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**Directorate General Internal Policies of the Union**

## **Policy Department Structural and Cohesion Policies**

**CULTURE AND EDUCATION**

### **DOPING IN PROFESSIONAL SPORT**

**STUDY**

**SUMMARY**

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## **Executive summary**

Irrespective of the positions and comments that might be adopted or made in various quarters, it must be said that the issue of doping and its prevalence undermine not only the principles enshrined in recent reports by the European Union and the Council of Europe, but also the supposed effectiveness of the anti-doping campaign. This report will first look at what powers the EU has to combat doping, and then examine the current situation in terms of biological research and how the fight against doping is being implemented.

### **1. Gradual introduction of a supranational anti-doping policy at European level**

Before contemplating any type of intervention, it is essential that we ask neutral questions about the underlying justification for an anti-doping policy. Doping may not even be considered a problem in some sports, depending on how members of the sporting community perceive their sport. If we take sporting events as they appear to exist in some Anglo-Saxon countries or in the United States, the rules of fair play do not seem fundamental and doping is ultimately only a means of enhancing performance and thus improving the 'spectator value' of the sport. Conversely, if we come at it from the point of view of competitive sport, where only the physical abilities of each athlete and his or her training should count, then doping negates this idea of natural competition. Therefore, the very idea of a fight against doping is questionable if we refuse point blank to be 'politically correct' and try to adopt a general approach to the issue.

The fight against doping is not new. National legislation has taken various approaches to try to combat doping. Similarly, at international level, it is not the absence of legislation which seems to pose a problem, but rather that it has been watered down, that it lacks consistency at times and above all that the principles enshrined are a hollow gesture because they cannot be enforced. Each Member State has a different way of dealing with the issue, depending on whether the government has responsibility for sport or whether it shares or delegates these powers with or to other bodies. Harmonisation does not seem to be on the agenda, nor is this what people in the sporting world wish for.

The European Union often talks about wanting to combat doping in sport and has been at pains to emphasise the wide range of challenges linked with doping: challenges in terms of sport, the media, politics, medicine and society. The White Paper essentially recalls the role of sport in society and condemns doping as a 'threat to individual and public health, to the principle of open and equal competition, and to the image of sport'. Therefore, while the EU can be induced to touch more or less directly on the issue of sport and doping through its other policies, it is hard to envisage a specific policy on doping coming under European jurisdiction.

This raises the question of the nature of the fight against doping: should we tackle doping because it undermines competition between athletes and companies involved in sport and sporting events, and by extension between professional bodies (with all that this implies in terms of share prices, sponsors, and so on), or should the anti-doping campaign ultimately be conducted in the interests of ethics or public health? This brings us back to the central question that the European Parliament must ask itself: namely, the reason for intervening.

Doping evidently represents a violation of sports ethics, but is it a violation of laws or rights? The more justified it seems to punish the athlete's entourage if they facilitate or encourage

doping, the less effective the sanction seems on the athlete. In effect, blame is assigned depending on whether or not the athlete was fully aware of using doping products.

The organisation of an anti-doping campaign under the aegis or impetus of the European Union therefore assumes that the European institutions have adopted a clear legal position on the classification of sport at competition level and on the functions of a harmonised policy. From these, it is possible to identify three models.

**Model no 1** approaches the issue of doping from the public health angle. This position is perfectly rational (it is similar to the one adopted by France, which has inserted several provisions into the French Public Health Code), but ultimately refuses to grant any exemption for athletes. The laws made, the controls put in place and the organisations created are in fact designed to protect society rather than the individual. The doping effects of products and methods have been researched and are known, but the authorities (particularly in Europe) leave it to sports bodies to regulate and monitor the practices of their ‘members’. The corpus of legislation does not prevent medical research, but asks it to make public the potential effects of products and methods on sport. By doing so, pharmaceutical companies, for example, may be required to carry out tests and to publish the results in terms of health and indeed performance.

**Model no 2** is the one that tackles the issue of doping most directly, although it does so solely for the sake of sports ethics. In all fairness, the wide variety of doping practices makes it impossible to conceive a single regulation that would cover all disciplines. An effective anti-doping regulation assumes that there is a precise definition of the sacrosanct values of sport, as well as a specific legal status for sportsmen and women. In effect, it is a question of drafting a regulation which is specific to a particular group, a ‘community’, which by definition is on the margins of society. The use or even possession of over-the-counter products is prohibited, not only for sports participants, but also for their entourage. Controls are designed to disqualify cheats and not to protect the health of the individual, because it is conceivable that a doping product may not pose a health risk. Respect for equality between participants in a sporting event implies that everyone has the same abilities and techniques. Since this is inherently unrealistic, any attempt to completely eliminate the subversion of sports ethics will always fail, although this does not mean that it should not be undertaken.

**Model no 3** is the one that dovetails the most neatly with the traditional powers of the European Union, and the one which is the cheapest to implement, although it deliberately moves away from the consensus on the subject. Sport is treated as a normal economic activity in a liberal society. The central rule is respect for freedom and competition. The type of regulation that might be envisaged here comes under ‘common law’, the athlete being a simple market operator. Rules could be introduced modelled along the lines of labour laws and ‘employee’ protection; in other words, individuals are prevented from carrying out an activity if the products or techniques used represent a risk to their health and integrity or to those of others. Alcohol tests for motor sport might be considered, although these tests are no more legitimate than systematic testing of public transport workers.

## **2. Biological aspects of doping: methods, detection and risks**

At the beginning of 2009, the World Anti-Doping Code will be introduced as a reference for sports bodies and countries that have signed the UNESCO Convention against Doping in Sport. To be included on the Prohibited List, a substance must be a masking agent or satisfy **two of the following three criteria**: 1) it has the potential to enhance, or **enhances, sport performance**; 2) it represents an **actual or potential health risk**; or 3) its use **violates the spirit of sport**. None

of the three criteria mentioned is sufficient on its own to justify the inclusion of a substance on the Prohibited List.

## 2.1. Products are detected in one of two ways:

**a) Directly:** Progress is undeniable thanks to the development of cutting-edge techniques (using chromatography, mass spectrometry and radioisotopes such as HPLC, LCMS-MS and IRMS) and it is now technically possible to detect all recognised doping substances. The future of detection lies in the field of metabolomics and proteomics, molecular biology techniques which are essential for detecting new molecules and gene doping. Despite this encouraging news, detection is proving extremely difficult and is only partly successful, for a number of reasons:

- Obviously, only those categories of substances or methods which have been researched can be detected.
- The results are still questionable because they carry the risk of error: false positives (wrongly indicating doping) or false negatives (some products have already been eliminated by the time the test is carried out, or are masked by taking other products, or have not been researched).

**b) Indirectly:** This approach is aimed at improving the sensitivity and effectiveness of detection and to act as a deterrent. The aim is to test for markers in a biological specimen, since these vary significantly in the presence of doping. A 'blood passport' was launched recently, although we wonder whether this might not have been done too hastily. The organisation, method, pre-analysis, techniques, kits used, protocols and execution do not seem to have been properly thought out.

## 2.2. Current and future doping methods

It seems that the doping products used have not changed much over the past 15 years: testosterone and growth hormone are still widely used today. However, it should be noted that the use of EPO, in all of its forms, is increasingly popular because it is currently the only substance which enhances performance (in terms of endurance) on its own, in the absence of any associated training. The current preference is for doping administration methods which are increasingly accessible and 'comfortable' (for example, subcutaneous injection, gels and slow-release drugs).

## 2.3. Future methods

Over the next five to 10 years, we predict not the emergence of new methods but rather the development of existing methods such as:

- **Growth factors.** These have been used in sports therapy for several years now to accelerate tissue repair following injury or surgery and to speed up recovery. They contribute to this process by stimulating the new cell formation and supervising their specialisation depending on the type of tissue that they need to become: e.g. skin, muscle, tendon, ligaments, etc. The results in sports trauma can be spectacular.
- **Gene doping:** This has not been proven to be effective in humans because ethics and the ban on doping render any human scientific study impossible. However, it has been tested on animals. Recent experiments have shown that IGF1 transfection in the muscles of mice

significantly limits age-related muscle loss and a reduction in the associated muscle strength. The benefits of developing these techniques for doping in sport are obvious.

## 2.4. Health risks

Officially, the health risk **is a major factor in anti-doping**. The harmful effects of doping depend on a number of parameters (nature of the substances consumed, duration of consumption, conditions of administration, general condition of the athlete, quantity used). Very little is known about the risks linked with the consumption of multiple products, at doses that are often supraphysiological, particularly as medical ethics and the doping ban render any human scientific study impossible. However, two types of risks can be posited:

- a) **General risks**: ingesting one doping product can lead to another being taken to hide or reduce the effects of the first. Added to this is the risk of infection linked with administration by injection.
- b) **Specific risks**: each category of drug has its own adverse side effects. Added to this are the risks of dependency associated with the consumption of psychoactive products.

Two important observations need to be made in this medical section. The first concerns individual freedoms. Taking a blood sample is a form of physical assault, while being asked to provide a urine sample is a form of psychological attack (the subject must urinate naked in a special room in front of two officials). A racing cyclist can undergo a large number of tests each year (12 blood tests, four urine tests and several in-competition tests, as a minimum). If doping is prohibited for ethical reasons, could it not be argued that an athlete's obligation to submit to anti-doping control is an attack on his or her freedom? The same applies for ADAMS (Anti-Doping Administration & Management System), which allows athletes to be traced from one day to the next. The second observation concerns the extremely high cost of the fight against doping. For example, the blood passport for 800 cyclists costs EUR 6 million. A single complete anti-doping test costs EUR 1 000. The fight against doping thus represents a non-negligible part of the budgets of national and international federations.

## 3. Doping, tests and sanctions based on a comparison of four international federations (athletics, cycling, football and swimming)

The intensive sporting calendar is often put forward to explain the rise in doping. This explanation seems to say more about the quality of competitions than the quantity. Although since the 1980s we have witnessed an increasing number of competitions in team sports, the opposite is true in individual sports. For example, in the case of cycling, the number of race days has fallen from 130 days in the 1980s to 80 days now. Conversely, for all of these sports, the number of high-level competitions has risen sharply, placing heavy demands on the athlete in terms of energy. This is combined with the increasing amount and intensity of training. Therefore, in our interviews with both clean and doped athletes, the problem of pain and injury following intensive training to prepare for these competitions seemed to be the main reason for resorting to doping.

In terms of anti-doping tests, numerous differences appear not only between international federations but also nationalities. First of all, there are marked differences in the way information is handled, with some international federations releasing little information about doping cases while others make no secret of it. Enormous differences in test positivity are also apparent. For example, whereas in 2004 this was 3.5% in athletics, it was only 1.02% in swimming. FIFA gives a figure of 0.12% over the last 11 years. These figures are extremely surprising, since the explanations (money, training demands, external pressures, etc.) given for athletics also apply to swimming and football. Is doping less common or are the controls less reliable in these sports? The quality of tests must also be compared. For example, the high

number of doping cases uncovered in cycling in recent years is due to solid investigative work by police. To conclude on this subject of tests, note the prevalence of cannabis, a ‘party drug’, among the doping products identified. Next, as mentioned earlier, come steroids. These are detectable, but are they also as popular with athletes familiar with undetectable products?

The same inequalities are found when it comes to sanctions. Athletes from different federations do not face the same penalties. In the case of cannabis, the IAAF imposes a maximum suspension of six months, whereas FIFA imposes only a two-month suspension. The same occurs when we compare nationalities, since more than half of the cases of French cannabis use incurred a six-month ban, whereas two thirds of cases in Germany and Belgium got off with a warning. The same applies to prednisolone, where one third of French cases received a 14-month ban and all Belgian cases were banned for only three months.

#### **4. Role of stakeholders in the fight against doping**

A lack of consistency emerges in the reasons behind an effective anti-doping campaign, since not everyone seems to share the same goals. The sporting community is primarily interested in enhancing performance, and drugs (both legal and illegal) are part of this strategy. The pharmaceutical and dietary supplements industries want to maximise their profits. Sport represents only a fraction of their business, and their inability to manage sales of doping products properly is in many cases due to a lack of information in response to requests from anti-doping authorities rather than an intention to do any harm. Therefore, these three groups, while aware of the anti-doping campaign, are not one of its priorities. Conversely, the role of the police force and customs is to prevent any law and order violations. Doping does not fall into this category, and tackling it is relatively expensive in return for relatively lenient sanctions. Seizures of doping products therefore occur more by chance than design. To this we should add the absence of any organisation coordinating the actions of the various participants in the fight against doping.

#### **5. Five scenarios for the fight against doping**

To conclude this review, it seems important to suggest five scenarios for the fight against doping in Europe. These scenarios take into account both the assessment carried out and the anti-doping issues raised earlier in this report, as well as possible opportunity models for intervention by the European Union. We can start by acknowledging simple truths:

##### **1. The fight against doping has been a total failure**

- The laws, regulations and controls have resolved nothing.
- Tests give false positives.
- Tests reveal large numbers of cannabis smokers, which goes back to:
  - the question of equal treatment for athletes compared with ordinary citizens;
  - the wider question of social use of these ‘soft’ or ‘recreational’ drugs;
  - the question of criminal law treatment, which varies in each country.
- The ‘true false negatives’ are not identified because products are used which are currently undetectable.
- Anti-doping controls have resulted in gradual shifts in behaviour: deviancy amongst athletes and the emergence of a black market.
- Anti-doping controls have encouraged the use of dangerous products.
- Doping is on the increase.
- Some sports are either never caught out or else cover it up.

- The fight against doping has not therefore protected athletes' health, but may actually have harmed it.
2. **The fight against doping raises ethical problems:**
    - Athletes are discriminated against to varying degrees, depending on the sport they practice.
    - Discrimination depending on the amount of money there is in the sport and/or in the country of origin: this raises not only ethical questions but health problems too.
    - The fight against doping is an intrusion into private life and an attack on individual freedom (blood tests, urine tests).
  3. Consequently, **athletes are discriminated against and treated differently from ordinary citizens**. Why not adopt the same measures for our political leaders? Or for our captains of industry? Or for the senior executives of large corporations? And so on.
  4. If we are unable to eliminate doping because athletes want to win medals, or due to the rationale of competitive sport or the profit-making interests of companies, **then should we not try instead to reduce the risks faced by athletes by improving supervision over the long term?**
  5. **Should we not start by carrying out an extensive epidemiological survey** to determine whether or not top athletes who take drugs experience more health problems, disease and premature deaths than ordinary individuals?

## Scenario 1: Continuation of the ban

**Advantages:**            None

Problems encountered or expected	Pernicious effects	Complementary measures that could be taken	Sanctions
<p><b>1.</b> Categorisation of citizens: ordinary citizens versus civilians. The athlete is not an ordinary citizen.</p> <p><b>2.</b> Problems with detecting doping cases.</p> <p><b>3.</b> Problems with detecting products.</p> <p><b>4.</b> Problems related to federations.</p>	<p><b>3a.</b> Two-speed doping (professional sport and athletes/amateur sport and athletes, and poor countries versus developed countries).</p> <p><b>3b.</b> Health of athletes who are isolated later on.</p> <p><b>4a.</b> Cover-ups (to keep a sport clean and 'marketable')</p> <p><b>4b.</b> Absence of coordinated control.</p> <p><b>4c.</b> Revisit links between national and European federations to establish shared responsibility.</p> <p><b>4d.</b> Non-disclosure or incomplete disclosure of results.</p>	<p><b>2a.</b> Need for longitudinal supervision regardless of the sport (legally, this is an attack on personal freedom, which requires the athlete's consent).</p> <p><b>2b.</b> Need to increase out-of-competition testing. Who initiates this? Who handles the investigation?</p> <p><b>3a.</b> Need to monitor networks and supply points (e.g. personal files, venue records, etc.) and the athlete's immediate entourage.</p> <p><b>3ba.</b> Need to carry out epidemiological surveys of athletes who have retired from the international scene.</p> <p><b>3bc.</b> Implementation of medical supervision over the long term.</p> <p><b>3bd.</b> Increase the number of education and prevention campaigns.</p> <p><b>4a.</b> Need for a fully independent body to organise and manage testing.</p> <p><b>4b.</b> Need for a specific regulation so that athletes cannot refuse to be tested (see for example the problems in Spanish football).</p> <p><b>4c.</b> Introduce sanctions for federations and leaders.</p>	<p><b>1 to 4.</b> Extend sanctions to club managers, federations and doctors.</p>

## Scenario 2: Legalisation for professional sports or athletes

### Advantages: Allow 'health' supervision of athletes and revise existing situation

Problems encountered or expected	Pernicious effects	Complementary measures that could be taken	Sanctions
<p><b>1.</b> How can we decide whether a sport is 'truly' professional and thus define a limited sporting exception?</p> <p><b>2.</b> How can we distinguish between professionals and amateurs within the same federation?</p> <p><b>3.</b> What about young people (minors) who grow up in professional sport?</p> <p><b>4.</b> What about equality between sports?</p>	<p><b>1.</b> Increase in the number of sports claiming to be 'professional', but which are not.</p> <p><b>2.</b> Amateurs who take drugs so that they can turn professional.</p> <p><b>3a.</b> Difficulty in protecting young people who take drugs so that they can turn professional.</p> <p><b>3b.</b> Is there not the risk of reducing the number of young people in federations if the parents are concerned?</p>	<p><b>1.</b> Draw up a list of sports. Who is responsible and who has overall control?</p> <p><b>2.</b> Draw up a list of amateur and professional athletes in each federation. How often should this be done? Who is responsible for this?</p> <p><b>3aa.</b> Need to plan longitudinal supervision regardless of the sport (athlete's consent required).  <b>3ab.</b> Need to increase out-of-competition testing. Who initiates this? Who handles the investigation?</p>	<p><b>2.</b> Testing in amateur sport: ban on turning professional if the athlete tests positive?</p>

### Scenario 3: Legalisation for seniors

**Advantages** Allow ‘health’ supervision for athletes, revise existing situation and protect ‘minors’

Problems encountered or expected	Pernicious effects	Complementary measures that could be taken	Sanctions
<p><b>1.</b> How is control exercised?</p> <p><b>2.</b> What about legality between athletes, e.g. minors who grow up to become seniors?</p> <p><b>3.</b> Should ‘young people’ growing up to become seniors be considered as seniors? This will result in a new sporting exception.</p>	<p><b>1a.</b> Minors may take drugs to progress to senior level.</p> <p><b>1b.</b> Too much disparity exists between junior and senior levels. The same applies to professionals and amateurs.</p> <p><b>3a.</b> Increase in uncontrolled doping in minors who want to progress to senior level at any cost.</p>	<p><b>1a.</b> Need to plan longitudinal supervision regardless of the sport (athlete’s consent required).</p> <p><b>1b.</b> Need to increase out-of-competition testing. Who initiates this? Who handles the investigation?</p> <p><b>3aa.</b> Need to plan longitudinal supervision regardless of the sport (minimum competition level).</p> <p><b>3ab.</b> Need to increase out-of-competition testing. Who initiates this? Who handles the investigation?</p>	<p><b>1b.</b> Ban on being promoted to senior level for minors who test positive.</p>

## Scenario 4: Introduction of maximum test rate

**Advantages** Allow ‘health’ supervision for athletes, revise existing situation and adopt ‘soft’ approach to legalisation

Problems encountered or expected	Pernicious effects	Complementary measures that could be taken	Sanctions
<p><b>1.</b> Difficulty in drawing up a list.</p> <p><b>2.</b> Problems related to tests.</p> <p><b>3.</b> Problems related to how testing is organised.</p>	<p><b>1a.</b> Use of a variety of different techniques to standardise marker rates.</p> <p><b>1b.</b> Use of masking products.</p>	<p><b>1a.</b> Information and training for athletes.</p> <p><b>1b.</b> Information and training for coaches.</p> <p><b>1c.</b> Duty to declare what products have been taken.</p> <p><b>2a.</b> Need for a fully independent body to organise and manage testing.</p> <p><b>2b.</b> Set up testing and supervision bodies. Obligation for supervision by a specified body, or failing that, a ban on competing.</p> <p><b>3a.</b> Need to plan longitudinal supervision regardless of the sport (athlete’s consent required).</p> <p><b>3b.</b> Need to increase out-of-competition testing.</p>	<p><b>2b.</b> If there is no supervision, then banned from competing.</p>

## Scenario 5: Total legalisation of top athletes with compulsory supervision

**Advantages** Allow ‘health’ supervision for athletes, revise existing situation  
The athlete is treated like an ordinary citizen

Problems encountered or expected	Pernicious effects	Complementary measures that could be taken	Sanctions
<p><b>1.</b> Increase in the number of doping cases.</p> <p><b>2.</b> Recourse to doping at a very young age in athletes who want to reach the highest level: doping is the norm.</p> <p><b>3.</b> Athletes: wealthy clubs/sports which use or have access to unknown products or techniques.</p> <p><b>4.</b> Poor image of the sport.</p> <p><b>5.</b> Need to introduce ‘health’ supervision.</p>	<p><b>1a.</b> Use of potentially health-endangering products (particularly at high doses).</p> <p><b>1b.</b> Continued existence of a parallel market.</p> <p><b>2a.</b> Major health risk in growing young athletes.</p> <p><b>2b.</b> Two-speed doping – rich and poor.</p> <p><b>3.</b> Emergence of a parallel market.</p> <p><b>4a.</b> Fall in numbers.</p> <p><b>4b.</b> Lack of interest in competing.</p>	<p><b>1.</b> Organisation of longitudinal supervision of athletes (health perspective).</p> <p><b>1b.</b> Improved product control (traceability).</p> <p><b>1c.</b> More control over distribution chains.</p> <p><b>2aa.</b> Organisation of longitudinal supervision of young athletes (health perspective).</p> <p><b>2ab.</b> Need to organise education and awareness-raising campaigns (who?).</p> <p><b>3a.</b> Organisation of longitudinal supervision of athletes (health perspective).</p> <p><b>3b.</b> Need to draw up a list of ‘possible’ products and keep this up to date.</p> <p><b>5.</b> Create supervisory bodies. Obligation for supervision by a specified body, or failing that, a ban on competing.</p>	<p><b>1b.</b> Criminal law sanctions and fines, as in the case of drug dealing.</p> <p><b>3a.</b> Example made of managers, athletes, doctors, etc.</p> <p><b>5.</b> If there is no supervision, then banned from competing.</p>