

## **Legal Interpretation of the Article 88 par. 2 of the Sports Act**

According to the Article 88 par. 2 of the Act No. 440/2015 on sport and on the amendment of certain acts ("Sports Act"). **"Doping is prohibited in competition or out of competition in relation to participation of an athlete in a competition"**.

According to the Article 3 letter g) of the Sports Act the term „competition“ means **"organized performance of sports** under the rules set out by the sports organization the aim of which is to achieve a sports result or compare sports performance."

According to the Article 4 par. 1 of the Sports Act **"An athlete performs sports as a professional athlete, an amateur athlete or as an unorganized athlete."**

According to the Article 4 par. 2 of the Sports Act **"A professional athlete and amateur athlete performs sports in sports organization in which he/she is registered in its source records."**

Based on the above, it can be stated that according to the Sports Act the prohibition of doping is referred to the **participation of an athlete in a competition, respectively the prohibition of doping is in force also for athlete outside the competition, if athlete prepares for a particular competition**. At the same time, it consequently arises from the above that professional athletes and amateur athletes perform sports within sports organizations.

In implementing Article 88 par. 2 letter a) of the Sports Act, the Anti-Doping Agency of the Slovak Republic supervises compliance with the anti-doping rules within all sports organizations and under its scope of supervision are inter alia all **professional athletes and amateur athletes**.

The main goal of professional athletes and amateur athletes is to perform sports primarily through participation **in competitions and through preparation for competitions. This means that the ban on doping according to § 88 par. 2 of the Sports Act and the anti-doping rules always apply in practice to professional athletes and amateur athletes**.

According to Article 88 par. 2 of the Sports Act, the anti-doping rules are applicable not only to the athletes, but also to their entourage and other natural persons. In the same vein, the definition of doping under Article 88 par. 1 of the Sports Act is not limited to the actions committed by an athlete. The actions which fall under Article 88 part. 1 letters e), g), h), i), j) and k) of the Sports Act may also be committed by any other person, and the action under Article 88 part. 1 letter f) of the Sports Act may be also committed by an athlete or athlete support personnel.

Therefore Article 88 par. 2 of the Sports Act prohibits doping not only for the athletes, but also for the athlete support personnel and other persons – with the exact liability scope specified under Article 88 par. 1 of the Sports Act and the anti-doping rules.

Notwithstanding whether the actual violation has been committed by an athlete, an athlete support person or any other person, it is always ultimately related to an athlete's participation in or preparation for participation in a competition. It stems from one of the purposes of the World Anti-Doping Code and the World Anti-Doping Program, i.e. to protect the athletes' fundamental right to participate

pate in doping-free sport. Therefore Article 88 par. 2 of the Sports Act is not intended to limit the scope of anti-doping rules in any way.

According to § 8 par. 6 letter a) of Sports Act all sports organisations are obliged to “ *ensure within its competence compliance with the rules of the World Anti-Doping Programme.*”. It means that besides the SADA each sports organisation, in which professional and amateur athletes perform sports, also consistently ensures compliance with the anti-doping rules.

Unorganized athletes perform sports only for recreation and do not participate in competitions. Based on the above, it also arises out from the declared purpose of the Anti-Doping Rules 2021 introductory part, subchapter "Fundamental Rationale for the Code and SADA's Anti-Doping Rules", third paragraph.

