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Act against doping in sport (Anti-Doping Act – AntiDopG)

Anti-Doping Act of 10 December 2015 (Federal Law Gazette I, p. 2210)

Section 1

Purpose of the act

This act serves to fight the use of doping substances and doping methods in sport in order to protect the health of athletes, ensure fairness and equal chances in sport competitions and thereby preserve the integrity of sport.

Section 2

Unlawful handling of doping substances, unlawful application of doping methods

(1) It shall be prohibited to

1. manufacture,
2. traffic in,
3. sell, dispense or otherwise place on the market without trafficking, or
4. prescribe

a doping substance which is or contains a substance listed in Annex I of the International Convention against Doping in Sport of 19 October 2005 (Federal Law Gazette 2007 II, p. 354, 355) in the version promulgated by the Federal Ministry of the Interior in part II of the Federal Law Gazette (International Convention against Doping) for the purpose of doping human beings in sport.

(2) It shall be prohibited to administer or apply to another person

1. a doping substance which is or contains a substance listed in Annex I of the International Convention against Doping, or
2. a doping method which is listed in Annex I of the International Convention against Doping for the purpose of doping in sport.

(3) It shall be prohibited to purchase, possess or carry to or through the territory governed by this act significant quantities of a doping substance which is or contains a substance listed in the annex to this act, for the purpose of doping in sport.

Section 3

Self-doping

(1) It shall be prohibited to

1. administer or have administered to oneself a doping substance which is or contains a substance listed in Annex I of the International Convention against Doping

unless this substance is prohibited only in certain sports according to Annex I of the International Convention against Doping, or

2. apply or have applied to oneself a doping method which is listed in Annex I of the International Convention against Doping, without medical justification and with the intention of gaining an advantage in a competition of organized sport. The prohibition under the first sentence shall not apply if the doping substance is used outside a competition of organized sport and if the doping substance is or contains a substance which is prohibited only in-competition pursuant to Annex I of the International Convention against Doping.

(2) It shall also be prohibited to participate in a competition of organized sport while using a doping substance pursuant to subsection 1, first sentence, no. 1 or a doping method pursuant to subsection 1, first sentence, no. 2 if such use is without medical justification and with the intention of gaining an advantage in the competition.

(3) Within the meaning of this provision, a competition of organized sport shall be any sporting event

1. organized by, on behalf of or with the approval of a national or international sport organization, and

2. which requires compliance with rules adopted by a national or international sport organization which are binding upon its member organizations.

(4) It shall be prohibited to purchase or possess a doping substance pursuant to subsection 1, first sentence, no. 1 with the aim of administering it or having it administered to oneself without medical justification in order to gain an advantage in a competition of organized sport. Subsection 1, second sentence, shall apply accordingly.

Section 4 Penal provisions

(1) Anyone who

1. contrary to Section 2 subsection 1, also in conjunction with a statutory instrument pursuant to Section 6 subsection 2, manufactures, trades in, or, without trafficking, sells, dispenses, otherwise places on the market or prescribes a doping substance;

2. contrary to Section 2 subsection 2, also in conjunction with a statutory instrument pursuant to Section 6 subsection 2, administers or applies a doping substance or a doping method to another person;

3. contrary to Section 2 subsection 3 in conjunction with a statutory instrument pursuant to Section 6 subsection 1, first sentence, no. 1, and also in conjunction with a statutory instrument pursuant to Section 6 subsection 1, first sentence, no. 2 or second sentence, purchases, possesses or transfers a doping substance;

4. contrary to Section 3 subsection 1, first sentence, administers or applies or has administered or applied a doping substance or a doping method to oneself; or

5. contrary to Section 3 subsection 2 participates in a competition of organized sport

shall be punishable with up to three years' imprisonment or a fine.

(2) Anyone who contrary to Section 3 subsection 4 purchases or possesses a doping substance shall be punishable with up to two years' imprisonment or a fine.

(3) An attempt shall be punishable in the cases covered by subsection 1.

(4) Anyone who

1. through an action referred to in subsection 1 no. 1, 2 or 3

- a) endangers the health of a large number of persons;
 - b) exposes another person to the risk of death or the risk of serious injury to that person's body or health; or
 - c) acquires a considerable pecuniary gain for himself/herself or another person out of gross self-interest; or
2. in the cases covered by subsection 1 no. 1 or no. 2
- a) sells or dispenses a doping substance to a person under the age of 18, prescribes it to such a person or administers or applies a doping substance or a doping method to such a person; or
 - b) acts commercially or as a member of a gang which has come together for the recurring commission of such acts

shall be punishable with one to ten years' imprisonment.

(5) In less serious cases covered by subsection 4 the penalty shall be imprisonment for a period of three months to five years.

(6) If the perpetrator acts negligently in the cases covered by subsection 1 no. 1, 2 or 3 the penalty shall be imprisonment for a period of not more than one year or a fine.

(7) Pursuant to subsection 1 no. 4, 5 and subsection 2, punishment shall be applicable only to anyone who

1. is a top-level athlete of organized sport; is considered a top-level athlete of organized sport within the meaning of this act; who is subject to out-of-competition testing as a member of a testing pool in the framework of the doping control system; or
2. directly or indirectly generates significant revenue from the sporting activity.

(8) Pursuant to subsection 2, anyone who voluntarily cedes control over the doping substance before administering it or having it administered shall not be punishable.

Section 5

Extended forfeiture and confiscation

(1) Section 73d of the Criminal Code shall be applicable in the cases covered by Section 4 subsection 4 no. 2 letter b.

(2) Objects related to an offence pursuant to Section 4 may be confiscated. Section 74a of the Criminal Code shall apply.

Section 6

Authorization to issue statutory instruments

(1) The Federal Ministry of Health is hereby authorized, by means of statutory instruments, subject to the approval of the Bundesrat, in agreement with the Federal Ministry of the Interior, and after hearing experts

1. to determine the significant quantity of the substances listed in the annex to this act;
2. to include in the annex to this act additional substances which can be used for doping purposes in sport and the use of which without a therapeutic purpose is dangerous.

By statutory instrument pursuant to the first sentence, substances may be deleted from the annex to this act if the prerequisites contained in the first sentence, no. 2 no longer exist.

(2) The Federal Ministry of Health is hereby authorized to specify, in agreement with the Federal Ministry of the Interior, by statutory instrument subject to the approval of the Bundesrat, additional substances to which Section 2 subsection 1 and 2 applies, where this

is deemed necessary in order to prevent doping in sport from posing a direct or indirect hazard to human health.

Section 7 Information requirements

(1) The package leaflet and expert information on medicinal products which are or contain substances listed in Annex I of the International Convention against Doping shall include the following warning: "The use of the medicinal product [insert name of the medicinal product] can lead to positive results in the event of a doping test." If the misuse of the medicinal product for the purpose of doping in sport can endanger health, this shall also be indicated. The first and second sentences shall not apply to medicinal products which have been manufactured using a homeopathic manufacturing procedure.

(2) If a substance or group of substances is included in Annex I of the International Convention against Doping, medicinal products which are approved on the date of promulgation of the amended Annex I in part II of the Federal Law Gazette and which contain one of these substances may be placed on the market even without the information to be included in the package leaflet and expert information of pharmaceutical companies pursuant to subsection 1 until the next renewal of the approval, but no longer than one year from promulgation of the amended Annex I in part II of the Federal Law Gazette.

Section 8 Information-sharing

(1) Courts and public prosecutor's offices may, *ex officio*, transmit personal data from criminal proceedings to the Foundation National Anti-Doping Agency Germany if the transmitting body considers it necessary to take disciplinary measures in the framework of the doping control system, unless the data subject has a legitimate interest in not having the data transmitted.

(2) Section 477 subsection 1, 2 and 5 and Section 478 subsection 1 and 2 of the Code of Criminal Procedure shall apply accordingly. The body transmitting the data shall bear the responsibility for the lawfulness of the transmission.

Section 9 Personal data

The Foundation National Anti-Doping Agency Germany shall be entitled to collect, process and use the following personal data, as needed to apply the doping control system:

1. First name and family name of the athlete;
2. Sex of the athlete;
3. Date of birth of the athlete;
4. Nationality of the athlete;
5. Sport and sports federation of the athlete, including his/her performance squad;
6. Training centre or training group of the athlete;
7. First name and family name of athlete support personnel;
8. Violations under the doping control system; and
9. Whereabouts information if the athlete is in the pool of athletes subject to out-of-competition testing, as determined by the Foundation National Anti-Doping Agency Germany.

Section 10 Health data

(1) The Foundation National Anti-Doping Agency Germany shall be entitled to collect, process and use the following personal data in the framework of the doping control system, as needed to apply its doping control system:

1. Blood and urine parameters as well as parameters measured in other body fluids and tissues which are required to detect the use of prohibited doping substances or doping methods;
2. Data required to grant a therapeutic use exemption for authorized use of prohibited doping substances or doping methods.

The analysis of doping substances shall be carried out by laboratories accredited or approved by the World Anti-Doping Agency.

(2) The Foundation National Anti-Doping Agency Germany shall be entitled to transmit the results of doping tests and disciplinary proceedings as well as a therapeutic use exemption pursuant to subsection 1, first sentence, no. 2 to another national anti-doping organization, an international federation, an international event organization and the World Anti-Doping Agency, if they are responsible for anti-doping work under the doping control system of the Foundation National Anti-Doping Agency Germany and the World Anti-Doping Agency and if such transmission is required to apply this doping control system. Health data provided to the Foundation National Anti-Doping Agency Germany with an application for a therapeutic use exemption for authorized use of prohibited doping substances or doping methods may be transmitted to the World Anti-Doping Agency only upon special application of the World Anti-Doping Agency.

Section 11 Arbitration

As a prerequisite for participating in organized sport, sports federations and athletes may conclude arbitration agreements on settling legal disputes arising from such participation if the arbitration agreements integrate sports federations and athletes into national and international sports organizations and if they facilitate, promote or ensure participation in organized sport overall. This is in particular the case if the arbitration agreements are intended to implement the provisions of the World Anti-Doping Code of the World Anti-Doping Agency.

Section 12

Pooling jurisdiction in doping matters; authorization to issue statutory instruments

The governments of Germany's federal states shall be authorized to issue statutory instruments assigning some or all of the criminal proceedings pursuant to Section 4 to one local or regional court selected from the jurisdictions of several local or regional courts if this helps deliver more informed and expeditious rulings. The governments of the federal states may delegate the authorization under the first sentence by statutory order to the state judiciary.