ANSWERS OF HUNGARY

to the

Questionnaire for the 2nd thematic monitoring round of the MEDICRIME Convention

Phase 1

Questions 1 and 2

There are three main pieces of legislation regulating this area in terms of criminal law:

- Act XC of 2017 on the Code of Criminal Procedure (hereinafter: CCP)
- Act CCXL of 2013 on the Execution of Punishments, Measures, Certain Coercive Measures, and Confinement for Infractions (hereinafter: CoC)
- Joint Decree 11/2003. (V. 8.) of the Ministry of Justice, the Ministry of Interior, and the Ministry of Finance on the rules for the handling, registration, preliminary sale, and destruction of seized items during seizure and criminal proceedings, as well as the enforcement of confiscation (hereinafter: Joint Decree)

There is no difference in the treatment of the medical products, active substances, excipients, accessories to a medical device, or parts and materials constructed and designated to be used for medical devices, however, Section 78-86 of the Joint Decree contains special rules on the transportation, storage and guarding of illegal drugs. Otherwise, Section 7 of the Joint Decree provides for the safe handling, gathering and storage (packaging) of evidence in general (i.e. including medicines, medical products and other related objects or substances). In terms of criminal law rules, there are also no specific personal and other safety measures; we only have general rules on packaging and safety. Therefore, **the short and general answer to Q1 and Q2 is *yes***.

The detailed answer can be found in Section 7 of the Joint Decree as follows:
(Please bear in mind that the official language of the pieces of legislation cited in this document is Hungarian; the translations provided here are only courtesy translations for the purpose of better understanding.)

> *"Packaging of Evidence*
> *Section 7*
> *1. The authorities shall package and preserve evidence at the time of seizure, creation, receipt, or deposit –if its nature allows – in such a way that its contents remain hidden from unauthorized persons. If necessary for evidentiary purposes, the authorities shall package the pieces of evidence separately.*
> *2.* ***The authorities shall use packaging materials or containers appropriate to the nature of the evidence to protect it from damage and to prevent it from causing poisoning, infection, environmental pollution, or harm.*** *The package or storage container must be sealed in a manner that prevents access to the evidence without damaging the packaging or seal.*
> *3. The authorities shall affix an evidence label containing a unique evidence number or barcode (hereinafter: "evidence identification mark") to any piece of evidence or evidence-related item that needs to be individually distinguished for evidentiary or identification purposes, or if packaging is impractical, disproportionately difficult, or otherwise unnecessary.*
> *4. The authorities shall record the evidence identification mark on the package or, in cases specified in paragraph (3), on the evidence label. Additionally, they shall note the package contents, the name of the evidence, the location and time of seizure, and the name and case number of the investigating authority. This record must be signed by a representative of the authority.*
> *4a. If multiple evidence-related items are classified as a single piece of evidence, the same evidence identification mark may be applied to all of them. In such cases, uniform handling of the evidence must be ensured, and the evidence identification mark must be indicated on the packaging of each item or on the items themselves.*

4b. If the packaging of the evidence is damaged or opened, it must be repackaged following the provisions of paragraph (2).
4c. If the packaging of the evidence is damaged or opened, the authorities or the evidence custodian must record this in a report. If any person other than the authorities or evidence custodian participates in opening the evidence packaging, a formal report must be prepared.
4d. If the evidence packaging is opened during a procedural action, the opening must be documented in the procedural record or in a separate report.
5. The authorities shall handle the evidence in a manner that prevents its condition from deteriorating beyond its natural rate. If necessary, an economic operator may be entrusted with expert handling.
5a. If handling the seized item requires specialized knowledge and it cannot be kept in the custody of the concerned party, or it cannot be returned to them, the party must inform the evidence custodian. The concerned party is obliged to cooperate with the authorities on matters related to handling items that require specialized knowledge.
6. A damaged package containing evidence may only be received in the presence of an unrelated adult (hereinafter: "uninterested party"). In such cases, the evidence custodian must immediately verify whether the contents of the damaged package match the previously recorded data in the central evidence registry system. Upon opening the damaged package, a report must be prepared, documenting any observed discrepancies in quantity or quality, as well as any other factors affecting usage or identification. The report must be authenticated by the evidence custodian, the delivery person, and the uninterested party. The uninterested party may request confidential handling of their personal data.
7. Any deficiencies in the evidence records or changes observed during packaging must be documented in the central evidence registry system.
8. If the evidence is left in the custody of the concerned party or transferred to certain agencies for safekeeping and management, packaging and labelling may be omitted in exceptional cases where it is not feasible due to the condition of the evidence."

Furthermore, Section 9 of the Joint Decree contains rules on the specificities of evidence storage rooms (paragraph 1), and on the obligations of the evidence custodian (paragraph 2):

"(1) The evidence deposited for safekeeping shall be stored by the evidence custodian in a fireproof, dry room equipped with a security lock (evidence storage room).
(2) During the custody of the evidence, the evidence custodian shall ensure that the evidence remains unchanged (undamaged), that any possible trace of the crime does not disappear, that it cannot be exchanged, and that its identity can be easily verified."

It also has to be pointed out that the safe handling of evidence by the expert personnel of the authorities is not a matter of criminal procedural law, therefore it is not provided for in the CCP or the Joint Decree. These safety rules can typically be found in administrative legislation or in intrainstitutional rules. For these reasons, the Joint Decree only assigns the duties of handling the evidence to the appropriate professionals who are well aware of their professional obligations and the administrative and practical rules governing the safe handling of these substances. This is why there is no need for special rules on evidence-handling in the CCP or in the Joint Decree.

In addition to the provisions of the Joint Decree, the pharmaceutical authority responsible for acting in cases of counterfeit medicinal products – the National Centre for Public Health and Pharmacy (hereinafter: NCPHP) – shall proceed in the manner described below with regard to seized and confiscated products (hereinafter: products) received from fellow authorities.

According to Section 17 (1) of Act XCV of 2005 on Medicinal Products for Human Use and on Amendments to Other Acts Regulating the Pharmaceutical Market,

"The holder of the marketing authorisation, the pharmacist involved in the wholesale trade of medicinal products, the supply of medicinal products to the public, the activity referred to in Section 13 (1) or the business distributing medicinal products outside the pharmacy, and the doctor administering the medicinal product shall be obliged to report any suspected quality

defect relating to the medicinal product or the manufacturing batch of the medicinal product, as well as any information relating to a suspected counterfeit medicinal product, to the pharmaceutical state administrative body immediately after becoming aware of it."

Information on counterfeit medicinal products may also be received in connection with customs and police investigations, internationally via rapid alert, and during consumer reporting.
The product related to the case may also be received during these reporting.

If the investigating authority appoints the NCPHP as an expert during the procedure, a seized product may also arrive in connection with this appointment. After receipt of the expert appointment, it is examined whether the preparation in question falls within the competence of the NCPHP. If the NCPHP is the competent authority, a preliminary assessment is required. During the period of the preliminary assessment, the products received and subject to expert examination must be stored in a separate, closed place, ensuring that they are stored at the appropriate temperature.

If analytical laboratory tests are necessary to prepare the expert opinion, the Pharmaceutical Chemistry and Technology Laboratory of NCPHP conducts the test by internal transfer of the sample, the results of which must be evaluated after the sample is returned and the relevant expert opinion must be prepared together with other additions.

The received and seized products at NCPHP are handled by specialists in drug counterfeiting and laboratory experts, who, with the appropriate professional knowledge and in compliance with relevant legal environment, safely apply the practical and administrative rules (this activity is covered by the standard operating procedure
"Regulation of test samples" (NNGYK-LMI-SOP-OMCL-20-20, hereinafter: Testing SOP).

The Testing SOP provides for the procedural rules of testing samples of medicine at the Laboratory of Medicinal Chemistry and Technology of the Pharmaceutical Laboratory Department of NCPHP (*Testing SOP Chapter 2*).

Test samples are submitted together with their documentation to the Secretariat of the Laboratory. The secretariat staff acts in accordance with the relevant rules on document handling and assigns a registration number to the sample. After registration:

- Non-refrigerated samples are handled on the day of receipt and registration,
- Refrigerated samples are handled immediately after registration

by the staff designated for sample storage in the Laboratory.
The designated person or their deputy signs the handover document in the Laboratory's record system, logs the sample, and ensures appropriate placement.
Reference substances, active ingredients, and their analytical certificates are forwarded to the designated person (or deputy) responsible for reference material storage and tracking, who acts in accordance with the relevant quality management procedure (NNGYK-LMI-SOP-OMCL-19). (*Testing SOP Chapter 3.2: Receipt of Samples*)

The designated staff member or their deputy registers incoming samples using a specific form, in accordance with the relevant quality management procedure (NNGYK-LMI-SOP-OMCL-02). Samples stored in a refrigerator must also be included in the electronic record system. (*Testing SOP Chapter 3.3: Record Keeping*)

Samples are stored according to their specified storage conditions. Forensic evidence, narcotics, psychotropic substances, and toxic or potent substances are securely locked and accessible only to persons designated by management. Forensic evidence is handled according to the Joint Decree. Narcotics and psychotropic substances are handled according to the relevant quality management procedure (NNGYK-LMI-SOP-OMCL-41).
Proper storage during testing is the responsibility of the assigned analyst, who must follow the specified storage instructions during the testing period.

The analyst requests the test sample from the staff responsible for sample records, who logs the handover and tracks the sample's movement on a specified form.
After testing, the sample must be returned to the responsible staff, who logs the return and ensures proper storage. (*Testing SOP Chapter 3.4: Storage*)

At the end of each test, if possible, a sufficient quantity of the sample must be retained for repeat testing, and archived. If applicable, retained samples should be stored in unopened primary packaging. Storage depends on instructions and is done in storage cabinets or refrigerators within the Laboratory. The analyst preparing the test report is responsible for sample selection, and staff designated by the Laboratory Head are responsible for sample storage. (*Testing SOP Chapter 3.6: Retained Sample*)

The Laboratory management decides on sample disposal. Samples must generally be retained for at least 5 years from the date of receipt, regardless of expiry. Retained samples should be kept for at least 10 years to allow for legal remedies. Exceptions include already examined custom-made preparations, which in justified cases (e.g., out-of-spec results) are stored until their expiry in the designated refrigerators or room. Forensic evidence must be retained until returned to the investigating or other authority. (*Testing SOP Chapter 3.7: Sample Archiving*)

Samples are disposed of following hazardous waste regulations. The disposal process is initiated by the Head of the Laboratory Department at NCPHP's Supply Department, which arranges for the removal of hazardous waste. Discarded samples are stored separately until removal in the designated warehouse. **Forensic evidence should not be destroyed under the Testing SOP. (***Testing SOP Chapter 3.8: Disposal***)**

Forensic evidence, excluding any used during testing or kept as retained samples, must be returned to the investigating or other authority that ordered the expert examination, with proper documentation of the handover. (*Testing SOP Chapter 3.9: Return of Forensic Evidence*)

Question 3

As far as the final disposal of seized evidence – including medicine or medical products – is concerned, the main rule is confiscation, which can only be ordered by a judge. This order transfers the ownership to the state, and the final disposal – which is destruction in the case of medicine or medical products outside the supply chain – is managed by a state authority. The owner of confiscated property is the state, therefore the consent of the owner to the final disposal is evident in this case.
It is worth noting that confiscation can even be of preliminary nature in the course of a criminal proceeding, according to Section 320(4)-(5) CCP:

> *"(4) If possessing a seized thing is in breach of the law or threatens public safety, the court shall decide, before the indictment only upon a motion by the prosecution service and if the conditions under paragraph (5) are met, to confiscate it in place of lifting its seizure."*
>
> *"(5) If a seized thing is confiscated or destroyed and it is necessary for the taking of evidence, a sample of the seized thing shall be retained, or an image or audio-visual recording of the thing shall be made, that is suitable for proving the relevant features of the thing concerned beyond a reasonable doubt at a subsequent stage of the proceeding."*

Chapter XXIII of the CoC provides for the enforcement of confiscation. Section 318 contains the general rules while the provisions on the sale and destruction of confiscated objects can be found in Section 321:

> *"Section 318*

(1) Confiscation shall be carried out, based on the notification of the court or a decision bearing a finality clause and meeting the requirements set out in Section 34/A, by:
a) the finance office of the regional court,
b) the National Tax and Customs Administration in the case of an item seized in criminal proceedings within its jurisdiction,
c) the state tax and customs authority in the case of real estate.
(2) In the case of confiscation of real estate, the rules for the enforcement of forfeiture of assets shall apply.
(3) If the person with a proprietary interest asserts a claim of ownership through other legal means within sixty days after the decision becomes final, the enforcement of the confiscation shall be postponed until the decision of the civil court becomes final.
(4) If the confiscated item is suitable for public interest use under a separate legal provision, the Charitable Council authorized to initiate such use must be contacted for a decision. Enforcement of the confiscation may not begin until the decision of the Charitable Council is received.
(4a) If the subject of the confiscation is a functioning, operable vehicle, the authority referred to in points (a) and (b) of paragraph (1) shall, within five days of receiving the decision, call on the investigating authority last conducting the investigation before the confiscation to state, within fifteen days from the delivery of said call for statement, whether the vehicle is needed for law enforcement purposes. If the investigating authority declares that the vehicle is needed for such purposes, ownership rights and obligations regarding the vehicle shall be transferred to the budgetary body performing the law enforcement task indicated in the declaration, from the date the declaration is delivered to the executing authority. If no statement is made within fifteen days or the authority declares that the vehicle is not needed for such purposes, then paragraph (4) or, if the conditions therein are met, Section 321 shall apply.
(4b) The investigating authority may also make the declaration referred to in paragraph (4a) in advance, before the call for statement is made, stating that if the vehicle is confiscated, it would be needed for law enforcement purposes. In this case, the ownership rights and obligations concerning the vehicle shall be transferred to the budgetary body specified in the declaration from the day following the finalization of the confiscation order.
(4c) In the cases defined in paragraphs (4a) or (4b), the budgetary body performing the law enforcement task shall bear all costs related to the vehicle from the time it acquires the rights of ownership, including transportation costs.
(5) A separate legal regulation shall govern the detailed rules for enforcement of confiscation and the special rules for enforcing confiscation of special items."

"Section 321
(1) As a general rule, the confiscated item must be sold. The sale may take place either through an economic operator or sole proprietor authorized to conduct commercial activity, or via an auction held by the state tax and customs authority.
(2) The confiscated item may be destroyed if:
a) it is unsuitable for sale, or
b) efforts to sell it have been unsuccessful.
(3) The confiscated item must be destroyed if its distribution:
a) would infringe any intellectual property rights,
b) would violate or endanger public order, public health, the environment, or public morals, or
c) is prohibited by law.
(4) A report must be drawn up documenting the destruction.
(5) If the confiscated item has not become the property of the Hungarian state due to an international treaty or a legal provision, the procedure must follow the relevant international treaty or separate legal regulation."

Also, there are the following, exceptional rules and processes permitting final disposal of evidence without the consent of the owner, and in the absence of a court-ordered confiscation.

When a seized object is not claimed by anyone and it is deemed worthless, it can be destroyed without confiscation – i.e. a court order – according to Section 320(2) CCP:

> *"(2) With the exception of live vertebrate animals, if a seized thing does not have any value and it is not claimed by any person, it shall be destroyed after the seizure is lifted."*

In this case, there is neither court order, nor consent from the owner, but the lack of consent is the result of the owner not being known or the fact that the owner relinquished the property in question. The point of this provision is to get rid of worthless objects that are of interest to no-one, and not to take away the property from people against their will. The main philosophy remains: On the other hand, medicines and medical devices – falsified or not – are rarely without any value, therefore this provision will typically not be applied in our case.
In this case, the destruction of the evidence is not against the will of the owner, it is rather in the absence of it.

Also, when an unseized piece of evidence is unsuitable for evidentiary purposes, the authorities may decide on its destruction without issuing a formal decision [Joint Decree Section 50(1a)]. Similarly to the case above, there is also no real restriction of ownership rights here because these objects belong to the authorities according to Section 1(1b) of the Joint Decree:

> (1b) Unseized piece evidence is a piece of physical evidence that was created by:
>
> a) the court, the prosecutor's office, or the investigative authority (hereinafter collectively referred to as: authority), or
>
> b) the police, the National Tax and Customs Administration, an infraction authority, an administrative authority, or an agency conducting covert information gathering,
>
> using their own materials and tools, if it has not been seized..

On the ministerial decree-level of legislation, the rules on destruction of evidence is provided for by Section 50-51 of the Joint Decree as follows:

> *"Section 50*
> *1. The destruction of evidence is ordered by the authorities.*
> *1a. If an unseized piece of evidence is unsuitable for evidentiary purposes, the authorities may decide on its destruction without issuing a formal decision.*
> *2. If the evidence is destructible and cannot be used for public purposes, or if its use for public purposes has not been accepted, the head of the finance office of the regional court, the head of the investigating authority, or the prosecutor's office shall issue a written order for its destruction. If the packaging material used for storing the evidence was not seized at the time of evidence seizure, thus it was not adjudicated on by a court or authority, and it has no monetary value, it may be destroyed along with the evidence."*
>
> *"Section 51*
> *1. Destruction is carried out by burning, crushing, or another appropriate method to ensure that the evidence becomes permanently unusable.*
> *2. The destruction of seized evidence takes place in the presence of a designated committee, which prepares a report on the destruction. The committee consists of:*
> *a) If ordered during the investigation: a representative from the evidence management unit, a representative from the investigating authority, and a representative from the prosecutor's office.*
> *b) If ordered after indictment: a representative from the evidence management unit, a representative from the court, and a representative from the prosecutor's office.*
> *2a. The execution of the destruction of seized evidence is carried out by:*
> *a) The body specified in Part Three of this legislation, or*
> *b) The authority exclusively authorized by law to provide expert opinions.*
> *2b. The destruction of unseized evidence is carried out by:*

a) The authorities, or
b) As per the authorities' order, the evidence management unit or the body specified in paragraph (2a).
A report or record must be prepared regarding the destruction, which must be sent to the evidence management unit together with the decision on destruction, if not previously sent.
3. The evidence management unit records the destruction in the central evidence registry system based on the report or record and files the documentation in the evidence case file.
4. If the evidence management unit destroys multiple pieces of evidence from different criminal cases simultaneously:
a) If any of the evidence was seized, the committee must include representatives from the evidence management unit, the investigating authority, the prosecutor's office, and – if any case has gone to trial – the court.
b) If none of the evidence was seized, destruction may proceed according to paragraph (2b).
5. The destruction under paragraph (4)(a) can only proceed if at least one representative from the prosecutor's office or the court is present.
6. If a duly notified representative of the prosecutor's office or the court fails to attend the destruction, the president of the court or the head of the prosecutor's office must be informed.
7. In cases described under paragraph (4)(a), the representative of the local district court or prosecutor's office having jurisdiction based on the place of destruction attends the destruction.
8. When fulfilling duties outlined in this section, junior prosecutors and trainee prosecutors may act as representatives of the prosecutor's office, while junior judges and trainee judges may act as representatives of the court."

The received and tested products are returned to the sender authority, their disposal is the responsibility of the sender; such activities are not performed by the NCPHP.

ANSWERS OF HUNGARY

to the

Questionnaire for the 2nd thematic monitoring round of the MEDICRIME Convention
Phase 2

Answers to Questions 4, 5, 6 and 7

Question 4

First, it has to be pointed out that the Hungarian authorities interpret the term "products that are the subject of an offence established under the MEDICRIME Convention" restrictively in the sense that something will only be the subject of an offence if there is indeed an offence committed, or at least there is suspicion thereof, on the basis of which a criminal investigation was initiated. Therefore we can only include rules related to criminal proceedings.

The relevant legal and professional framework has already been introduced for phase 1 of this questionnaire: the CCP, the Joint Decree and the Testing SOP.

Rules on sampling according to the CCP:
Section 192(1)e)
"An expert shall be obliged and entitled to access any data that is necessary for the performance of his task; to this end, he may inspect, examine, and sample, subject to an authorisation by the entity that arranged for the appointment, means of physical evidence or electronic data that was not handed over to him." (Expert examination)

Section 319(7)
"If a seized thing is sold and it is necessary for the subsequent taking of evidence, a sample of the seized thing shall be retained, or an image or audio-visual recording of the thing shall be made, that is suitable for proving the relevant features of the thing concerned beyond a reasonable doubt at a subsequent stage of the proceeding." (Selling a seized thing)

Section 320(5)
"If a seized thing is confiscated or destroyed and it is necessary for the taking of evidence, a sample of the seized thing shall be retained, or an image or audio-visual recording of the thing shall be made, that is suitable for proving the relevant features of the thing concerned beyond a reasonable doubt at a subsequent stage of the proceeding." (Lifting the seizure and confiscating a seized thing)

Rules in the Joint Decree:

Section 9
"(4) If this does not jeopardize the effectiveness of the criminal proceedings, the authority may, upon motion, permit access to the physical evidence – particularly its examination – and may authorize sampling from the physical evidence for the following purposes:
a) for the performance of crime-prevention, law-enforcement, administrative, and policing tasks defined by law, for the police and the National Tax and Customs Administration;
b) for conducting scientific or comparative examinations, or for educational purposes, for the bodies designated in the government decree on the designation of bodies responsible for the sectoral requirements of professional fields, as well as bodies with exclusive competence to act and issue expert opinions in certain professional fields.
(4a) Sampling from the physical evidence may also be authorized for an administrative authority and a misdemeanour authority if required for the performance of their tasks and if the effectiveness of the criminal proceedings is not jeopardized. If sampling is not possible, the administrative authority must be informed of the reasons."

Section 78

"Narcotic drugs, drug precursors, and new psychoactive substances
(1) The transport, storage, and safekeeping of the following substances shall be carried out in accordance with the rules set out in this subtitle:
a) a substance classified as a narcotic drug under Section 459 (1) point 18 of the Criminal Code;
b) a substance classified as a drug precursor under Regulation (EC) No 273/2004 on drug precursors, and under Regulation (EC) No 111/2005 laying down rules for monitoring trade in drug precursors between the Community and third countries;
c) a new psychoactive substance defined in Section 1 point 37 of Act XCV of 2005 (on medicinal products for human use and on the amendment of other laws regulating the pharmaceutical market);
d) a substance or preparation that raises the suspicion of belonging to the substances listed in points a)–c).
(2) The provisions of this subtitle shall also apply to packaging material that is:
a) contaminated with a substance defined in paragraph (1), or
b) contains such a substance and is worthless,
if handling it under the general rules would not be expedient."

Section 82
"(2) In the course of examining the substances listed in Section 78 (1) points a)–d), the expert shall take a sample from the substance. If the quantity of the substance or preparation allows, the expert shall take a sample sufficient for repeating the examination, for conducting scientific or comparative examinations, for educational purposes, and for fulfilling sample-submission obligations under international commitments."

Section 84
"(2) The registration of the seized object and of the sample listed in Section 78 (1) and (2) is the responsibility of the body storing them. The supervision and inspection of the registration and storage are carried out by the National Police Headquarters."

Section 86
"(4) During destruction, the National Police Headquarters may take a sample for the purpose of examinations required for identification."

With regard to seized products and samples, The National Centre for Public Health and Pharmacy (hereinafter: NCPHP), as the authority dealing with counterfeit medicines, acts in accordance with the provisions of Joint Decree 11/2003. (V. 8.) IM–BM–PM on the rules for the management, registration, preliminary sale and destruction of objects seized during seizure and criminal proceedings, and the implementation of confiscation.

If the investigating authority assigns the NCPHP as an expert during the procedure, the product seized in connection with the assignment may also arrive at our authority. After receiving the expert appointment, it is examined whether the product in question falls within the competence of the NCPHP. If the NCPHP is the competent authority, a preliminary assessment is required. During the period of the preliminary assessment, the products received and subjected to expert examination must be stored in a separate, closed place, ensuring storage at the appropriate temperature.

In the case of seized products and samples from investigative authorities, it may happen that the investigative authority requests laboratory testing of some or all samples. In this case, the items are forwarded to the testing laboratory.
If no such request is received, the expert decides on his own professional grounds whether laboratory testing is necessary and for which products. If the seized products cannot be clearly identified, laboratory testing is requested.

Question 5

NCPHP (or the laboratory) neither destroys nor donates seized products and samples. Unused samples are always returned to the investigative authority. Until their transport, they are stored in accordance with the law.

Forensic evidence should not be destroyed under the Testing SOP. (*Testing SOP Chapter 3.8: Disposal*)

Forensic evidence, excluding any used during testing or kept as retained samples, must be returned to the investigating or other authority that ordered the expert examination, with proper documentation of the handover. (*Testing SOP Chapter 3.9: Return of Forensic Evidence*)

Question 6 a.

Rules on disposal were dealt with in detail under Question 3 of phase 1.[1] Here, we only make reference to Section 51 of the Joint Decree, emphasizing that *"destruction is carried out by burning, crushing, or another appropriate method to ensure that the evidence becomes permanently unusable"*. The method mainly incinerating or crushing but any other effective method could be acceptable. There are no exceptions to the rules as far as methods are concerned. Contracting out the disposal is not possible according to the Joint Decree [see Section 51(2a)-(2b) under Question 2] because there is a closed list on the actors carrying out the destruction.

The situation is different when it turns out that the seized medicine is actually not falsified. These product have already left the supply chain with the seizure, thus they are not for consumption, but according to the CCP, they shall be released after lifting the seizure:

"Section 321 (1) When the seizure is lifted, the seized thing shall be released to the person who was its owner at the time when the act the criminal proceeding is based on was committed, provided that no reasonable doubt arises concerning his right of ownership.
(2) If there is no person to whom a thing is to be released under paragraph (1), and such a person cannot be identified on the basis of the data available in the proceeding at the time of the release, the thing shall be released to any person who submits a well-grounded claim for it.
(3) If there is no person to whom a thing could be released under paragraph (2), and such a person could not be identified on the basis of data available in the proceeding at the time of release, the thing shall be released to any person from whom it was seized.
(4) If a proceeding is terminated because a given act does not constitute a criminal offence, the thing seized shall be released to the person from whom it was seized.
(5) The ownership of a thing seized from a defendant or a person reasonably suspected of having committed the criminal offence shall be acquired by the State on the basis of a court decision if it is owned by another person beyond any doubt, but that person could not be identified. If such a person is identified subsequently, he may file a claim for releasing the thing concerned or any consideration received from its sale. Such a claim shall be decided by a court with subject-matter and territorial jurisdiction under the Act on the Code of Civil Procedure.
(5a) A thing shall be acquired by the State if the court, the prosecution service or the investigating authority lifts seizure and orders the thing to be released, but the party with a pecuniary interest entitled to receive the thing does not take over the thing within three months following the communication of the decision lifting seizure and releasing the thing or the invitation to take over the thing or, following indictment, the decision with final and binding effect or administrative finality. A provision to this effect shall be included in the decision lifting seizure.

[1] However, it is worth mentioning that the relevant provisions of the CCP have been amended since the submission of our answers to Phase 1, with the addition of a paragraph (4a) to Section 320, which entered into force on 01 September 2025. The wording is as follows:
"(4a) Where the possession of the seized item constitutes a criminal offence – particularly where the seized item is a narcotic drug or a drug precursor – the prosecution service or the investigating authority may, instead of applying paragraph (4), order the termination of the seizure and the destruction of the seized item. This provision may also be applied to seized items of no value that are contaminated with a narcotic drug or a drug precursor."

(5b) The legal consequences referred to in paragraph (5a) shall not apply if
a) the decision lifting seizure and releasing the thing is communicated by means of fiction of service or service by public notice; and
b) the party with a pecuniary interest entitled to receive the thing did not become aware of the legal consequences referred to in paragraph (5a).
(6) If the court, the prosecution service or the investigating authority notifies, on the basis of section 111, an organ authorised to initiate or conduct the proceeding, in the proceeding of which seizure, impounding or sequestration is allowed, the enforcement of the lifting of seizure may be suspended for up to five working days.

Section 321/A (1) The provision of section 321 shall apply subject to the derogations laid down in this section when the seizure of a fungible thing, scriptural money, electronic money or electronic data used for making payments (for the purpose of this section, hereinafter jointly "fungible thing") is lifted.
(2) If, as regards a fungible thing, it can be established that it originates directly from the owner referred to in section 321 (2), the fungible thing shall be released to him.
(3) If paragraph (2) does not apply because the fungible thing originates from more than one party with a pecuniary interest referred to in section 321 (2) and the party from whom the fungible thing directly originates cannot be established from among them, and the amount of the fungible thing is insufficient, the fungible thing shall be divided.
(4) A fungible thing shall not be divided if it does not originate from the owner referred to in section 321 (2). Division shall not be permissible if it is reasonable to assume that a further party with a pecuniary interest is likely to take action in the future.
(5) Division shall take place among the parties with a pecuniary interest referred to in section 321 (2) from whom it can be established that the fungible thing originates, in accordance with the relative proportion of their ownership at the time when the criminal offence was committed."

Question 6 bis

Detained, seized, and confiscated products have already been removed from the supply chain, and they cannot be reintroduced into it, therefore consumption (or use according to the original purpose of the product) is not possible, not even for research purposes.

Here, we have to reiterate our answer to Question 3 that disposal of falsified medicine is mainly done through confiscation, which ultimately means destruction. The result is also destruction even in the exceptional cases where there is no confiscation (see Question 3).

However, unlikely but possible scenarios could exist where seized (but not confiscated) medicine can be consumed after all, along the following lines:

- the medicine is seized from an end user (a patient) in the course of an investigation on suspicion of a Medicrime-offence (meaning that the product is already out of the supply chain);
- the product is sampled and tested;
- the test shows that the product is actually good medicine (meaning that either there was no offence committed or the offence committed did not affect the product in question);
- the seizure is lawful (meaning that the chain of custody and the seal on the evidence-container is not broken).

In short: It is not impossible that a patient could get their own seized medicine back, if it was proved to be real and good medicine. In all cases, it is the judge who decides on the return, not the investigating authority.

Seized products might also be used, even if removed from the supply chain, if:

- the medicine is seized from the supply chain;
- the product is sampled and tested;
- the test shows that the product is actually good medicine (meaning that either there was no offence committed or the offence committed did not affect the product in question);

- the seizure is lawful (meaning that the chain of custody and the seal on the evidence-container is not broken).

In short: In this case the product is lawfully seized, sampled, tested and kept, and later it turns out that it is good medicine, but it has already been removed from the supply chain, therefore human consumption is not possible.

However, these products may be donated for research, except for human testing or clinical trials. NCPHP shall be notified of this research. A feasible research plan shall be attached to the report, and all remaining material shall be destroyed after the completion of the research. NCPHP can subsequently check compliance with these rules.

The relevant legal provision is Section 4/A(2) of Act XCV of 2005 (on medicinal products for human use and on the amendment of other laws regulating the pharmaceutical market):
"No authorization shall be required for the acquisition of a medicinal product where such acquisition is carried out for research purposes – excluding research conducted on human subjects – and the acquirer has notified the pharmaceutical administrative authority thereof pursuant to the regulation issued by the minister responsible for health. A medicinal product acquired under this paragraph shall not be used for any purpose other than the designated research purpose. Any medicinal product not utilized for the research purpose shall be destroyed. The pharmaceutical administrative authority shall be informed without delay upon the completion of the research activity." (Non-official, courtesy translation)

Question 7

The NCPHP, as the authority dealing with counterfeit medicines, stores the submitted criminal evidence, seized products and samples taking into account the storage requirements and other professional aspects of the given product. Adequate air exchange, temperature and stable storage are required in all cases. There is no practice to monitor these, these products are not monitored.

Disposal via destruction is documented and monitored in an administrative way. The act of destruction shall be recorded in written minutes or in a memorandum and it is carried out in the presence of a designated committee (See Section 51 of the Joint Decree at Question 3).

ANSWERS OF HUNGARY
to the
Questionnaire for the 2nd thematic monitoring round of the MEDICRIME Convention
Phase 3

Answers to Questions 8, 9 and 10

Question 8

Short answer: Yes

Brief details:

Special training programmes are in place within Hungarian law enforcement and partner authorities. These trainings mainly tackle the narcotic drugs issue. These include internal police training, specialised courses on handling hazardous substances and evidential materials, and participation in international training frameworks (e.g. CEPOL, EMPACT). The programmes aim to ensure safe handling, proper documentation, and risk awareness.

The handling of illegal medical products is regulated by the following SOPs (Standard Operating Procedures):

- NNGYK-SOP-GYLF-OMCL 30-70 – Examination of allegedly illegally distributed or falsified medical products
- NNGYK-LMI-SOP-OMCL 20-20 – Handling of test samples
- NNGYK-LMI-SOP-OMCL 25-10 – Operation and cleaning procedures of the laboratory
- NNGYK-SOP-GYLF-OMCL-10-15 – Ensuring the qualification of the staff of the Medicinal and Technology Laboratory
- NNGYK-SOP-SZIF-02-03 – The activity of the medicinal falsification experts

These SOPs ensure that personnel handling medical products undergo a thorough initial training process and participate in regular follow-up training.

The analytical staff and management continuously cooperate with the EDQM Falsified Medicines Working Group. In addition, designated staff members from the National Centre for Public Health and Pharmacy (NNGYK) attend conferences and training sessions every year and then share the acquired knowledge through internal training sessions.

Question 9/1

Short answer: No

Brief details:

Training programmes include modules on preventing diversion, illegal reuse, and reintroduction of illicit medical products into the supply chain. These are integrated into operational training and international cooperation frameworks (e.g. EMPACT activities, Europol-supported actions).

Question 9/2

Short answer: Yes

Brief details:

Training addresses the identification, seizure, and proper disposal of instrumentalities (e.g. equipment, packaging materials) used in counterfeiting activities, ensuring they cannot be reused.

Although NNGYK does not require excessive quantities of samples, the physical evidence is strictly documented: incoming and used quantities are recorded, and the leftover samples may not be discarded but must be returned to the assigning authority (they do the transportation themselves). Equipment used for the falsification of medical products rarely reaches NNGYK laboratories, but if it does, it is returned after sampling.
These protocols provide a solid foundation for education and training. We also rely on objectivity requirements, professional expectations, and the Code of Ethics for Public Service.

Question 10/1

Short answer: Yes

Brief details:

Hungarian authorities apply internal control mechanisms, supervisory reviews, and procedural audits to ensure compliance with legal and operational standards. These include documentation checks, chain of custody verification, and oversight of storage, transport, and disposal processes.

NNGYK does not perform detention, seizure, or confiscation, they store evidence submitted for examination. These materials are stored securely and monitored in controlled conditions.

Question 10/2

Short answer: Yes

Brief details:

Occupational safety regulations, internal protocols, and regular training ensure the safety of officials. The laboratories are equipped with the appropriate safety equipment, and a dedicated room is used for handling dangerous samples.
Compliance is monitored through internal inspections and supervisory control mechanisms.

Question 10/3

Short answer: Yes

Brief details:

The proper handling of incoming samples is ensured through regular internal and external audits.

Public protection is ensured through regulatory compliance, controlled storage, and authorised disposal processes. Oversight is carried out by competent authorities, including law enforcement, public health, and environmental bodies.

Question 10/4

Short answer: Yes

Brief details:

Only licensed and authorised contractors may be engaged. Their compliance is verified through regulatory supervision and contractual control mechanisms, ensuring adherence to environmental and safety standards.