up and publishing the Prohibited List[22] (published for the first time in 1963 under the guidance of the International Olympic Committee). The World Anti-Doping Code works in conjunction with five International Standards[23] – application of which is mandatory for signatories of the Code – to ensure consistency in the following areas of the fight against doping:

– the Prohibited List;

– testing;

– laboratories;

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20. https://www.wada-ama.org/en/what-we-do.
21. https://wada-main-prod.s3.amazonaws.com/resources/files/wada-2015-world-anti-doping-code.pdf. The latest revised version of the Code has been in force since January 2015.

– Therapeutic Use Exemptions (TUEs);

– protection of privacy and personal information.

36. The International Convention against Doping in Sport (which was adopted by UNESCO on 19 October 2005 and entered into force on 1 February 2007) helps to ensure the effectiveness of the World Anti-Doping Code. This convention – based on the Council of Europe's Anti-Doping Convention – provides a basis under international law for the work of WADA and a legal framework under which governments can address specific areas of the doping problem that are outside the domain of the sports movement. As such, as UNESCO explains, "the Convention helps to formalise global anti-doping rules, policies and guidelines in order to provide an honest and equitable playing environment for all athletes".[24]

37. It is worth noting that the World Anti-Doping Code has been recently revised; the new text, which entered into force on 1 January 2015, includes for the first time a formal international recognition of the relevance of human rights in the fight against doping. The new Code refers to the principle of proportionality and highlights the need to respect human rights of athletes, including: the presumption of innocence; the right to defence; independence and impartiality of the disciplinary bodies and courts; appeals; advertising problems; prescription of sanctions; and respect for home and private and family life.

38. The new Code also requires greater openness from the public authorities, who should aim to reinforce co-operation and information sharing, in particular with national anti-doping organisations and Olympic and sports movements. The NADOs are now required to strengthen their investigation mechanisms and promote the use of modern technologies in their work. The governments, together with WADA, might need to examine how they could effectively support their NADOs, and how to facilitate cross-border transfer of knowledge, experience and good practices.

3.3. National legislation and sports organisations' standards

39. Supplementing the international legal instruments are the various national laws. The effectiveness of athlete testing is also enhanced by the existence of legal provisions which provide for sanctions to be imposed on cheats and anyone who fails to abide by the legislation in force. This legislation is very broad since it concerns the manufacture and sale of doping substances, the organisation of a doping system for athletes, and the taking of unlawful substances by athletes themselves. By way of example, I would like to mention the legislation in France, one of the very first countries to legislate in this area.

40. The first law on doping in France dates back to 1 June 1965.[25] A new law was passed on 23 March 1999. In this law, now codified in Book VI of the Public Health Code, doping is defined as "the use of substances or methods to artificially modify an athlete's performance. Doping is also understood to include the use of products or methods to conceal the use of doping substances" (Article L. 3631-1 of the Public Health Code).

41. The objectives of this law include:

– the creation of new care facilities and treatment for athletes (medical anti-doping centres);

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22. Article 4.3.1 of the Code provides that a substance or method shall be considered for inclusion on the Prohibited List if WADA, at its sole discretion, determines that the substance or method meets any two of the following three criteria: medical or other scientific evidence, pharmacological effect or experience that the substance or method, alone or in combination with other substances or methods, has the potential to enhance or enhances sport performance; medical or other scientific evidence, pharmacological effect or experience that the use of the substance or method represents an actual or potential health risk to the athlete; WADA's determination that the use of the substance or method violates the spirit of sport described in the introduction to the Code.

A substance or method shall also be included on the Prohibited List if WADA determines that there is medical or other scientific evidence, pharmacological effect or experience that the substance or method has the potential to mask the use of other prohibited substances or prohibited methods.

23. https://www.wada-ama.org/en/what-we-do/international-standards; there has been large-scale consultation among the WADA partners concerning these standards.

24. For further information: www.unesco.org/new/en/social-and-human-sciences/themes/anti-doping/international-convention-against-doping-in-sport/.

25. This law defined doping as the conscious administration for or during a sport competition of substances designed to artificially and temporarily enhance the physical abilities of an athlete, which could damage his or her health. It provided for criminal-law penalties for the intentional use by an athlete, for or during a competition, of one of the substances referred to in the implementing decree of 10 June 1966.

– more severe penalties in the anti-doping field, with aggravated sentences for trafficking and acts committed against minors;

– establishing a coherent care network, with the provision of a free and anonymous helpline.

– a review of disciplinary measures for athletes in violation of the law, with improved involvement of the various federations in the fight against doping;

– co-ordination and research in the sports medicine and anti-doping field;

– the setting up of a Prevention and Anti-Doping Council, an independent administrative authority tasked with overseeing the effectiveness of the fight against doping (subsequently replaced by the French Anti-Doping Agency – AFLD).

42. Sports organisations, for their part, have adopted standards to combat doping as well as control and penalty mechanisms. Virtually all international sports federations have either a medical board responsible for the fight against doping, or an anti-doping board and a medical board. FIFA and the IAAF, for instance, have their own anti-doping regulations. The International Tennis Federation (ITF), the Union Cycliste Internationale (UCI) and the International Volleyball Association (FIVB) have drawn up their own anti-doping programmes.

4. Weak points of the system

43. Without any claim to completeness, I would like to mention here some of the difficulties and limits of the current system.

4.1. Detection difficulties

44. The constant development of new methods and potentially doping products which the technology currently used is unable to detect remains a topical issue. The testing authorities of the national anti-doping organisations (NADOs) are, in certain cases, almost certain that doping has taken place, but are unable to prove it as the test results are well within the authorised limits. By using micro-doses of doping substances, athletes are able to "smooth" their biological profiles, and thereby avoid a sufficiently significant change which would constitute proof of doping.

45. In this respect, progress in the health field, which could bring about what is termed "human enhancement", necessitates a change to the anti-doping strategy. The anti-doping effort will have to contend with the explosion of biotechnology and genetic engineering (modulation of genetic expression; evolution of gene therapy; development of nanobiotechnologies; progress of synthetic biology).

4.2. The little-studied problem of doping in recreational, amateur and semi-professional sport

46. Based on the results of the studies quoted under Section 3 and on what is claimed by several institutions and police investigators, it appears that the number of cases of doping will be quantitatively higher in recreational, amateur and semi-professional[26] sport than in professional sport. The recent European Commission study on doping prevention, from December 2014, concludes that "the misuse of doping agents in recreational sport has become a societal problem and a public health issue that must be addressed". However, it is almost impossible to substantiate this.

47. WADA itself acknowledges that doping in gyms and sports facilities is a difficult problem. Of course, this does not concern the consumption, as with high-level athletes, of EPO (erythropoietin) or the use of other sophisticated methods or products, often under genuine medical surveillance, but primarily the use of anabolic steroids, cannabis and amphetamines.

48. Nonetheless, testing and police investigations are *de facto* carried out exclusively in professional sport. Amateur athletes are very rarely tested. For example, it is not possible at present to carry out searches in the residence of an unaffiliated athlete, or someone who takes part in a non-organised sport such as fitness exercises, bodybuilding, mixed martial arts (MMA) or running, even if information is available on where, when

26. A semi-professional athlete is one who is paid to engage in his or her sport, is affiliated to a recognised federation and is in possession of a licence. An amateur athlete has a licence and is a member of a club, but receives no payment. A recreational athlete may regularly practise a physical activity but does not belong to any federation and takes part in the sport in an informal way. It may concern running, working out in the gym, or for some people combat sports.

and with what that person is doping himself or herself. Prosecutors are not interested in “isolated” doping, only in organised, large-scale doping or doping that takes place in a formal context (in particular accredited or recognised sports federations).

49. I believe it is a real problem that the anti-doping system is unable today to counter the development of this phenomenon among semi-professional athletes (those in receipt of a salary) and amateur athletes. Furthermore, not only is there (almost) no testing,[27] but in addition there is no way of measuring the impact on public health. When a young person who, also through ignorance, misuses doping substances, suffers from their effects and then consults a doctor, the latter will not necessarily make the connection with the use of doping substances, unless he or she has been told of this by the parents.[28]

4.3. The difficulty in co-ordinating the action of the various stakeholders

50. The complexity of the system resulting from the overlap of the various mechanisms at different levels raises the question of how best to co-ordinate them. I believe there could be better co-operation between the police, the NADOs, the sports federations and governments/sports ministries, where the latter exist. For example, it is not certain that there is appropriate circulation of information, and yet exchanges of information among the various stakeholders would doubtless make for better control.

51. At the hearing of 12 March 2015, Mr Ram referred to the numerous difficulties concerning co-operation and exchange of information which the Dutch Anti-doping Authority encounters on a daily basis and stated that international exchange and alignment between law-enforcement agencies has its problems as well. Ms Battaini-Dragoni highlighted the need to examine how to facilitate cross-border transfer of knowledge, experience and good practices, and to identify areas where synergies between relevant actors can be developed.

4.4. Conflicts of interest and exposure to external pressure

52. It would appear that, in certain cases, the national anti-doping agencies are too exposed, on the one hand, to the risk of corruption and, on the other, to the risk of undue political pressure to avoid the outbreak of scandals which could tarnish the image of high-level athletes and that of their country. This raises the question not only of their independence, but also, I believe, of unequal treatment of athletes depending on the country where they engage in their activity.

53. A case which I find testifies to the serious aberrations that may occur is that of athletics in Russia. In December 2014, the German public television channel ARD broadcast a documentary that gave damning evidence of the existence of an organised doping system in Russian athletics. I consider it unlikely that such a system could be established and sustained without a certain complaisance – not to say complicity – on the part of the national federation concerned and perhaps also the national authority in charge of anti-doping controls. The producer, Hans-Joachim Seppelt, a specialist on doping, interviewed by *Le Monde*,[29] condemned the attitude of the International Association of Athletics Federations (IAAF) since his revelations and pointed out the difficulty of investigating these practices. He did not hesitate to say that in his opinion most of those responsible for the anti-doping drive did their best, in the IAAF and elsewhere, but had no money, were under a lot of political pressure, and must protect their jobs and families, so did not speak out.

54. There are also differences between various sporting disciplines. I refer here to the specific case of football, an environment acknowledged as being extremely difficult to enter in order to carry out testing. Some NADOs are not even authorised to test footballers! That does not mean that players are not tested, but the fight against doping in football is carried out exclusively or almost exclusively by the football authorities: the national, continental and international federations. In my opinion, the risk that the interests at stake – both economic and in terms of the image of the sport – could lead to ineffective testing (too predictable or incomplete, for example) is too high. People like to say that football is a clean sport and we would all like to believe it without any reservation, but I am not completely convinced.

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27. This could also be because of an inadequate regulatory framework, for example, to authorise searches and testing in their homes.

28. There have been such cases in several European countries; for example, a testing official from the AFLD was contacted by the parents of a young athlete who had taken doping substances and had subsequently suffered from severe health problems. It was the parents who made the connection with the use of doping products and not the young person himself.

29. To read the *Le Monde* article, published on line on 30 March 2015, follow this link: Le premier objectif des fédérations n’est pas de purifier leur sport mais de protéger sa réputation.

55. An international federation which has come under severe criticism but seems to want to remedy the errors committed is the UCI. Following the revelations of the U.S. Anti-Doping Agency (Usada) about the conduct of Lance Armstrong's teams and the protection which he allegedly received within the UCI itself, Brian Cookson, the current president of the federation, commissioned a report from the Cycling Independent Reform Commission (CIRC) which was set up in January 2014. In this report (published on 9 March 2015) it can be read that for the CIRC under Hein Verbruggen the federation's combating of doping was nothing but a front, with an ineffective testing strategy. The CIRC also considers that there is still a doping culture in cycling. It notes here that doping programmes are becoming more sophisticated to elude the controls, that doctors play a key role and that certain medicines or treatments not prohibited by WADA or legitimised by Therapeutic Use Exemption are diverted to improve performance.

4.5. Inadequate monitoring of the commercial flow of doping substances

56. As confirmed by Mr Vansteenkiste, there is a correlation between the fight against doping, in particular doping in "grassroots" sport, and the fight against networks of traffickers of doping substances, which in turn is linked to drugs trafficking in general. This is clearly not only a national or even a European problem, but an international one. It is crucial to identify the criminal networks behind the phenomenon and combat organisations responsible for production (illegal laboratories manufacturing illicit medicines and substances) distribution and trafficking of illicit doping products.

57. At European level, it is essential to strengthen police resources to identify, investigate and then prosecute those who set up and run illegal laboratories manufacturing doping substances (including new substances such as synthetic molecules whose health effects can be extremely damaging).

58. The pharmaceutical products sector is already subject to regulations. But it is not enough to focus on the traditional pharmaceutical laboratories which are already well-known: it is the illegal networks that are the issue. Several innovative methods[30] are mastered throughout the world by numerous small biotechnology laboratories which are hard to record and control, unlike the mainstream pharmaceutical industry with which it is possible to adopt a contractual approach in order to be informed of the new molecules which have a doping potential and await marketing. It is essential to work on this matter in conjunction with bodies such as INTERPOL and EUROPOL.

4.6. The need for continued legislative harmonisation

59. Police and judicial collaboration between countries is not always an easy matter. In particular, legislative differences may hinder effective co-operation. In this connection, I consider that the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health (CETS No. 211, "MEDICRIME Convention") offers a common framework which would make it possible to achieve the necessary degree of harmonisation.

60. This convention, which is not yet in force, is concerned not only with the intentional manufacturing of counterfeit medical products, active substances, excipients, parts, materials and accessories, but also with similar crimes involving threats to public health (Article 8), including the manufacturing, keeping in stock for supply, importing, exporting, supplying, offering to supply or placing on the market of medicinal products without authorisation and of medical devices not in compliance with conformity requirements.

61. The convention recommends the introduction of appropriate criminal sanctions and of measures for prevention and for protection of victims. Being open to countries all over the world, it also offers a framework for international co-operation, as well as providing for measures to improve co-ordination at national level. I therefore consider that its ratification and implementation would significantly strengthen the legal framework for combating doping.

5. Doping prevention methods and actions

62. I believe that it is necessary to address doping more effectively by acting further upstream through prevention. Sports authorities and public authorities have their respective roles – and responsibilities – in this regard. One should therefore distinguish between, on the one hand, the methods of the sports movement and

30. For example: biochips; "smart" pills or implants; biosensors; neurochips; transgenes; nanolaboratories; DNA engineering.

the actions mounted in this context and, on the other, the prevention methods and actions in the remit of the public authorities, including the national anti-doping organisations. The following paragraphs synoptically present some ideas.

5.1. Sports movement

63. In a few countries (for example Bulgaria, Germany, Greece, Poland and Spain), sports organisations have produced handbooks intended to further knowledge of anti-doping regulations and to raise sports participants' awareness of the health hazards. These handbooks are adapted in three grades aimed at different audiences: juniors, regular amateur players, and top-level and professional athletes.

64. On sports organisations' websites, messages are often found concerning the need to play one's sport cleanly for the sake of ethics and one's own health, together with up-to-date information (legal or medical) on the regulations in force (particularly WADA's), TUEs, anti-doping controls, prevention of injuries and self-medication.

65. Some sports federations organise training sessions for young athletes, including video and a recreational approach and in the form of quizzes and role-plays. For example, UEFA has an awareness programme aimed especially at young players. Sessions of instruction on the fight against doping are conducted in the final stages of all UEFA junior competitions. Educational materials are handed out to players to alert them to this issue, inform them of the UEFA anti-doping rules and procedures and prevent them from making any procedural errors.

66. Under its education programme for sports doctors, UEFA has also offered an anti-doping module since 2015; the doctors who receive this training (one per national federation) are all provided with the necessary materials to train other doctors at national level, thus producing a positive knock-on effect. There is also a specific module on dietary supplements, whose message is clear: just 2 to 3 supplements may be useful in some circumstances, but, in general, if the substance works, it's probably banned; if it's not banned, it's probably ineffective; whatever the case, the risk of players being contaminated is relatively high.

67. Special mention should be made of the "athlete biological passport" (ABP), based on the monitoring over time of selected biological variables – individual markers – whose variations may indirectly reveal the effects of doping. In January 2008, cycling became one of the first sports to use the biological passport. It was decided to create an individual electronic file for each cyclist containing the results of all his or her urine or blood tests.

68. By monitoring the selected biological parameters throughout an athlete's career, it is possible to establish his or her haematological/steroidal profile in order to determine his or her "normal" values and identify more clearly any variations. WADA took over the development of the biological passport concept in 2009. Initially, WADA introduced a standardised approach to the profiling of individual athlete haematological variables (haematological module). A steroidal module was recently added.

69. WADA also launched, in 2005, its Anti-Doping Administration & Management System (ADAMS), an online management system acting as a clearing house where various kinds of data can be stored, in particular laboratory results, therapeutic use exemptions and information on anti-doping rule violations. It facilitates the sharing of information amongst relevant and authorised organisations. The system has expanded rapidly.

70. In football, the UEFA anti-doping programme for the 2015-16 season includes the creation of biological passport profiles for players participating in European competitions, which will be useful at national level too. UEFA's aim is to share this information with national anti-doping agencies in order to co-ordinate tests and, if necessary, target certain players according to their profile results. UEFA has already signed an agreement with WADA for the use of ADAMS and is now endeavouring to finalise a co-operation agreement for submission to national agencies.

5.2. Pubic authorities

71. A classic example of a prevention method is that of national information campaigns (for example posters, television and radio, good practice guides, etc.). Nevertheless, this type of action alone cannot possibly achieve the expected results.

72. Countries like France and Germany have national doping prevention programmes. France organises its prevention at the level of government departments and of its various regional directorates of youth, sport and social cohesion (DRJSCS); in the case of Germany, the national anti-doping agency takes responsibility.

73. In France, an "anti-doping hotline" has been set up, which amateur players, parents, team-mates, friends and others can call to report or simply talk about doping. The French Court of Auditors has expressed misgivings about the results obtained in relation to the cost of the service. I feel it is important, however, that well-trained operators should be available and ready to listen. We know that this meets a need.

74. There are examples of more targeted prevention programmes such as the one on misuse of anabolic steroids among Swedish adolescents, which has concerned 451 adolescents.[31]

75. The creation of support agencies also assists in preventing doping behaviour. For example, France has a staff within its DRJSCS responsible for doping questions, trained to encourage preventive actions directed at local and regional sports clubs. They could have as an additional assignment awareness-raising and training for doctors and other health professionals directly involved with physical and sporting activities (osteopaths, masseurs, physiotherapists, mental/physical trainers, sophrologists, etc.).

76. Instruction for doctors and health professionals is fundamental as these persons have a vital role to perform in the prevention of doping because athletes are often closer to them than to their coaches. For instance, many doctors do not have an adequate knowledge of the WADA regulations and particularly of the prohibited substances list. Thus they might unwittingly prescribe medicines containing substances forbidden in competition or training.

77. In France, the Ministry of Sport and the National Council of Pharmacists signed an agreement on 24 February 2015 on the "prevention of doping related to the use of dietary supplements by athletes".[32] This is a good approach. However, bearing in mind that most purchases are made via the Internet, it appears insufficient to counter the spread of these products, especially in amateur and semi-professional sports circles. Information programmes and awareness-raising schemes implemented by sports organisations should probably lay greater emphasis both on the hidden risks and on the futility of this practice.

6. Conclusions

78. The clear desire of national and international stakeholders to combat doping must be welcomed. However, I believe that any anti-doping strategy should take more account of the need to devise prevention campaigns directed at young amateur and semi-professional athletes and to step up the fight against trafficking in doping substances, which also enriches criminal groups. These should in fact be two priorities of the strategy.

79. As we also pointed out in relation to the manipulation of sports results, where the aim is to protect sport and its values at the same time as the law and to combat sports fraud at the same time as fighting organised crime, it is essential to ensure that there is the highest possible co-ordination between State services and full co-operation between the various stakeholders. With regard to the latter, I am thinking as much about strengthening police co-operation as promoting increased interaction between the world of sport and public authorities.

80. All the experts who were heard on the subject agreed on the need to work together to be more effective. This applies not only to the system of testing for, detecting, prosecuting and punishing violations of anti-doping rules, but also to the prevention aspect. There is a need to reinforce collaboration with grass-roots associations and sports instructors. In this respect, I suggest developing the certification of sports halls and the dissemination of codes of conduct excluding the marketing (and all forms of encouragement for consumption) of products having doping effects (even where they are lawfully on the market) with the aim of enhancing physical performance.

81. I am also convinced that the national education system should be involved in any information and prevention activities in this area and work in collaboration with the sports movement. Indeed, I attach particular importance to the role that schools could have in this field, not only in making young people more aware of the risks involved in doping behaviour and doping, but also, on the positive side, in promoting the ethics and values of sport. It is by taking pre-emptive action that we can obtain the best results.

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31. S. Nilsson et al., Evaluation of a health promotion programme to prevent the misuse of androgenic anabolic steroids among Swedish adolescents, *Health Promotion International*, Vol. 19, No. 1, Oxford University Press, 2004, pp. 61-67.

32. As part of the implementation of this agreement, leaflets produced by the Health and Social Education Committee will be distributed and made available to pharmacists. The idea is to make pharmacists aware of doping issues via the question of supplements; for example, meetings could be organised at local level with sports clubs.

Appendix – The multi-component nature of the fight against doping

Level	Institutions	Legal basis	Testing / policing	Harmonisation/co-ordination system	Percentage of athletes concerned (estimate)
International	World Anti-Doping Agency (WADA)	World Anti-Doping Code	International, continental, national, regional and local competitions	Anti-Doping Administration and Management System (ADAMS)	Recognised or non-recognised International sports competitions (World Cup, World Championships: [1% to 5%]
	UNESCO	International Convention against Doping in Sport (2005)	INTERPOL		
	IOC / Recognised and non-recognised international sports federations		International and continental competitions		
Continental	Council of Europe	Anti-Doping Convention (1989) + Additional Protocol (2002) / European Sports Charter (1984)	EUROPOL	Ad hoc European Committee for the WADA (CAHAMA)	Recognised or non-recognised continental sports competitions (European Cup, European Championships): [1% to 5%]
	European Union	Anti-Doping Resolutions (1992, 1998, 2005)			
	Continental sports federations / Association of National Olympic Committees / RADOs			Sport Accord	
National	Governments	General law on sport / Specific anti-doping legislation	Specialist police agencies (such as OCLAESP) / Specialist customs agencies		Recognised or non-recognised national sports competitions (National championships): [5% to 15%]
	National Anti-Doping Organisations (NADOs)		National and regional competitions		
	National sports federations / National Olympic Committees (NOCs)				
Regional/local	Regional sports leagues				Recognised or non-recognised regional and local sports competitions, recreational sport [75% to 99%]
	Sports clubs				
	Participants in sport (affiliated or not)				