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HEAD OF STATE

20263 Public General Act 7/2006, of 21st November, on the protection of health and the fight against doping in sport.

JUAN CARLOS I

KING OF SPAIN

To whom might read and understand this.

I say that the Parliament has passed and I come to sanction the following public general act.

Preamble

I

The passing of Act 10/1990, 15th October, on Sport, whose 8th heading governs the agreement of substances and methods banned in sport and safety in sports practices, represented a point of departure in establishing a framework to curtail doping in sport, which was accompanied by an active policy to provide the material and human means, budgetary resources, infrastructures, procedures and rules which had hitherto been lacking in our sports system.

The application and implementation of the Act also involved the start-up of operations for the National Anti-Doping Committee (*Comisión Nacional Antidopaje*), which has since played a key role in drawing up and applying initiatives in this area, as well as upholding the correct application of current regulations.

Throughout the last decade, successive rules, of the nature of regulations, have governed aspects as delicate and complex as the carrying out of controls with guarantees, the general conditions for official approval and the functioning of public and private laboratories, the system of violations and penalties and the list of banned substances and pharmacological groups and of non-regulatory doping methods in sport. This list is drawn up by the Higher Sports Council (*Consejo Superior de Deportes* or CSD), following the guidelines of the current Sports Anti-Doping Convention of the Council of Europe and the principles established in the World Anti-Doping Code, which

have been incorporated into the International Convention against Doping in Sport, approved at the 33rd General Conference of the United Nations Education, Science and Culture Organisation (UNESCO), held in October 2005. The list is updated every year and is published in the Parliamentary Gazette (BOE). With these regulations, Spain joined the group of countries with an articulated system to control and curtail doping since the last decade.

The growing involvement of public authorities in the struggle to achieve a sport that is free from doping has become increasingly stronger since the international impact of the positive tests detected in the Seoul Olympic Games in 1988. It should therefore be remembered that the legal instrument in force with the greatest scope for inter-governmental collaboration and international cooperation in the fight against doping in sport continues to be the International Convention, approved in 1989 by the Council of Europe, together with an additional Protocol that, to a large degree, has helped to harmonise the public anti-doping policies and procedures followed by the 45 signatory states, mostly European and among them Spain.

However, the first steps to establish anti-doping controls in our sports system occurred in the 60's of the last century. The adoption of initiatives in this area on the part of the Council of Europe and the International Olympic Committee (IOC) promoted Spain's participation in the first meeting of the special study group on doping in athletes, held in 1963 on the proposal of the European body. As a consequence of this, the present-day CSD laboratory was created to control doping, starting operations at the end of this decade, a very short time after the first European laboratories to control doping had started their work in Paris, Rome and London. Internationally approved by the IOC since 1982, the CSD forms part of the international network of 33 laboratories to control doping accredited to date by the World Anti-Doping Agency (WADA).

For its part, the laboratory of the Barcelona Municipal Medical Research Institute (*Instituto Municipal de Investigación Médica*) obtained official approval from the IOC in 1985 and has also been accredited by the WADA. Furthermore, both Spanish laboratories have quality accreditation as per ISO standard 17025, certifying the suitability and technological excellence of their personnel and facilities, as well as their protocols and procedures. Spain is therefore one of the three countries in the world with two laboratories to control doping that have been accredited internationally for at least 20 years.

II

However, it is true that the actions initiated by the sports movement and by some states, separately and each within the scope of its authority, were insufficient, as organising a suitable fight against doping entails the convergence of various measures that correspond, in different ways, to the countries and organisations of the international sports movement.

The holding of the World Conference on Doping in Sport in Lausanne in 1999, on the initiative of the IOC, highlighted the need for further collaboration among public authorities and sports organisations. This meant a change in direction in how to tackle the problem of doping in sport, emphasising the need to create an independent international body that would establish common rules to combat doping and would coordinate the efforts of sports organisations and public authorities.

That same year it was agreed to set up and start in motion the World Anti-Doping Agency, in whose structure and funding the IOC and the governments of a large number of countries participate equally, among them Spain, increasingly concerned by the increase in doping and its rapid expansion beyond the boundaries of world class sport.

WADA is a privately-run foundation, governed by Swiss law, whose headquarters are located in the Canadian city of Montreal. Its Council is made up equally of representatives from governmental, intergovernmental and sports organisations. This unusual structure acknowledges the need for governments and organisations, which go to make up the international sports system, to act as one in the fight against doping, as none of them will achieve significant success in this struggle without the close collaboration and cooperation of the other.

III

In 2003, WADA drew up the World Anti-Doping Code as well as the international procedural standards that complement this code, comprising a series of mandatory rules and guidelines for the international sports movement. These activities require national regulations to be drawn up, simultaneously to the advance in international legislative harmonisation on key aspects to combat doping, such as the functioning of laboratories with officially approvable criteria, the system of exemptions for the use of specific substances for therapeutic purposes, the procedures for carrying out doping controls, as well as drawing up a harmonised list of banned substances and methods, accepted and respected by the largest possible number of countries. The National Anti-doping Committee, as the competent Spanish body, has accepted that our country should abide by the rules and guidelines established in the Code.

It's true that, today, the World Anti-Doping Code is still not binding in terms of International Public Law. This situation will probably change in the next few months after the recent approval and the ratification process, currently underway, on the part of the signatory countries, including Spain, of the already mentioned International Convention against Doping in Sport by UNESCO, incorporating the principles of the World Code and enabling the harmonisation of international regulations in this area. Consequently, this Act also aims to harmonise state anti-doping regulations with those principles proclaimed by the Code, and to adapt legislation, as already

carried out by some countries around us, which have increasingly modified and updated their regulations in various ways but with one key aim: to achieve greater efficiency in the fight against doping in sport.

Within this context, the new system introduced in our country by Act 10/1990, 15th October, on Sport, updated by Act 53/2002, 30th December, on Fiscal, Administrative and Social Order Measures, has helped to take on the new challenges involved in doping in sport in accordance with the most demanding international standards established by the IOC and WADA, in addition to altering how the National Anti-Doping Committee works in order to improve its effectiveness and response capacity in the fight against doping in sport. Similarly, the passing of Act 34/2002, 11th July, on the Information Society and E-Business Services allowed the establishment of controls over the sale of drugs lacking the corresponding authorisation.

However, the current anti-doping system needs reforming and updating, in compliance with article 43 of our Constitution that, after recognising the right to protect health, specifies that public authorities have the power to organise and safeguard public health through preventative measures, also being responsible for promoting physical education and sport. The public authorities obliged by this constitutional mandate are both the State Administration as well as the Autonomous Communities and Local Corporations, in their respective areas of exclusive authority. Within State powers there are various entitlements to powers that affect this Act. In addition to the self-organisational power corresponding to the State, as well as the power it has over the interests that inseparably affect Spanish sport as a whole, this Act also contains various specific powers, among which we should note those regarding the basic conditions and general coordination of health, criminal legislation, justice administration, public security and safety, international relations and statistics for state purposes, all these deriving from article 149.1 of the Constitution.

IV

This Act aims to provide a response to these objectives. Its central themes can be summarised in two points: on the one hand, to update the mechanisms for controlling and curtailing doping in the area of world class sport and, on the other hand, to create a systematic, transversal framework to prevent, control and curtail doping in general, considered as a threat to society, as a scourge that seriously endangers the health both of professional sports people and of regular or occasional practitioners of any sport.

Based on these two central lines of regulation, some rules introduced by this Act are subject to the condition of Public General Acts (*leyes orgánicas*), proclaimed in article 81 of our Constitution. Others, less substantial and not affecting the essential content of fundamental rights, are appropriately regulated by ordinary law.

The legislative option covers, in a single set of rules, the aforementioned general and horizontal regulation, introducing a specific type of offence against public health and completing the general system to curtail doping via penal means.

Both regulations help jointly to achieve the same aim and, as both form an inseparable whole, systemisation and legislative requirements suggest they should be treated in a single legislative text that must be of the nature of a Public General Act. All this notwithstanding, obviously, the fact that, by means of the fifth final provision, those principles and provisions are specified that must be considered as ordinary in nature, so as not to obstruct the hierarchy.

In the first heading, the novelties introduced by the Act can be systematised as follows: a first block of reforms subject to administrative organisation in order to control doping in sport, preserving a model similar to the current one based on the fact that the exercising of disciplinary powers concerning doping in the area of state-level competitive sport is attributed to the Spanish sports federations, under the effective protection of the State Administration through the CSD.

Regarding the aforementioned administrative organisation, and within the framework of the regulatory requirement of State Agencies, the State Anti-Doping Agency (*Agencia Estatal Antidopaje* or AEA), once the process of its creation has been completed with the approval of its Bye-Laws, will be the body that assumes an important role in carrying out various related aspects with comprehensive action on the part of the public authorities and sports organisations in favour of sport free from doping.

On the one hand, the AEA will be materially responsible for carrying out the doping controls it has been commissioned with by the competent offices of the CSD, for this purpose being able to have its own or an agreed structure in order to carry out this material function. Similarly, it is also responsible for developing and promoting a policy of research into preventing and controlling doping and protecting the health of sports people, helping to update knowledge of the scientific and technological advances in this area, thereby helping to fight rigorously and efficiently against a complex, difficult and constantly evolving phenomenon.

The AEA is set up as a cooperation entity, so that all public authorities with powers over sport can have a common framework of action, sharing resources, infrastructures, experiences, scientific advances and initiatives aimed at eradicating doping from sport, disciplining via criminal means those who make a profit from this, facilitating the isolation and rejection of a bane on society whose threatening shadow extends way beyond the strictly sporting area.

The body of the CSD that safeguards this area and exercises these powers is called the Health and Doping Control and Supervision Committee (*Comisión*

de Control y Seguimiento de la Salud y del Dopaje). This body assumes most of the powers that, to date, had been distributed between the National Anti-Doping Committee and the National Committee to Protect the Health of Sports People (*Comisión Nacional para la Protección de la Salud del Deportista*). In this way, an attempt has been made to provide the new national anti-doping organisation with a joint view, identical in essence to the model designed by this Act. In this model, the principles of rejection of and zero tolerance towards doping in sport basically have an individual and a public health component, but also an indisputable dimension of commitment to the values of fair play and free competition between equals, considered as the fundamentals of present-day sport.

The new body of the CSD also assumes functions of great relevance in the area of protecting the health of sports people, both in terms of world class professional sport as well as the practice of grassroots sport that, of a recreational and health-related nature, is carried out by millions of people in our country. Connecting the fight against doping very closely to protecting the health of sports people is a specific recommendation of WADA and the approach followed in the countries around us when recently undertaking the reforms of their respective legislation against doping in sport.

The Act consolidates the establishment of medical fitness tests for federated sports practice and introduces the performance of health controls on sports people taking part in official competitions. Above all, the aim is to ensure the best possible conditions of comprehensive medical assistance for professional sports people, who carry out their activity in such a demanding environment as world class sport, and it gradually establishes fundamental guidelines for medical care among those people who habitually carry out physical and sports activities.

Based on this general framework, the Act provides formulas of flexibility, such as helping Spanish sports federations to establish collaboration agreements with the AEA that allow them to organise the doping control system more efficiently within their areas of authority, and the strict fulfilment of all their responsibilities and obligations in this area.

The other large block of reforms included under this first heading involves a new configuration of the disciplinary powers in this area. There are many new points. Firstly, compliance is guaranteed through the principle of "*reserva de ley*", so that all violations and penalties, as well as any causes that alter liability, are covered by the regulation avoiding reference to other regulations, in an area such as that of penalties, which might be somewhat complex in constitutional terms. This section also develops the necessary harmonisation of our legal provisions with that established in this respect by the World Anti-Doping Code and the UNESCO International Convention against Doping in Sport. This measure is completed with the increase and re-defining of the types of violations and penalties, in addition to offering a more precise definition of all the obligations and rights of sports people and also of all professionals involved, from those closest to them.

One of the most important novelties in the Act is the configuration of disciplinary powers in the area of doping as a concurrent successive power, so that, if the legally provided period of time is not complied with, the initial authority corresponding to Spanish sports federations is passed on to the Health and Doping Control and Supervision Committee itself, which therefore acts as a disciplinary body. In this way an essential effect is achieved, namely not delaying the processing and resolution of cases in the area of doping.

A new system is also defined to review penalties in this area, aiming to satisfy all interests involved in the area of sport so that, without diminishing any of the right to defence nor the right to effective protection, legal forms are sought that are different to those of the common review system in order to ensure that this review does not entail further delay, which ends up seriously injuring a value of vital importance: namely the equity of rules and of the conditions of participation in sports competition.

To this end, with the scope provided for in section 107 of Act 30/1992, 26th November, on the Legal System for Public Authorities and Common Administrative Procedure, the Act establishes a special system of administrative review that, with the formula of arbitration, replaces the classic appeal to executive authority. In terms of "organic" or general public acts, this arbitration formula relies on a specific section of the Spanish Sports Discipline Committee (*Comité Español de Disciplina Esportiva*), a body that, given its functional independence, complies with the requirements established in the common procedural Act.

The procedure provided to speed up the review of administrative enquiries into doping is completed with an essential prescription: to generalise the abbreviated procedure in order to hear, in a single proceeding, any judicial reviews that may be proposed against the decisions given by that body.

This series of measures helps to ensure that procedures and processes are more agile, enabling decisions on enquiries into doping to have a sure, swift and simple channel for their administrative and jurisdictional review, allowing to combine all the interests at stake without reducing the guarantees and rights of those involved in this review.

On the other hand, and directly related to all the interests at stake, the Act also provides a highly detailed system of confidentiality in processing the information regarding doping, with the aim of being able to identify the people in charge of knowing and handling the information, determining liability in the case of information being kept incorrectly or inadequately, as well as strictly confidential data. In short, it is a question of guaranteeing sports people that the penalties imposed correspond only to typified conducts and that no effect of publicity is added, aggravating their situation in an unfair and unjustifiable manner. In this point, as in many others, the Act aims to establish a framework of highly demanding guarantees, in

accordance with Spain's set of laws on protecting data of a personal nature, which preserves the right to intimacy, honour and the good name of sports people until the violation has been effectively accredited.

The second heading of the Act refers to general aspects of controlling doping in sport, whether in competition or merely recreational. A series of measures is included, such as the supervision and review of the content of medical kits in sports competitions and the determination of supervision for medication and products liable to producing doping in sport, in order to know at what point the commercial chain of distribution alters, providing the means to stop these products or falsifications from appearing on the market under conditions other than those established by current regulations for dispensing products, and establishing strict conditions for selling and controlling products that may produce doping in sport.

In an attempt to ensure compliance with these measures, the third heading of this Act provides an area of criminal protection for public health in activities related to doping in sport. A new section 361a is introduced into the Penal Code whose aim is to punish the environment of the sports person and preserve public health, seriously threatened by the uncontrolled selling and dispensing, without any guarantee, of products that are harmful to health.

With the establishment of this new criminal offence, the comprehensive design is completed of a criminal anti-doping policy, started in February 2005 on the Cabinet giving a green light to the setting up of the Comprehensive Action Plan against Doping in Sport. Among the 59 measures approved was the setting up of an operational action group, at the General Offices of the Criminal Investigation Department (*Comisaría General de Policía Judicial*), specialised in pursuing doping networks, as well as creating, on the part of the Crown Prosecution Service (*Fiscalía General del Estado*), a unit specialised in pursuing offences related to doping in sport.

On the other hand, it is established that the supply, dispensing or prescribing of substances liable to produce doping is the responsibility of those who, according to the regulations, carry out these actions and that, consequently, these violations must also constitute a serious breach of professional ethics, which must have specific penalties in their respective collegial systems.

Lastly, with the aim of ensuring an effective capacity for scientific research in this area and of preserving health in sport, in its fourth heading the Act provides for the setting up of an administrative information system. This aims to place at the disposal of the Autonomous Communities the most relevant and comparative information available so that each Autonomous Community may use these data, if it so wishes and in exercising its powers, in the development of public policies to promote healthy sport free from doping.

In this respect, the Act also includes the creation of a health card for sports people that, in accordance with current regulations on the protection of data of a personal nature, will allow relevant information on the sports person to be accumulated exhaustively and confidentially, for the purposes of controlling, preventatively, how their health is evolving and their most important vital parameters, of the utmost importance after such demanding dedication as that imposed by world class competition on elite sporting professionals.

By reinforcing criminal protection, this regulation aims to systemise disciplinary procedures, to determine the responsibilities involved in processing these, clarify the system of violations and penalties as a whole, enable the updating of pre-existing regulations, adapt the Spanish disciplinary system to that contained in UNESCO's International Convention against Doping in Sport and to ensure it is in line with that of countries that, in the last few years, have reformed their policies in order to achieve greater effectiveness in curtailing doping in sports activities.

However, the effect, by means of measures of control and supervision under the second heading, on the extent of actions that may be carried out regarding non-competitive sports activities constitutes a new aspect in our country. This is a question of systemising and adapting a series of measures to the fight against doping, these measures already being available to authorities in the area of public safety.

With regards to the rest, the additional, transitional, derogative and final provisions of this text conform to the purposes for which they exist. So transitional provisions contain the classic principles of Transitional Law and final provisions are mostly focused on harmonising legal texts, so that this regulation may be known and applied with legal certainty.

In short, it is a question of establishing a series of measures that are justified in order to achieve the following objectives: to preserve public and individual health in sport, and to adopt effective measures against a certain and proven danger such as doping, which may compromise or affect this, to the point of placing the very life of the sports people at risk, as well as ensuring fair play in competition. The framework designed complies with all the requirements and demands established by our constitutional laws in the area of fundamental rights and the distribution of powers among Public Authorities, by the International Treaties signed and pending ratification by Spain in the area of the fight against doping in sport, as well as by the regulations of the IOC and of international sports organisations.

HEADING I

On protecting health and the fight against doping in sport

CHAPTER I

Scope of the Act and organisation

Section 1. Definition of doping, scope of application and delimitation of powers in the area of protecting health and the fight against doping in sport.

1. For the purposes of its application, doping in sport is considered as a breach or violation on the part of those persons who, being obligated to them, violate the rules provided for in this Act, in particular that provided for in section 13 and subsequent sections of the Act.
2. The subjective scope of action of this Act extends to sports people with a state federative licence or with an officially approved autonomous licence in sports competitions organised, promoted or authorised by Spanish sports federations within the objective scope established in section 1.3.
3. The objective scope of application of this Act is determined by the official sports competitions, at a state level, organised by sports entities within the framework of Act 10/1990, 15th of October, on Sport.
4. That provided for in the previous points is understood notwithstanding the application of this Act to the international sports activities carried out in Spain, under the terms provided in section 30 to 33 of this Act.
5. It shall also apply to those people who have an affect, by any means, on the carrying out of sports activity and who are in breach of any of the obligations provided for in the second heading and concordant headings of this Act.
6. The scope of obligations violated by each person belonging to the groups defined above is established in the principles that apply to them respectively, in accordance with this Act.
7. Notwithstanding the powers corresponding to the Autonomous Communities, the Higher Sports Council is responsible for promoting and encouraging the development of a policy to prevent, control and curtail the use of products, substances and methods that are not authorised or banned in sport.
8. Similarly, and within the same scope of powers of the State Administration, the Higher Sports Council, in coordination and collaboration with the rest of the competent bodies of the State Administration, is responsible for encouraging a policy to fight against the use of these products, substances and methods in the remaining areas of sports activity. For this purpose, it may adopt measures that help to avoid their sale, dispensing or use by any means not provided for in the corresponding regulations.
9. Within the scope of their powers, the Autonomous Communities are responsible for promoting and encouraging the development of a policy to prevent, control and curtail the use of products, substances and methods that are not authorised or banned in sport, and of encouraging a policy to fight against the use of these products, substances and methods in the remaining areas of sports activity.
10. The Higher Sports Council and the Autonomous Communities shall promote mechanisms of cooperation in order to harmonise criteria of application for the regulations against doping, complying with the international obligations assumed by Spain and achieving the greatest coordination possible for actions in this area on the part of public

authorities. They shall also promote mechanisms of cooperation with Spanish and international sports federations, as well as with professional sports organisations, in order to encourage healthy sporting practices, capable of avoiding both the risks entailed in doping for the health of sports people, as well as the deception involved with regard to the good faith of consumers of sports services.

Section 2. The organisation of the State Administration for protecting health and controlling doping in sport.

1. Notwithstanding the functions that, in the National Health System, correspond to the public authorities in order to comply with the right to health protection, the powers of the State Administration in the area of health protection and in controlling and curtailing doping in sport are exercised by the Higher Sports Council, through its Presidency, and through the Health and Doping Control and Supervision Committee (*Comisión de Control y Seguimiento de la Salud y del Doping*), as well as by the State Anti-Doping Agency, under the terms provided in this Act and in all the regulations that govern the fulfilment of its functions and powers respectively.

2. In regulatory terms, its powers shall be determined in accordance with that provided for in section 27.4 of this Act, among which shall be included, in any case, that of asking the Spanish Sports Disciplinary Committee (*Comité Español de Disciplina Deportiva*) to act as a disciplinary body.

3. The Health and Doping Control and Supervision Committee is responsible for determining the controls to be carried out within the framework and scope of application of this Act, for supervising the actions of Spanish sports federations in the area of controlling and curtailing doping, as well as examining and deciding in disciplinary proceedings in the events provided for in section 27.3 of this Act.

4. Notwithstanding the powers of the Autonomous Communities, the State Anti-Doping Agency is responsible for carrying out the material activities it is commissioned with regarding the prevention and control of health and doping in sport, within the framework and scope of application of this Act. The State Anti-Doping Agency shall be created in accordance with that provided in the regulatory legislation of the State Agencies.

Section 3. The Health and Doping Control and Supervision Committee.

1. In order to exercise the functions provided for in the next paragraph, the Health and Doping Control and Supervision Committee is created, a collegiate body reporting to the Higher Sports Council, made up of representatives from the State Administration, from the Autonomous Communities, Spanish sports federations, professional leagues, sports people and by persons of renowned prestige in the scientific-technical, sports, medical and legal area.

2. The Health and Doping Control and Supervision Committee has the following functions:

2.1 In the area of health protection:

- a) Propose preventative actions to the competent administrative bodies in the area of health education and information and sports practice, both in official competitions as well as in those of a popular or recreational nature.
- b) Inform on the conditions for medical fitness examinations for sports practice referred to by section 59 of Act 10/1990, 15th of October, on Sport and also propose what must be carried out in each type of sport, specifying the standards that must be complied with respectively.
- c) Periodically inform on the procedures to control the health of sports people taking part in official competitions at a state level of Spanish sports federations.
- d) Inform concerning the official approval of the tests and protocols that go to make up the medical fitness examinations for sports practice in competition, in accordance with the requirements of each type of sport and within the scope of application of this Act.
- e) Propose the level of official competition, at a state level, at which a sports person must be submitted to the corresponding medical fitness examination.
- f) Propose to the State Administration and to the rest of the Public Authorities, the adoption of measures and rules that ensure the best possible conditions for medical assistance for sports people within the framework of carrying out their activity, be this of a professional or recreational nature.
- g) Carry out proposals on the minimum health care resources in official sports competitions or activities organised within the framework of Act 10/1990, 15th of October, on Sport.
- h) Coordinate the actions regarding health protection measures for sports people participating in official competitions with the regulations against doping, proposing measures for the complete medical control and supervision of the participants.
- i) Be informed of any health controls that may be carried out in Spain by the World Anti-Doping Agency or international sports federations on Spanish sports people.

When the actions carried out by these bodies exclusively affect competitions organised in the Autonomous Communities, the Committee shall pass on any information it receives to the autonomous body in question.

j) Any other functions that, of a consultative nature and within the area of health in sport and physical activity, may be commissioned by the Ministry of Education and Science or any other ministerial department, or by the Presidency of the Higher Sports Council.

2.2 In the area of fighting against doping in sport:

- a) Plan and programme the distribution of doping controls that should be carried out within the scope of the powers established by this Act.
- b) Determine the official sports competitions, at a state level, in which doping controls must be carried out, the number of controls to be performed during competitions and outside these in each type of sport, the type and nature or extent thereof and, if applicable, the individualised plans deemed suitable due to the peculiarities of each competition or sports activity.
- c) Monitor the actions of Spanish sports federations in the area of controlling and curtailing doping.

- d) Determine the conditions for carrying out controls when, in accordance with this Act, this is not the responsibility of the Spanish sports federation.
- e) Examine and decide in disciplinary proceedings on sports people and other holders of sports licences when this applies in accordance with this Act.
- f) Apply for a review before the Spanish Sports Disciplinary Committee, under the terms provided for in this Act, when it is deemed that the decisions adopted in the area of doping by the disciplinary bodies of Spanish sports federations are not according to the Law.
- g) Be informed of the controls outside competition that the World Anti-Doping Agency or any international federations wishes to carry out in Spain, for the purposes of coordinating these and avoiding the duplication thereof. These bodies must also inform the Health and Doping Control and Supervision Committee of the controls carried out in competition within Spanish territory, of their extent and results. It must also be informed of the health controls that may be carried out by these same entities in Spain. When these controls are carried out by the competent bodies of the Autonomous Communities, the latter may pass these on to the Committee.
- h) Examine and decide in enquiries into authorisation for therapeutic use, according to that established in section 7.4 and concordant sections of this Act and in its rules of implementation.
- i) Carry out any other function that, being the competence of the Higher Sports Council, concerns the areas governed by this Act and is not specifically attributed to another body or entity.

3. The composition and operational system of the Health and Doping Control and Supervision Committee shall be determined via regulation, in all cases providing for the existence of two specific sub-committees responsible for carrying out the respective functions of health protection and the fight against doping in sport.

Section 4. State Anti-Doping Agency.

1. The State Anti-Doping Agency is the body by means of which the material activities are carried out of prevention, control and research into health and doping, affecting federated sport at a state level.

2. Within the framework of that provided for in this Act, the functions of the State Anti-Doping Agency shall be those determined by the Bye-Laws by which the body is governed pursuant to this Act.

In any case, the State Anti-Doping Agency is responsible for filing an application for review before the Spanish Sports Disciplinary Committee, under the terms provided in this Act, when it deems that the decisions adopted by the Health and Doping Control and Supervision Committee are not according to Law.

3. The organic structure and functions of the State Anti-Doping Agency shall be determined in accordance with that provided in this respect in the legislation governing State Agencies.

In all cases, the State Anti-Doping Agency shall have a body to participate, coordinate and supervise, in which the competent bodies and organisms of

the Autonomous Communities shall be represented in the area of sport and health.

4. In order to carry out the functions attributed to it by its Bye-Laws, the State Anti-Doping Agency may enter into conventions or agreements with any public or private entity in accordance with that established in the legislation controlling Public Authorities.

5. Notwithstanding the specifications contained in this principle, the State Anti-Doping Agency is subject to the legal system of organisation and functioning provided by the legislation governing State Agencies.

6. In the event of there being Anti-Doping Agencies within the scope of the Autonomous Communities, a body shall be set up at the offices of the State Anti-Doping Agency so that the former may participate in information, debate and cooperation with regard to State public policies in the area of doping.

CHAPTER II

On the obligation to submit oneself to doping controls and on the scope and guarantees that must be complied with

Article 1. On the parties obliged to submit themselves to controls

Section 5. On the obligation to submit oneself to doping controls.

1. All sports people with a licence to take part in official competitions, at a state level, must submit themselves, in and outside competition, to the controls determined by the Health and Doping Control and Supervision Committee.

Controls outside competition may be carried out by surprise or by prior arrangement. In the first event, the obligation referred to in this section extends to the assent of these people and, in the second, to the obligation of these people to appear and submit themselves to the control. The terms of both types shall be determined by means of regulation, attempting an appropriate evaluation of the rights of sports people and of material needs in order to carry out controls outside competition in an effective manner.

2. The obligation to submit oneself to controls extends equally to sports people whose sports licence has been suspended due to having committed doping violations while they are completing the penalty and, in any case, prior to the sports licence being restored.

The Health and Doping Control and Supervision Committee may extend this obligation to those sports people for whom, although they a licence, they have not renewed this within the established period of time and it may be reasonable presumed that they have not given up sports practice and may be attempting to avoid any doping controls from being performed outside competition until their licence has been renewed.

3. In order to carry out the controls referred to in the first paragraph, and to ensure these are as effective as possible, the sports people, teams, trainers and managers must provide, under the terms established by regulation, the data required to habitually locate the sports people so that doping controls may be carried out in material terms.

4. At the time of taking the doping controls, the sports people, their trainers, doctors and other health personnel, as well as the managers of clubs and sports organisations and other persons in the environment of the sports person, shall specify the medical treatments to which the sports people are being submitted, the people responsible for these and the extent of the treatment, unless the sports people specifically refuse authorisation for this specification.

5. The controls for which they have been called, those carried out and the results thereof shall be entered into a centralised database that shall be governed by regulation in accordance with current data protection legislation. Access on the part of the sports person is guaranteed and also, in accordance with current regulations, on the part of health professionals authorised by the sports person. The sports person may ask for the data entered into this database to be included in his or her own health card.

6. Those sports people with a foreign licence who take part in state or international competitions held within the scope of application of this Act may be submitted to controls. Any disciplinary proceedings that may arise from these shall be carried out in the manner established by the corresponding international regulations. They may also be submitted to controls outside competition when they are training in Spain, on the request of the competent federation or international body.

In all cases, the results of the doping controls carried out shall be passed on to the corresponding international sports federation and the World Anti-Doping Agency.

Section 6. On the guarantees in the controls and the legal effects thereof.

1. The controls referred to in the previous section shall always be carried out under the responsibility of a doctor, assisted by health personnel authorised by the Higher Sports Council to carry out this function of safeguarding sports activity. The competent body to grant this authorisation shall be that determined by the organic structure of the Higher Sports Council.

The Higher Sports Council and the competent bodies of the Autonomous Communities may develop, within the framework of a specific agreement, a system to mutually acknowledge authority.

2. The doping controls outside competition and health controls that are not justified by medical causes may not be carried out during a time band that shall be determined by regulation and shall comprise, in all cases, of the times normally dedicated to night-time rest. During these hours, no doping control may be carried out in the Spanish territory, irrespective of whether it has been ordered by an administrative authority, sports federation or international body.

The refusal by a sports person to submit him or herself to doping controls during this time band shall not result in any liability.

In exercising its functions, which are detailed in section 3 paragraph 2 of this Act, the Health and Doping Control and Supervision Committee shall ensure that the conditions under which the doping controls provided in this Act are carried out shall always be performed respecting these limitations of timetable, irrespective of who orders these controls.

3. At the time of receiving notice of the control and, if applicable, when the sample starts to be taken, the sports people shall be informed of their rights and obligations regarding the aforementioned control, of the essential processes in the procedure and the main consequences, of the handling and transfer of data provided for in this Act, as well as the possibility to exercise their right to access, rectify, cancel or oppose, as established in Public General Act 15/1999, 13th of December, on the Protection of Data of a Personal Nature.

Among these shall be the right not to submit oneself to the test, notwithstanding that provided for in the next paragraph and that established in section 14.1.c) of this Act. The Higher Sports Council shall establish a standardised model of information for collecting samples when carrying out doping controls.

4. For the purposes of disciplinary procedures in the area of doping, the refusal, without just cause, to submit oneself to the controls, once documented, shall be sufficient evidence in order to suppress the conduct of the sports person. Just cause shall be understood as the impossibility to attend as an accredited consequence of an injury, or when submission to the control, may place in serious risk the health of the sports person, duly accredited.

5. The document accrediting the refusal referred to in the previous paragraph, issued by doctors or authorised health personnel, shall benefit from the presumption of truth in section 137.3 of Act 30/1992, 26th November, on the Legal System for Public Authorities and Common Administrative Procedure.

Section 7. Accessory obligations.

1. Clubs, organisations, groups and other sports entities referred to in Heading III of Act 10/1990, 15th October, on Sport, or those that take part in sports activities or competitions organised within the framework of the aforementioned Act, must keep a log, duly registered with the State Anti-Doping Agency, whose integrity is guaranteed, containing the medical and health treatments that have been prescribed to the sports people under their management, provided that the latter authorise this record.

At the time of being recorded in the log, sports people shall have the right to request to be given a copy of the entry or the information in question to be included in their health card.

The sports associations referred to in Heading III of Act 10/1990, 15th October, on Sport, must keep a log, duly registered with the State Anti-Doping Agency, whose integrity is guaranteed, containing the medical and health treatments that have been prescribed to the sports people under their management, provided that the latter authorise this record.

This log book shall be considered as a health document for the purposes of the safeguarding and protection of data.

The State Anti-Doping Agency may complement or substitute the log book by centralised database procedures using new information technologies and electronic identification technologies, such as digital signatures and single, centralised electronic record systems.

At the time of being recorded in the log, sports people shall have the right to request to be given a copy of the entry, containing the health expert or professional, duly identified, who, under their management, has prescribed or carried out the medical or health treatment, and this must also contain the signature and stamp, if applicable, of the professional responsible for the health care.

In the log book, each health action must be authenticated by the signature of the sports person as a guarantee that this action has been carried out and that the latter has authorised its entry in the log book.

Any medical, therapeutic or health procedure that is prescribed or applied to a sports person and that is considered to be doping, or even administered for medical reasons and with the due therapeutic authorisation, must follow a procedure of informed consent that shall be governed by regulation and of which a copy shall be kept in the log book.

2. This obligation extends to Spanish sports federations when sports people are under their responsibility within the context of sports squads.

3. In individual sports, this obligation will fall to the sports person or the corresponding Spanish federation in the manner specified in the previous paragraph.

4. The authorisations for therapeutic use issued as per current regulations, as well as the corresponding complementary documentation, must be kept by the State Anti-Doping Agency.

Should an authorisation be issued on the part of an international body to a sports person with a federative licence to take part in competitions at a state level, the sports person or the person appointed for this purpose must send a copy to the State Anti-Doping Agency for it to be registered as from the date it becomes valid.

Disciplinary sports bodies may not consider as valid any authorisations for therapeutic use that are not duly registered with the State Anti-Doping Agency.

The Agency shall coordinate the information with the World Anti-Doping Agency and particularly regarding authorisations for therapeutic use.

5. The handling and transfer of data of a personal nature referred to in the previous paragraphs shall abide, in full, by the provisions established in Public General Act 15/1999, 13th December, on the Protection of Data of a Personal Nature.

ARTICLE 2. ON CONTROLS AND THE RESPONSIBILITY FOR CARRYING THESE OUT

Section 8. On the type of controls that may be carried out.

1. Doping controls.

Under the terms of this Act, doping controls shall be considered as all material activities carried out by doctors and authorised health personnel, by the State Anti-Doping Agency and by an analytical laboratory, with due official approval and authorisation, whose aim is to verify the presence or absence of any banned substance liable to produce doping or of the use of a method that is not according to regulations, detected by means of

standardised procedures in a sample taken for this purpose. In any case, doping controls shall include those planning activities for these controls to be carried out with guarantees, the selection of the sports people on whom the controls are to be carried out, the types, obtaining and handling of samples, the laboratory analysis, as well as the management and custody of the results obtained.

2. Controls and other health protection activities.

Under the terms of this Act, controls and health protection activities shall be understood as all the actions that the Health and Doping Control and Supervision Committee deems necessary in exercising the functions established in section 3 of this Act in order to improve, control and prevent the detrimental effects on health that may be produced by sports activity. In order to carry out these functions, the particular characteristics of the different types of sport or specialities shall be taken into account. For these purposes, the Health and Doping Control and Supervision Committee may order the actions to be carried out provided for in section 3 of this Act, in those types of sports or specialities that it deems necessary due to their particular characteristics.

The Health and Doping Control and Supervision Committee shall also determine, under the terms established by the rules of implementation for this Act, those events in which a sports' person's sports licence should be suspended for health reasons.

By means of regulation, the conditions and characteristics shall be determined that are required by the actions to protect the health of sports people.

3. Inspection and control of medical kits.

Section 9. Planning controls.

1. In accordance with that specified in the previous section, the Health and Doping Control and Supervision Committee shall determine the doping controls, health controls and other actions in the area of health protection that must be carried out by the entities referred to in section 11 of this Act.

2. Notwithstanding the above, the Health and Doping Control and Supervision Committee, depending on the characteristics of the respective sport and of the planning established in this respect, may submit sports people to controls outside competition, particularly when these people form part or are going to form part of Spanish sports squads or Olympic teams. These controls shall be considered as additional with regard to the those that may be established by sports federations.

3. In carrying out controls and tests, care shall be taken that these are performed with full respect for the fundamental rights of the person, for protecting his or her personal data and for best practices in carrying out these activities.

Section 10. Persons responsible.

The sports people referred to in section 1 of this Act shall be responsible for the liabilities implied in applying this Act, as well as those professionals collaborating in the care of the former.

Section 11. On the authority to carry out controls.

1. In general, and notwithstanding that specified in section 9.2 of this Act, the Spanish sports federations are responsible for carrying out the necessary actions in order to perform the controls determined by the Health and Doping Control and Supervision Committee.

When an insufficiency of means or structure of the federation itself so justifies, the latter may request, by signing the corresponding collaboration agreement, for this function to be completely carried out by the State Anti-Doping Agency.

2. In doping controls carried out during or outside competition on sports people with a federative licence to take part in official competitions of a state level, the analyses aimed at detecting substances and methods banned in sport must be carried out in laboratories with international accreditation from the World Anti-Doping Agency and approved or sanctioned by the state.

3. Similarly, those analyses carried out by laboratories accredited by the World Anti-Doping Agency shall be valid for any administrative enquiry carried out in Spain, provided that these comply with that determined by this Act and abide by that provided for in point g) of sub-paragraph 2.2 of section 3 of this Act.

4. In official competitions of a professional nature, the coordination agreement between the Spanish sports federation and the corresponding professional league shall determine the manner, conditions of performance and funding of these controls, whose ultimate and disciplinary responsibility lies solely with the sports federation, due to it being considered as a legally delegated public authority. In the absence of an agreement, the controls ordered by the Health and Doping Control and Supervision Committee shall be financed equally by both institutions.

Section 12. Publication of the list of substances liable to produce doping and of methods banned in sport.

Within the framework of the international commitments and obligations assumed by Spain, and in particular within the framework of the UNESCO Anti-Doping Convention, the Higher Sports Council shall publish the list of substances and methods banned in sport in the Official Gazette of the Spanish State by means of an Order from its Presidency. This publication shall be periodical in nature and shall occur, in any case, when any changes are made to this list.

The Higher Sports Council shall establish additional means of informing and consulting the list of banned substances and methods by inserting this onto digital websites of institutions and entities related to sport, as well as by any other means or medium that facilitates the awareness, dissemination and accessibility of this list.

CHAPTER III
On the disciplinary system in the area of doping in sport

Article 1. On liability in the area of doping in sport

Section 13. Liability of the sports person and his/her environment.

1. Sports people shall ensure that no banned substance enters their body, in any case being liable when the presence thereof is detected. The extent of this liability shall be that determined in the disciplinary system established in the next section and, specifically, the system of grading liability provided in section 19 of this Act.

2. On any violation of this obligation they shall be held accountable and the corresponding disciplinary measures shall be adopted, in accordance with and with the scope provided in the International Agreements ratified by Spain and in section 15 and concordant sections of this Act.

3. Sports people, their federative or personal trainers, managers, as well as the sports clubs and teams to which the sports person belongs, shall be liable for any breach of the obligations imposed in the area where the sports people are habitually located.

4. The sports people, their trainers, doctors or health personnel, managers, directors, as well as the sports clubs and teams and other persons from the sports person's environment shall be liable for any breach of the provisions governing the obligation to provide information to the competent bodies on the illnesses of the sports person, the medical treatments to which he/she is being submitted, extent and person in charge of the treatment, when the sports person has authorised the use of these data.

They shall also be liable for any breach or violation of the requirements established for obtaining authorisation for therapeutic use.

Section 14. Types of violations.

1. For the purposes of this Act, the following are considered to be very serious violations:

a) Breach of the obligations referred to in section 13.1 of this Act, giving rise to the detection of the presence of a banned substance or of its metabolites or markers, in the physical samples of a sports person;

b) The utilisation, use or consumption of substances or methods banned or unauthorised in sport;

c) Resistance or refusal, without just cause, to submit oneself to doping controls, during and outside competition, when these are demanded or required by the competent bodies or persons; as well as obstructing, not attending, unduly delaying, hiding or other conduct that, by action or omission, impedes, disturbs or does not permit the requirements formulated by competent bodies or persons to be carried out in order to gather samples or to carry out actions in the procedures for controlling and curtailing doping;

- d) Repeated breach of the obligations referred to in section 13.3 of this Act and of the requirements regarding the locating and availability of sports people in order to carry out controls outside competition;
- e) Breach of the obligations regarding information on medical treatments and obtaining authorisations for therapeutic use referred to in section 13.4 of this Act, as well as breach of that provided for in section 37 of this Act;
- f) The alteration, falsification or manipulation of any element in the procedures for controlling and curtailing doping;
- g) The possession of substances or the use of methods that are banned or unauthorised in sport, when there is no authorisation for therapeutic or medical use for it to be administered or dispensed, or when the volume or quantity of the substance, instruments or methods is unjustifiably high or disproportionate to being administered or applied for medical or therapeutic ends;
- h) The administering, dispensing, offering, providing or supplying to sports people of substances or the use of methods that are unlawful or banned in sports practice;
- i) The promoting, encouraging, contributing, instigating or facilitating of conditions for the use of banned or unlawful substance or methods or any other activity that encourages sports people to use products or to behave in a way not permitted by the rules controlling doping or that are aimed at placing at the disposal of sports people substances or methods banned or unauthorised in sport;
- j) The collaboration or participation, by action or omission, in the putting into practice of unlawful methods or in any other behaviour that is in breach of the regulations against doping.

2. The following are considered to be serious violations:

- a) Breach of the obligations referred to in section 13.3 of this Act and breach of the requirements regarding the locating and availability of sports people in order to carry out controls outside competition, unless committed repeatedly, in which case they shall be considered as very serious violations;
- b) The conduct described in points a), b), e) and g) of the previous paragraph, when they affect, relate to or are concerned with substances or methods specified in the corresponding legal instrument as of less seriousness, unless committed repeatedly, in which case they shall be considered as very serious violations;
- c) The hiring, awarding, assignment or commissioning of the material performance of health activities to people or entities that lack a federative licence or equivalent authority or whose authority has been suspended when this requirement is required in order to carry out these activities, as well as the material performance of the aforementioned activities without having the federative licence or equivalent authority or when any authority that may have been granted has been suspended.

Section 15. Penalties for sports people.

- 1. For committing the very serious violations provided for in points a), b), c), d), e), f), g) and j) of the first paragraph of section 14, the penalty of

suspension or withdrawal of the federative licence shall be imposed, for a period of two to four years and, if applicable, a fine of 3,001 to 12,000 euros. When the aforementioned behaviour has been committed for a second time, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty, in accordance with that provided for in paragraph three of section 19 of this Act.

2. For committing the very serious violations provided for in points h) and i) of the first paragraph of section 14, the penalty of suspension or withdrawal of the federative licence shall be imposed for a period of four to six years and, if applicable, a fine of 3,001 to 12,000 euros. When a second violation is committed, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty, in accordance with that provided for in paragraph three of section 19 of this Act.

3. For committing the serious violations provided for in paragraph two of section 14 of this Act, the penalty of suspension or withdrawal of the federative licence shall be imposed for a period of three months to two years and, if applicable, a fine of 1,500 a 3,000 euros. When any of the aforementioned offences is committed for a second time, the conduct shall be classified as a very serious violation and shall result in the application of the penalty of suspension or withdrawal of the federative licence for a period of two to four years and, if applicable, a fine of 3,001 to 12,000 euros. Should a third violation be committed, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty, in accordance with that provided for in paragraph three of section 19 of this Act.

Section 16. Penalties for sports clubs and teams.

1. For committing the very serious violations provided for in paragraph one of section 14 of this Act, the penalty of a fine of 6,001 to 24,000 euros shall be imposed and, if applicable, loss of points or position in the classification or a reduction in category or division. When a minor is involved in the aforementioned conduct, or in the case of repeated infringement, the pecuniary penalty shall only be accessory in nature and shall be penalised with a fine of 24,001 to 50,000 euros.

2. For committing the serious violations contained in points a), b) and c) of the paragraph two of section 14 of this Act, the penalty of a fine of 1,500 to 6,000 euros shall be applied. When any of the aforementioned offences is committed for a second time, the conduct shall be classified as a very serious violation and shall result in the application of a penalty with a fine of 6,001 to 24,000 euros and, if applicable, loss of points or position in the classification or reduction in category or division. If a third violation is committed, the pecuniary penalty shall only be accessory in nature and shall be penalised with a fine of 24,001 to 50,000 euros.

Section 17. Penalties for technicians, judges, umpires and other people with sports licences, managers, directors or personnel of Spanish sports

federations, of professional leagues, of organisational entities for sports competitions of an official nature, sports clubs or teams.

1. For committing the very serious violations provided for in points b), c), d), e), f), g) and j) of paragraph one of section 14 of this Act, the penalty shall be imposed of temporary withdrawal of authorisation to fulfil sports positions or the withdrawal or suspension of the sports licence or equivalent authority for a period of two to four years and, if applicable, a fine of 3,001 to 12,000 euros. When a minor is involved in the aforementioned conduct, or when committed for a second time, the penalty shall consist of the withdrawal of authorisation to fulfil the sports position or the withdrawal or suspension of the sports licence or equivalent authority permanently and, if applicable, the corresponding pecuniary penalty in accordance with that provided for in paragraph three of section 19 of this Act.

2. For committing the very serious violations provided for in points h) and i) of paragraph one of section 14 of this Act, the penalty shall be imposed of withdrawal of authorisation to fulfil the sports positions or withdrawal or suspension of the sports licence or equivalent authority for a period of four to six years and, if applicable, a fine of 3,001 to 12,000 euros. When a minor is involved in the aforementioned conduct, or when committed for a second time, the penalty shall consist of the withdrawal of authorisation to fulfil the sports position or the withdrawal or suspension of the sports licence or equivalent authority permanently and, if applicable, the corresponding pecuniary penalty in accordance with that provided for in paragraph three of section 19 of this Act.

3. For committing the serious violations contained in points a), b) and c) of paragraph two of section 14, the penalty of the suspension or withdrawal of the federative licence shall be imposed for a period of three months to two years and, if applicable, a fine of 1,500 to 3,000 euros. When any of the offences mentioned above is committed for the second time, the conduct shall be classified as a very serious violation and shall result in the application of the penalty of withdrawal of authorisation to fulfil the sports position or withdrawal or suspension of the sports licence or equivalent authority for a period of two to four years and, if applicable, a fine of 3,001 to 12,000 euros. If a third violation is committed, the penalty shall consist of the withdrawal of authorisation to fulfil the sports position or withdrawal or suspension of the sports licence or equivalent authority permanently and, if applicable, the corresponding pecuniary penalty, in accordance with that provided for in paragraph three of section 19 of this Act.

4. Those individual persons or corporate bodies behaving in a way typified as a violation in this article, if they do not hold a federative licence or the equivalent authorisation but provide services or act on behalf of the Spanish sports federations, professional leagues or entities that organise sports competitions of an official nature by delegation of these, or those persons or entities that form part of these organisations, may not obtain a sports licence or equivalent authority, nor may they exercise the rights deriving from the sports licence for a period equivalent to the duration of the penalties of withdrawal of authorisation to fulfil sports positions, the withdrawal or suspension of the sports licence or equivalent authority.

This conduct shall be considered as violations of contractual good faith pursuant to section 54.2.d) of Legislative Royal Decree 1/1995, 24th March, approving the revised text of the Workers' Statute.

Spanish sports federations, professional leagues and entities that organise sports competitions of an official nature shall adapt their regulations to include these provisions, which shall be compatible with the civil liability applicable in each case and with the carrying out of an exhaustive enquiry in virtue of that provided for in section 13 of this Act and by the previous paragraphs in this provision.

Section 18. Penalties for doctors and other health personnel in clubs or teams.

1. Team doctors and other personnel that carry out health functions under a sports licence or equivalent authority and that commit any of the behaviour provided for in points c), e), f), g) and j) of paragraph one of section 14 of this Act shall be penalised by withdrawing or suspending their federative licence for a period of two to four years and an economic fine of 6,001 to 24,000 euros. When a minor is involved in the aforementioned conduct, or when committed for a second time, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty in accordance with that provided for in paragraph three of section 19 of this Act.

2. Team doctors and other personnel that carry out health functions under a sports licence or equivalent authority and that commit any of the behaviour provided for in points h) and i) of paragraph one of section 14 of this Act shall be penalised by withdrawing or suspending their federative licence for a period of four to six years and an economic fine of 3,001 to 12,000 euros. When a minor is involved in the aforementioned conduct, or when committed for a second time, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty in accordance with that provided for in paragraph three of section 19 of this Act.

3. Team doctors and other personnel that carry out health functions under a sports licence or equivalent authority and that commit any of the behaviour typified as serious violations according to paragraph two of section 14 shall be penalised by withdrawing or suspending their federative licence for a period of three months to two years and, if applicable, a fine of 1,500 to 3,000 euros. When any of the offences mentioned above has been committed for a second time, the conduct shall be classified as a very serious violation and shall result in the application of a penalty by suspending or withdrawing the federative licence for a period of two to four years and, if applicable, a fine of 3,001 to 12,000 euros. If a third offence is committed, the penalty shall consist of the permanent withdrawal of the federative licence and, if applicable, the corresponding pecuniary penalty in accordance with that provided for in paragraph three of section 19 of this Act.

4. When the personnel that carry out health functions behave in a way typified as a violation in this article, if they do not hold a federative licence or the equivalent authority but provide services or act on behalf of the Spanish

sports federations, professional leagues or entities that organise sports competitions of an official nature, or of those persons or entities that form part of these organisations, they may not obtain a sports licence or authority that authorises them to carry out health functions, nor may they exercise the rights deriving from the sports licence for a period equivalent to the duration of the penalties of withdrawal or suspension of the sports licence or equivalent authority.

This conduct shall be considered as violations of contractual good faith pursuant to section 54.2.d) of Legislative Royal Decree 1/1995, 24th March, approving the revised text of the Workers' Statute.

Spanish sports federations, professional leagues and entities that organise sports competitions of an official nature shall adapt their regulations to include these provisions, which shall be compatible with the civil liability applicable in each case and with the carrying out of an exhaustive enquiry in virtue of that provided for in this article.

5. Notwithstanding that provided for in the previous paragraph and of the liability that may be demanded due to the conduct typified in this article, the disciplinary bodies shall inform the corresponding professional colleges of the acts carried out by the personnel performing health functions pursuant to section 43 of this Act.

Section 19. Criteria for imposing penalties in the area of doping.

1. When a sports person commits, for the first time, one of the violations provided for in this rule, applying the principle of proportionality, the penalty established in the corresponding section shall be applied, taking into account the attendant circumstances.

In order to take into account the attendant circumstances and to categorise the penalty, in all cases the criteria established in the World Anti-Doping Code shall be used.

2. In addition, and notwithstanding that provided for in section 26 of this Act, the penalty shall be categorised bearing in mind the criterion of proportionality and the attendant circumstances in each case, specifically those regarding the existence of intention, awareness, degree of responsibility of his/her functions and nature of the injury caused, as well as other circumstances that may serve to modulate liability.

3. In the case of a second very serious violation, the penalty shall consist of the permanent withdrawal of the federative licence or equivalent authority, the permanent withdrawal of authorisation to fulfil federative positions or the permanent withdrawal of the federative licence and, if applicable, the imposition of the corresponding pecuniary penalty at its maximum amount.

Section 20. Imposing pecuniary penalties.

1. In the case of sports people, personal fines may only be imposed when these obtain income associated with the sports activity carried out.

2. In the case of non-payment, fines imposed by Spanish sports federations, by the Health and Doping Control and Supervision Committee,

and, if applicable, by the Spanish Sports Disciplinary Committee, shall be enforced according to the terms established in Royal Decree 939/2005, 29th July, approving the General Regulations of Debt Collection.

3. The fines collected through the procedure provided in the previous paragraph constitute a revenue of public law that are related to the fulfilment of research purposes, as specified in section 4, and shall allow the generation of the necessary credit for the Higher Sports Council to carry out this activity, materially performed in accordance with that established in this Act.

Section 21. Accessory consequences of violations and alteration of results.

1. In individual sports, the committing of the violations provided for in this article shall entail the withdrawal of prizes or medals, the annulment of individual results and the absolute disqualification of the sports person in the event or competition in question, in the championships of which this forms a part or to which the event or competition is connected.

Disciplinary bodies may extend these measures to events, competitions or championships that have been held subsequently, on adjacent dates or on dates coinciding with the taking of samples from the sports person or with the committing of the violation.

2. In team sports, and irrespective of the penalty that may correspond in virtue of that provided for in section 16 of this Act, the disciplinary bodies must deliver judgement on the appropriateness of altering, if applicable, the result of the meets, events, competitions or championships. To this end it shall take into account the attendant circumstances and, in all cases, the decisive role played in the result of the meet, event or competition by those who have committed the doping violations typified in this article and the involvement of minors in the aforementioned behaviour.

3. When it is possible given the nature of the violation, all penalties imposed shall entail the confiscation of the substances and instruments that have produced or are likely to produce doping in sport. Those substances and instruments that have been permanently confiscated by disciplinary order shall be allocated to the State Anti-Doping Agency until their final destination is determined by virtue of regulation, all this notwithstanding that provided for in section 40 of this Act on confiscation as a precautionary measure.

Section 22. Effectiveness of the penalties and loss of capacity to obtain a sports licence.

1. The imposition of penalties related to doping in sport constitutes results in the impossibility of obtaining a sports licence or exercising rights deriving from this in any location within the territory, under the terms provided for in section 32.4 of Act 10/1990, 15th October, on Sport.

2. When the penalty has been imposed by a body other than those established in this Act, sports people may ask the Spanish Sports Disciplinary Committee to declare the compatibility of the penalty imposed with the Spanish Legal System, with regard to the principles underlying the

public disciplinary power. The procedure to be followed in order to make this claim is established by regulation.

3. Those sports people who have been penalised in the area of doping must submit themselves to a prior control in order to obtain a new licence or to renew their sporting activity, notwithstanding that provided for in section 5.2 and 14.1.c) of this Act.

Section 23. *Ne bis in idem.*

Those facts that have been penalised criminally may not be punished again in those cases where the subject, facts and grounds can be identified.

The disciplinary body shall suspend the disciplinary procedure when there is evidence of a crime. In this case, the Public Prosecutor must be informed of the facts.

The disciplinary body shall also suspend the disciplinary procedure when, the triple identity concurring as mentioned above, it is informed that the same facts are being pursued via criminal channels, notwithstanding its subsequent resumption if appropriate.

Section 24. Grounds for annulling liability.

The grounds for the total or partial annulment, as applicable, of disciplinary liability are as follows:

a) Compliance with the penalty.

The rules of implementation of this Act and those that may be announced by the sports federations and entities may not involve any additional effect of any kind for the sports people that have complied with their penalty.

b) Limitations to violations.

The periods of time after which violations lapse are those established in the next section.

c) Collaboration in detecting, locating and placing at the disposal of the competent bodies those persons or organised groups that supply, provide or furnish the use of substances or the utilisation of methods banned in sport because they cause doping. In this case, annulment shall be partial.

The terms of annulment of this liability shall be determined in accordance with the criteria in section 19 and 26 of this Act.

Section 25. Limitations to violations and penalties.

1. Very serious violations shall lapse after three years and serious violations after two years. The penalties imposed for very serious violations shall lapse after three years and those imposed for serious violations after two years.

2. The period of time after which violations lapse shall commence as from the date on which the violation was committed.

The initiation, with the knowledge of the interested party, of a disciplinary procedure shall interrupt this limitation period, the limitation period being resumed should the disciplinary proceedings be paralysed for more than one month due to a cause not attributable to the presumed guilty party.

Notwithstanding the above, the interruption of the limitation period shall be

maintained in the case of suspending the disciplinary procedure for any of the reasons in section 23 of this Act, the calculation being resumed one month after the procedure may legally be restarted.

3. The period of time after which penalties lapse shall commence as from the date on which the decision by which the penalty is imposed becomes final.

The initiation, with the knowledge of the interested party, of an execution procedure shall interrupt this limitation period, the limitation period being resumed should the execution procedure be paralysed for more than one month due to a cause not attributable to the guilty party. The limitation period shall also be interrupted should a procedure be initiated that leads to the annulment of the penalty by means of collaboration, being resumed when, this dispensation having ended, one month has passed since its decision.

Section 26. Collaboration in detection.

1. The sports person may be exonerated partially from administrative liability and, if applicable, shall not be submitted to a disciplinary procedure if he/she provides information before the competent authorities on the authors or cooperators, individual or corporate bodies, or cooperates and collaborates with the competent Authority, providing essential data or testifying, if applicable, in the corresponding proceedings or hearing against these. In order to apply this provision, the statement and, if applicable, the accompanying evidence must have sufficient entity to allow disciplinary proceedings to be brought or, if applicable, to start a judicial hearing.

2. The exoneration provided for in the previous paragraph and the total or partial annulment of the liability referred to in point c) of section 24 of this Act, shall be provided under the terms of the statement and the collaboration, its effectiveness and legal value to fight against doping. The disciplinary body or the body that originally adopted the penalty, respectively, shall be authorised to evaluate the exoneration and total or partial annulment of the penalties. This may not be granted before the disciplinary proceedings have been brought or, if applicable, the start of the corresponding judicial hearing deriving from the statement and, in all cases, shall require a report from the Health and Doping Control and Supervision Committee, unless the latter is the competent body.

3. Taking into account the attendant circumstances in the case, particularly the absence of a previous record on the part of the sports person, the disciplinary body may, in the event of exoneration and partial annulment, suspend the execution of the penalty provided that this constitutes a first doping penalty. In adopting this measure, the criteria provided for in the previous paragraph shall apply. The agreed suspension shall be automatically revoked if the sports person is submitted to subsequent disciplinary proceedings due to a violation of this Act.

Article 2. On the procedure for imposing penalties in the area of doping in sport

Section 27. Authority in the area of disciplinary procedures to curtail doping in sport.

1. Disciplinary powers in the area of doping correspond to the Higher Sports Council and, by delegation and under the terms provided in this Act, to the Spanish sports federations.
2. Examining and deciding in disciplinary enquiries corresponds initially to the disciplinary bodies of the Spanish sports federations, as provided for in their Bye-Laws and Regulations.
3. Enquiries must be decided by the disciplinary bodies of the federations within a maximum period of two months, to be counted as from the due notification of the result by the laboratory to the disciplinary body. Should this period expire without the enquiry having been decided on, whatever the status of its procedures, this authority shall be assumed by the Health and Doping Control and Supervision Committee, which shall continue the corresponding procedures until completion and a decision is given. Notwithstanding the above, and due to attendant circumstances in a specific enquiry, the Health and Doping Control and Supervision Committee may extend, by a maximum of one month, the period referred to in the previous paragraph, provided that a specific request is made prior to the end of the period.
4. The examination and decision in disciplinary enquiries that, due to violation of the provisions of this Act, need to be carried out and that affect the managers of Spanish sports federations, professional leagues or, if applicable, entities with similar functions, shall correspond, in a single administrative hearing, to the Spanish Sports Disciplinary Committee. The procedure shall be conducted in accordance with the rules of Act 10/1990, 15th October, on Sport, and the rules implementing this. Notwithstanding that provided for in the second final provision of this Act, that provided for in section 28 and 29 of this Act shall not apply to the administrative procedure or review.

Section 28. Disciplinary procedure.

1. The procedure is initiated on the decision of the corresponding Spanish sports federation, as a consequence of the communication carried out, directly, by the acting doping control laboratory to the disciplinary body of the corresponding federation. Once this communication has been received, the disciplinary procedure shall be initiated immediately, and the analysis and other elements of the communication from the laboratory may not be known by any other federative body other than the disciplinary body. The laboratories shall adopt the necessary measures to ensure that this communication is carried out under conditions that allow the anonymity and secrecy of the sports person's identity to be maintained. Once the period of limitation has elapsed, provided in section 25.1 of this Act, or when a final decision has been passed in the corresponding disciplinary procedure or criminal action, the doping control laboratories may not keep samples connected to an identifiable person.

2. The disciplinary procedure is brought and heard *ex officio* in all its measures.
3. Notwithstanding the above, those facts may be brought before the Health and Doping Control and Supervision Committee that provide evidence of truth on the committing of presumed doping conduct or practices. Once the Committee has admitted the claim, it may order controls to be carried out on the sports people in question, as a prior measure to bringing the corresponding disciplinary enquiry.
The Health and Doping Control and Supervision Committee shall establish a procedure to keep secret the identity of the accuser with regard to all those taking part in the disciplinary procedures and in the actions prior thereto. Once the prior actions have been concluded that are pertinent in each case, the enquiry shall be passed on to the competent disciplinary body in order to file the disciplinary procedure.
4. Procedures in the area of doping shall be performed at the federative offices, in a single hearing, before the competent disciplinary body in the area of doping appointed in its Bye-Laws, without them being the object of any appeal therein, be it ordinary or discretionary. They shall be prioritised for processing, in order to comply with the periods of time established in this Act.
5. The penalties imposed by the competent disciplinary bodies are immediately enforceable unless the arbitration or jurisdictional body agrees that they should be suspended, with prior adoption of guarantees to ensure the effectiveness of the decision in the case of any possible dismissal.
6. The filing of the procedure and the decision given at the end thereof shall be communicated to the Health and Doping Control and Supervision Committee. When it is this body that must act as the disciplinary body, the filing of the procedure and the decision given at the end thereof must be communicated to the State Anti-Doping Agency.

Article 3. On the review of penalties in the area of doping in sport

Section 29. On the specific system of administrative review in the area of doping in sport.

1. The review, via administrative channels, of the decision given by the disciplinary bodies of the Spanish sports federations or by the Health and Doping Control and Supervision Committee, shall be carried out under a formula of arbitration before a special section of the Spanish Sports Disciplinary Committee. The period of time to request a review shall be fifteen days, counted as from the date following notification. Once this period has elapsed, the decision shall become final.
The arbitration body shall be presided over by a member of the Spanish Sports Disciplinary Committee and made up of two other members appointed, respectively, by the sports person in question and by agreement between the member of the Spanish Sports Disciplinary Committee and the interested party. In the event that no agreement is reached, and both conclude that this is impossible, the third member shall be the president of the aforementioned Committee.

All of them must be Law graduates.

2. When the application for review is made by the Health and Doping Control and Supervision Committee or by the State Anti-Doping Agency, the following rules shall be taken into account:

a) The presumed guilty party shall be involved in the procedure and shall be provided with the application for review so that, within a period of five days, he/she may formulate pleadings. Until this period of time has elapsed, whether the presumed guilty party has appeared or not, the calculation of the period of time for the decision shall not start.

b) The composition of the section shall be as follows: one member appointed by the presumed guilty party, another by the body requesting the review and the third, who shall act as president, shall be a member of the Spanish Sports Disciplinary Committee. If the presumed guilty party does not appear, that member shall be appointed, by common accord, among the party requesting the review and the member of the Spanish Sports Disciplinary Committee.

c) When the review has been requested by both the guilty party and any of these bodies, the previous composition shall be maintained and, for the purposes of the decision, these shall be accumulated into a single procedure.

3. Pursuant to section 107.2 of Act 30/1992, 26th November, on the Legal System for Public Authorities and Common Administrative Procedure, this specific review system has the condition of a mechanism that substitutes an administrative appeal.

The aim of the special administrative review, with a formula of arbitration, shall be to determine whether the decision given by the disciplinary bodies was according to Law or whether, under the terms determined by this Act, another decision should be given or the action should be dismissed. The decision may confirm the penalty, modify it, reduce it or revoke it, within the disciplinary terms established by this Act.

The organisation of the arbitration activity of the Spanish Sports Disciplinary Committee and the procedure to pass judgement on the cases shall be carried out, according to regulation, by prioritising the principle of immediacy. The principles established in Act 30/1992, 26th November, on the Legal System for Public Authorities and Common Administrative Procedure must also be respected. The maximum period to pass judgement and provide notification of the decision shall be one month.

Expenses for the arbitration procedure shall be met by the parties requesting the respective procedures and the common expenses shall be met equally by all parties appearing.

4. A decision by the Spanish Sports Disciplinary Committee in this area shall exhaust the administrative channel and only a judicial review may be brought against this.

The judicial review shall be processed in a single hearing and by means of the abbreviated procedure provided for in section 78 of Act 29/1998, 13th July.

CHAPTER IV

On relations with international sports federations

and with entities governing sports activity at an international level

Section 30. Doping controls to be carried out in international competitions held in Spain.

1. The responsibility for organising and carrying out doping controls in international competitions held in Spain corresponds to the International Olympic Committee or to international sports federations or institutions that organise them, respectively, or to those federations delegated with the aforementioned responsibility by the latter.
2. They are also responsible for exercising disciplinary powers, notwithstanding that provided for in section 22 of this Act, regarding the efficacy of penalties that may be imposed by them.
3. The effective performance of doping controls in these international competitions held in Spain shall depend, in accordance with that provided for in the Act 10/1990, 15th October, on Sport, on the authorisation granted by the Higher Sports Council.

Section 31. Doping controls outside competition on sports people with a foreign licence who are located in Spain.

The Health and Doping Control and Supervision Committee, as the State Anti-Doping Agency, may order, without detriment to autonomous powers, the carrying out of controls outside competition on foreign sports people located in Spain and using publicly owned training centres or facilities. For the appropriate purposes, the analytical results shall be communicated to the respective international sports federation and to the World Anti-Doping Agency.

Section 32. Doping controls outside competition carried out in Spain on sports people with a Spanish licence on the part of international organisations.

1. The carrying out of these controls requires that, previously, the State Anti-Doping Agency be notified of the proposal to carry these out and the material conditions of their performance. These doping controls may only be carried out if they comply with the requirements established in section 8 and concordant sections of this Act.
2. International sports organisations and the State Anti-Doping Agency may enter into conventions and collaboration agreements so that the latter may carry out, materially, the doping controls that the former require in Spain.

Section 33. Effects of the penalties imposed by international organisations on sports people and other persons with a Spanish licence.

The penalties imposed by international organisations to which the respective Spanish sports federations belong shall apply in Spain and shall lead to the suspension of the federative licence and the withdrawal of authorisation to

take part in the official competitions referred to in section 22 of this Act and section 32.4 of Act 10/1990, 15th October, on Sport, unless the Spanish Sports Disciplinary Committee declares the penalty as being contrary to the Spanish legal system.

CHAPTER V

On handling data regarding doping and health in sport

Article 1. On the confidentiality of data regarding doping and health protection in sport

Section 34. On the responsibilities of public employees.

1. The personnel fulfilling the functions of controlling doping must keep the matters they become aware of through their work confidential and secret.

2. The data, reports or records obtained in carrying out their functions may only be used for the purpose of controlling doping and, if applicable, to denounce the facts that may constitute an administrative violation or offence.

3. Irrespective of the responsibilities that apply, in accordance with specific legislation, in particular in the area of Protection of Data of a Personal Nature, violations in the custody and, if applicable, the dissemination of data regarding controls and procedures in the area of doping are considered to be very serious for the purposes of legislation on civil servants.

This conduct shall also be considered as a violation as provided for in point d) of section 54.2 of Legislative Royal Decree 1/1995, 24th March, approving the revised text of the Workers' Statute with regard to personnel at the service of Public Authorities.

4. The competent disciplinary bodies in the area of public function shall be responsible for determining these responsibilities.

Section 35. On the responsibilities of directors and personnel of sports entities.

1. The presidents and members of the disciplinary and sports bodies that take part or become aware, due to their position, of data regarding doping control must keep these data confidential and secret.

2. The data, reports or records obtained in carrying out their functions may only be used for the purpose of controlling doping and, if applicable, to denounce the facts that may constitute an administrative violation or offence.

3. Notwithstanding the responsibilities that apply, in accordance with specific legislation, the violations referred to in the previous paragraphs shall be considered as very serious among those provided for in section 76.2 of Act 10/1990, 15th October, on Sport.

4. Any violations that may be committed in this area shall be determined, on the request of the Presidency of the Higher Sports Council, by the Spanish Sports Disciplinary Committee.

Article 2. On the transfer of data regarding doping in sport

Section 36. Authorisation to transfer data.

Under the terms provided for in Public General Act 15/1999, 13th December, on the Protection of Data of a Personal Nature, the data and files regarding doping controls may be transferred to the public or private bodies in our country that are party to and participate in the fight against doping in the sporting area, within the framework of that established in legally binding international commitments entered into by Spain.

HEADING II

On the measures to control and supervise products, drugs and nutritional complements that contain substances banned in sports activity

CHAPTER I

On the control of products liable to produce doping in sports activity

Section 37. Obligation to declare those products that are liable to produce doping in sport.

1. Notwithstanding the powers corresponding to the Autonomous Communities, teams taking part in competitions that are held within the scope of application of this Act are obliged to maintain a log book, under the terms determined by regulation, in which the products are duly recorded that have been dispensed or prescribed to sports people, the doctors who have ordered or authorised this use and the period and manner of prescription.

2. When they enter Spain in order to take part in a sports activity or competition, foreign sports people, teams or sports groups and managers representing them must send to the State Anti-Doping Agency, duly filled out, the forms established by the latter identifying the products transported for their use, the units thereof and the doctors in charge of their administration. When the sports activity or competition is organised by autonomous sports federations, the Autonomous Community shall be responsible for this kind of obligation and its scope.

Section 38. Traceability of certain products.

The Health and Doping Control and Supervision Committee may ask the Spanish Drug and Health Product Agency, as well as the Spanish Food Safety Agency, to adopt the necessary measures in order to know, throughout the cycle of production, dispensation and sale, those products

liable to produce doping in the area of sport, considering their intrinsic circumstances and their potential affect on public health, that must be under particular supervision in order to facilitate the system of control provided for in this Act.

The measures of execution and control provided for in the previous paragraph shall be carried out by means of systems of cooperation between the Higher Sports Council and the competent bodies of the Autonomous Communities, allowing execution by the latter and the use of information by the respective Authorities.

Section 39. Powers of inspection.

Notwithstanding that provided for in paragraph six of section 8 of Act 29/1998, 13th July, Regulating Contentious-Administrative Jurisdiction, in those cases in which it applies, the State Security Forces and Corps, the State Health Inspection Services and also the bodies of the Autonomous Communities holding this authority, the Department of Customs and Special Duties of the Spanish Inland Revenue, by their own initiative or on the request of the State Anti-Doping Agency, may inspect the medical kits and other instruments that safeguard or house products and substances liable to result in a positive reading in a doping control.

For the purposes of exercising disciplinary powers on the part of the Authority, the type of substance, the number of units and the therapeutic justification shall be taken into account, as well as any other questions directly linked to professional performance.

The admissible content of medical kits and, specifically, those drugs and health products that are required in order to attend to contingencies deriving from any medical emergency, are established by means of regulation.

Section 40. Confiscation.

The substances and products liable to produce doping in sport or in sports activity and the instruments or devices used for this purpose may be confiscated by the administrative authorities starting the corresponding disciplinary procedures, as a precautionary measure within these procedures or prior to them. In the event of the latter, the examining body must ratify this measure in the course of processing the enquiry.

CHAPTER II

On the conditions for using products liable to produce doping in sports activity

Section 41. Sale and utilisation of nutritional products.

The Ministry of Health and Consumer Affairs shall establish, by common accord with the Higher Sports Council and in accordance with the Autonomous Communities based on their powers, specific mechanisms to

inform and publish the nutritional products that, although not drugs, may produce a positive result in doping in the area of sport.

Specifically, the Spanish administrative authorities shall establish the appropriate procedures to declare the nutritional products introduced in Spain that may cause doping in sport.

Section 42. Specific prohibitions to the sale, in stores dedicated to sports activities, of certain products that contain substances banned in sport as they are liable to produce doping.

1. In accordance with the legislation on the protection of citizen safety, the deposit, sale or distribution is prohibited, under any modality, in stores dedicated to sports activities, of those products that contain substances banned in sport as they are liable to produce doping, declared as such in accordance with this Act.

2. Equally, in accordance with legislation on the protection of citizen safety, it is prohibited to encourage the consumption of the products referred to the previous paragraph in the places referred to therein.

Section 43. Penalties on the participation of health professionals and any other persons in doping activities in sport.

Notwithstanding that provided for in section 18 of this Act for those with a sports licence, those health professionals and any other professionals that provide, collaborate, prescribe or dispense substances or products liable to produce doping in the area of sports activity, referred to by this Act, or that encourage the utilisation of methods banned or not authorised in sport, without complying with the formalities provided in the respective rules of action and those provided for in this Act, shall be liable to disciplinary action. The conduct described previously constitutes a very serious violation and shall be penalised in accordance with the respective regulations of their Professional Colleges.

HEADING III

On the criminal protection of public health in activities related to doping in sport

Section 44. A new section 361a is introduced in Public General Act 10/1995, 23rd November, on the Penal Code, with the following wording:

"Section 361a.

1. Those who, without therapeutic justification, prescribe, provide, dispense, supply, administer, offer or make available to federated non-competitive sports people, non-federated sports people who play recreational sport or sports people who take part in competitions organised in Spain by sports entities, banned substances or pharmacological groups, as well as

non-authorized methods, aimed at increasing their physical capacity or modifying the results of competitions, which, by their content, repetition of ingestion or other attendant circumstances, place the life or the health thereof in danger, shall be punished with prison sentences of six months to two years, a fine of six to eighteen months and special withdrawal of authorisation for public employment or position, profession or office, from two to five years.

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

1. When the victim is a minor. 2. When deceit or intimidation has been employed. 3. When the person responsible has taken advantage of a relationship of superiority in employment or professional terms."

HEADING IV

On the system of information in the area of health protection and against doping in sport

Section 45. System of information on health protection and against doping in sport.

1. Within the framework of the corresponding cooperative body, the Higher Sports Council and the Autonomous Communities shall create a system of information regarding health protection and against doping in the area of sport that ensures the availability of reciprocal information and communication between public authorities with powers in the area of sport and physical activity. The objectives and content of the information shall be agreed at the offices of this body.

The general objective of the information system shall be to meet the needs of different groups and shall have the following ends:

a) Sports authorities: the information shall promote the carrying out of initiatives and decision-making, providing them with up-to-date, comparative information on the evolution of the concerted action of public authorities and of the sports system in favour of sport free from doping.

b) Professionals: the information shall be aimed at improving their knowledge and clinical aptitude. It shall include directories, findings from studies, evaluations of drugs, health products and technologies, analysis of good practices, clinical guidelines, recommendations and shall gather suggestions.

c) Sports people, trainers, managers and sports clubs: it shall contain information on their rights and duties and the serious health risks involved in doping, it shall facilitate decision-making on lifestyles, health practices and the use of the health services, in addition to offering the possibility to make suggestions concerning the aforementioned aspects.

d) Spanish sports organisations and federations: it shall contain information on patient and family associations, on non-governmental organisations working in the health area and scientific companies in order to promote the participation of civil society in the National Health System.

2. The information system shall provide knowledge on those substances liable to produce doping and methods banned in sport, data from disciplinary enquiries brought and penalised, specifying the substances detected, analyses carried out in the different laboratories and shall include, as basic data, that regarding the sports population, human and material resources, activity carried out, pharmacy and health products, funding and results obtained, as well as the expectations and opinions of sports people, all this from a comprehensive perspective of the fight against doping in sport.

It shall also provided knowledge on the controls and other tests carried out within the scope of protecting the health of sports people.

3. Within the information system, and after having consulted with the Spanish Data Protection Agency, the definition and standardisation of data shall be established, as well as the selection of indicators and the technical requirements needed to integrate the information, in order to achieve maximum reliability of the information produced.

4. The information system shall be at the service of its users, who shall be the public sports and health authorities, sports and health managers and professionals, as well as citizens themselves, under the terms of access and dissemination agreed, with a prior report to the Spanish Data Protection Agency.

Access to data on the disciplinary proceedings brought and penalised, specifying the substances detected and the analyses carried out in the different laboratories, shall always be limited to the competent bodies with regard to these proceedings. Access by other organisations, persons or entities to these data must always be preceded by the disassociation of the data of a personal nature for those involved in the proceedings.

5. The Autonomous Communities, the State Administration and Local Corporations shall provide this information system with the necessary data for its to be maintained and developed. Similarly, the State Administration and the Autonomous Communities have the right to access and employ the data that form part of the information system and to the extent that is strictly required in order to exercise their powers.

6. The handling and transfer of data, including those of a personal nature, required for the information system shall abide by Public General Act 15/1999, 13th December, on the Protection of Data of a Personal Nature.

7. By means of regulations, mechanisms shall be established to provide the information to and direct contact with sports people.

Section 46. Communication network of the information system.

The Higher Sports Council, by the preferential use of common communication infrastructures and tele-services of public administrations, shall place a secure communication network at the disposal of users and of those that have to send information in order to facilitate and provide guarantees of protection for exchanging this information exclusively between those people who go to make up the network.

The transmission of information on this network shall be based on the requirements of electronic certification and encryption, in accordance with current legislation.

In all cases, those high level security measures established in current Spanish regulations on the Protection of Data of a Personal Nature shall be applied to the information system on the health protection and against doping in sport.

Section 47. Statistics for state purposes.

The information system provided for in section 45 of this Act may specifically allow for the creation of statistics for state purposes in the area of health protection and on doping in sport, and those deriving from commitments with international organisations. These statistics shall be carried out pursuant to Act 12/1989, 9th May, on Public Statistical Function.

Section 48. Information exchange.

Those doctors taking part in the health care of sports people may access the data contained in the system and data related to clinical information, individual health and controls carried out on their patients, under the terms strictly required to ensure the quality of this care and the confidentiality and integrity of the information.

So that sports people may receive the best health care possible at any centre or service of the National Health System, the Higher Sports Council and the Ministry of Health and Consumer Affairs, in accordance with Act 16/2003, 28th May, on Cohesion and Quality of the National Health System, shall coordinate with the information system of section 45 of this Act those mechanisms of electronic exchange for clinical and individual health information in order to allow access to the data both on the part of the interested party and the professionals involved in the health care, under the aforementioned terms in the previous paragraph.

The Higher Sports Council shall establish a procedure for the remote exchange of information that may be legally required in order for public authorities to exercise their powers.

The exchange of information referred to in the previous paragraphs shall be carried out in accordance with that provided for in Public General Act 15/1999, 13th December, on the Protection of Data of a Personal Nature, and, insofar as it relates to health data, by Act 41/2002, 24th November, on Patient Rights.

Section 49. Health Card of sports people with an officially approved state or autonomous community licence and of high level sports people.

1. The health card for a sports person is a public document, issued by the Higher Sports Council, to those who are specifically recognised as high level sports people, as well as to the rest of federated sports people, within the framework of specific agreements taken out for this purpose on the part of the Spanish sports federations.

The aim of the health card is for the sports person and the health personnel attending him/her to have the best clinical information possible at the time of deciding on the treatment to be applied for a complaint.

The health card shall contain information on medical check-ups, the health and doping controls carried out on the sports person since the corresponding federative licence was obtained, the result thereof and the medical aspects to be taken into account for the appropriate health care of the sports person. The scope of this obligation shall be determined by means of regulation, as well as the way in which the corresponding documentation should be transmitted.

It shall also include data regarding any authorisations for therapeutic use granted and any employment and/or sports sick leave taken by the sports person.

2. Notwithstanding that provided for in section 59.3 of Act 10/1990, 15th October, on Sport, the Health and Doping Control and Supervision Committee shall determine the obligation of carrying out medical check-ups prior to issuing the corresponding federative licence, in those sports where it is considered necessary for the better health prevention of its practitioners, as well as for carrying out periodic health controls on high level sports people.

3. The data contained in the health card may only be used by the sports people holding the card and, with their consent, by the health personnel attending them.

4. The data contained in the health card shall be provided by the health personnel attending them, the competent disciplinary bodies and the teams through which the corresponding licence has been taken out.

The Higher Sports Council shall establish and shall be responsible for maintaining, with the due guarantees of security, the digital support that enables the collection and exchange of data, as well as ensuring that their use is in accordance with the provisions of this Act.

5. The high level security measures established in current legislation on the protection of data of a personal nature shall be applied to the system that prepares and allows the use of health cards.

First additional provision. Protection, control and penalisation of doping in animals.

The Government shall draw up and send to the Spanish Parliament a draft bill to adapt the system of obligations and controls contained in this Act to animals taking part in competitions at a state level.

Notwithstanding the above, the Government is authorised to determine the provisions that are required in adapting or applying the provisions contained in this Act to the specific area of the protection, control and penalisation for the administration or use of banned substances and methods on animals taking part in sports activities and competitions.

Second additional provision. Doping controls in sports championships for young people and university students at a state level.

The Health and Doping Control and Supervision Committee may order doping controls to be carried out during the final phases of sports championships for young people and university students at a state level, in the manner determined by regulation. For legal purposes, and in order to carry out these controls, the deed of enrolment in the corresponding championships shall be considered as a sports licence.

Under the terms of this provision, the regulations of the aforementioned championships shall consider doping in sport, specifically, as a serious or very serious offence, in accordance with the same criteria established in this Act.

Third additional provision. Adaptation of the disciplinary system.

The Government has the authority to adapt the disciplinary system provided for in this Act, with regard to the amount of penalties and rules of application thereof, to the international commitments Spain has entered into in this area.

Fourth additional provision. Effective application of the administrative information system and of the health card for sports people.

The Higher Sports Council shall agree with the Autonomous Communities the schedule for the effective and coordinated implementation of the administrative information system and of the health card for sports people according to budget availability and the agreements that may be entered into in order to implement these initiatives.

Fifth additional provision. Carrying out health controls on professional sports people.

Independently of that provided for in section 8.2 of this Act, when companies carry out health controls on professional sports people, the regulations on the prevention of work-related hazards shall apply.

Sixth additional provision. Adaptation of the bye-laws and disciplinary rules of Professional Colleges.

In order to comply effectively with that provided for in section 43 of this Act, the Professional Colleges in question must amend their bye-laws and regulatory requirements in order to typify, specifically, the liabilities established in the aforementioned provision. This adaptation to bye-laws must be carried out within a maximum period of one year.

Seventh additional provision. Financing of anti-doping controls.

The public administration of the different Authorities shall establish a system to finance the anti-doping controls in sports activities as covered by this Act with the aim that these be carried out with the maximum technological and procedural guarantees.

Eighth additional provision. Delimitation of the concept of sports entities for the purposes of applying this Act.

Notwithstanding the direct application to the entities provided for in Heading III of Act 10/1990, 15th October, on Sport, this Act shall also apply to the rest of the entities that organise sports competitions and are registered with the Register of Sports Entities of the Higher Sports Council.

Ninth additional provision. Instruments for collaboration regarding the health card for sports people.

The State and the Autonomous Communities may establish, through the corresponding collaboration instruments, formulas in order to issue, acknowledge and carry out, jointly or reciprocally, the health card for sports people.

First transitional provision. Disciplinary procedures currently underway.

Those disciplinary procedures in the area of curtailing doping in sport that have already been initiated at the time of this Act coming into force shall be governed by the previous regulations. However, against an action that exhausts administrative channels, that established in the second final provision of this Act shall apply.

Second transitional provision. Completed procedures whose decision is not final.

Those disciplinary procedures concluded via administrative channels but whose decision is not final shall be governed by the contentious-administrative procedural rule that applies and that provided for in the second final provision shall not apply.

Third transitional provision. Transitional exercising of powers until the new bodies established in this Act are created.

The functions that this Act attributes to the Health and Doping Control and Supervision Committee shall be exercised by the National Anti-Doping Committee and the National Health Committee for Sports People respectively, until the effective creation of the former.

Single abrogative provision. Abrogated rules and principles.

One. The following principles of Act 10/1990, 15th October, on Sport are abrogated:

— Sections: 56, 57 and 58.

— Section: 76.1.d).

Two. Similarly, all the principles of the rules of equal or lower rank are abrogated that oppose that provided for in this Act.

First final provision. Amendment of Act 10/1990, 15th October, on Sport.

One. Paragraph 4 of section 32 of Act 10/1990, 15th October, on Sport is amended, whose wording shall be established in the following terms:

"4. In order to take part in official sports competitions, at a state level, it shall be necessary to possess a sports licence, issued by the corresponding Spanish sports federation, as per the conditions and requirements that shall be established by regulation. Licences issued by federations of an autonomous level shall provide authorisation for this participation when these federations are integrated within Spanish sports federations, are issued within the minimum conditions of an economic nature that are set by the latter and when the latter have been notified of their issue.

Those sports people who have been penalised for doping, both at a state and at an international level, while they are complying with the relevant penalty, shall not be authorised to obtain a sports licence to permit them to take part in the competitions referred to in the previous paragraph. This withdrawal of authorisation shall also impede the State from acknowledging or maintaining the condition of high level sports person. The Higher Sports Council and the Autonomous Communities shall agree the mechanisms to allow the effect of these decisions to be extended to their respective areas of authority, as well as to mutually recognise the withdrawals of authorisation to obtain sports licences that allow participation in official competitions.

Those sports people who attempt to obtain a state or official approved autonomous sports licence may be submitted, prior to the licence being granted, to a doping control in order to determine compliance with the requirements established in these regulations.

Similarly, those persons may not obtain a state or officially approved autonomous federative licence whose authorisation has been withdrawn as a consequence of the violations provided for in section 14 and 15 of the Public General Act on Health Protection and the Fight against Doping in Sport."

Two. An eighth paragraph is added to section 76 of Act 10/1990, 15th October, on Sport, which shall have the following wording:

"8. Those violations contained in the regulations on health protection and the fight against doping in sport, which shall be governed by their own specific legislation, shall be considered as very serious and serious violations in the area of doping in sport, notwithstanding the supplementary application, if applicable, of the provisions of this Act."

Second final provision. Amendments to Act 29/1998, 13th July, Regulating Jurisdiction for Suits under Administrative Law.

One. A point f) is added to section 9 of Act 29/1998, 13th July, Regulating Jurisdiction for Suits under Administrative Law.
Section 9.

The Central Courts for suits under Administrative Law shall hear the appeals arising from the administrative acts that are their object:

"f) In a single or first instance, on decisions that, via supervisory channels, are given by the Spanish Sports Disciplinary Committee in the area of sports discipline."

Two. A new wording is introduced in the first paragraph of section 78 of Act 29/1998, 13th July, Regulating Jurisdiction for Suits under Administrative Law.

Section 78.

"1. The Courts for suits under Administrative Law and, if applicable, the Central Courts for suits under Administrative Law of this Jurisdictional Order shall hear, by the abbreviated procedure, those matters within their authority arising due to questions of personnel at the service of public authorities, on foreign affairs and on the refusal of applications for political asylum, matters of sports discipline in the area of doping, as well as all those whose amount does not exceed 13,000 euros."

Third final provision. Amendment of Public General Act 1/1992, 21st February, on the Protection of Citizen Safety.

One. A point p) is added to section 23, with the following wording:

"p) The deposit, sale or distribution, under any modality, in stores dedicated to sports activities, of products that contain substances banned in sport because they are liable to produce doping, declared as such in accordance with their specific legislation."

Two. A point q) is added to section 23, with the following wording:

"q) Encouragement to consume, at stores dedicated to sports activities, products that contain substances banned in sport because they are liable to produce doping, declared as such in accordance with their specific legislation."

Three. Section 24 is worded in the following way:

"Section 24. Graduation.

The violations typified in paragraphs a), b), c), d), e), f), h), i), l), n), p), and q) of the previous section may be considered as very serious, taking into account the degree of risk produced or the injury caused, or when they represent an attack on public health, have altered the functioning of public services, collective transport or regularity of supplies or have been produced with violence or collective threats."

Fourth final provision. Authorisation of powers.

Notwithstanding the authority of the State to determine those principles regarding its own organisation and that related to the interests affecting state federated sport as a whole, this Act is passed under the aegis of section 149.1.16 of the Constitution, with the exception of the following principles:

- a) Section 44, pronounced under the aegis of section 149.1.6 of the Constitution.
- b) Section 47, pronounced under the aegis of section 149.1.31 of the Constitution.
- c) Section 43 and the sixth additional provision, pronounced under the aegis of section 149.1.18 of the Constitution.
- d) The second final provision, pronounced under the aegis of section 149.1.5 of the Constitution.
- e) Sections 39, 40, 42 and the third final provision, pronounced under the aegis of section 149.1.29 of the Constitution.

Fifth final provision. Nature of this Act.

This Act has the nature of a *Ley Orgánica* (Public General Act), with the exception of the following principles and provisions:

- sections 1 to 4, both inclusive;
- section 6, paragraphs 4 and 5, except points 1 to 3, which are organic in nature, section 7, section 8, except the first point, which is organic in nature;
- sections 9 to 35, both inclusive, except the first paragraph of section 12, which is organic in nature;
- sections 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48 and 49;
- the first, second, third, fourth, fifth, sixth, seventh, eighth and ninth additional provisions;
- the first, second and third transitional provisions;
- the abrogative provision;
- the first, second, third (except in paragraph three, which is organic), fourth, sixth, seventh and eighth final provisions.

Sixth final provision. Regulatory implementation and authorisation.

One. Within a period of three months as from the publication of this Act, the Government shall pass the Regulation to create and govern the functioning of the Health and Doping Control and Supervision Committee.

Two. Within a period of six months as from when it has come into force, the Government shall pass the regulatory implementation of this Act.

Three. The Government is authorised to pass, when applicable, those regulations deemed necessary in order to guarantee the efficacy of the provisions of this Act.

Seventh final provision. Adaptation of bye-laws and federative rules.

Pursuant to this Act and, particularly, to that provided for in section 14 thereof, Spanish sports federations shall proceed, within a maximum period of six months counted as from the time this Act comes into force, to adapt and amend their bye-laws and rules.

Eighth final provision. Commencement.

This Act shall come into force three months after it has been published in full in the Official Gazette of the Spanish State.

Therefore,
I order all the Spanish people, private persons and authorities, to keep and make respect this Public General Act.

Madrid, 21st November 2006.

KING JUAN CARLOS

The President of the Government,
JOSÉ LUIS RODRÍGUEZ ZAPATERO