

MONITORING GROUP (T-DO)

ANTI-DOPING CONVENTION

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MONITORING GROUP EVALUATION REPORT (T-DO)

Evaluation visit to Belgium
24-26 January 2023

The Monitoring Group oversees the implementation and application of the Anti-Doping Convention. The Additional Protocol to the Anti-Doping Convention supplements the responsibilities of the Monitoring Group by requiring the Monitoring Group to “*supervise the application and implementation of the Convention*” by the Parties to the Convention.

This supervision is achieved through an integrated compliance approach. A significant part of this is the evaluation process, whereby a team of experts appointed by the Monitoring Group (**Evaluation Team**) examines the implementation of the Convention by a Party and provides a report (**Evaluation Report**) to the Monitoring Group. The Evaluation Team will typically undertake this examination by way of a visit to the Party being evaluated, this visit being referred to as an **Evaluation Visit**.

In April 2022, the Belgian authorities invited the Council of Europe's Monitoring Group for the Anti-Doping Convention (T-DO) to carry out an evaluation visit, with the aim of assessing the measures taken by Belgium to comply with its commitments under the Anti-Doping Convention.

Prior to the visit, the Belgian authorities provided the evaluation team with a **national report**. The national report and the programme for the visit are annexed to this evaluation report.

This Evaluation Report is divided into two Sections:

Section 1 - A summary of the conclusions reached by the Evaluation Team, identification of best practices that may be of use and benefit to other Parties, and recommendations made to the Belgian authorities.

Section 2 - A detailed set of observations and conclusions of the Evaluation Team.

SECTION 1

A. Executive summary

The evaluation team examined the measures taken by the Belgian authorities to comply with the Convention, which Belgium ratified on 30 November 2001, on the basis of the national report and exchanges with a number of organisations involved in the fight against doping in Belgium.

In accordance with the Belgian constitutional organisation, the fight against doping falls within the competence of the Flemish, French and German-speaking Communities and the Common Community Commission in the Brussels-Capital Region. Each of these Communities has therefore adopted laws and regulations on the fight against doping, which are regularly updated in order to comply with the requirements of the World Anti-Doping Code.

Despite certain differences, these laws and regulations are based on the main pillars of the fight against doping: education, anti-doping testing, whereabouts obligations and disciplinary procedures.

In addition to adopting legislation, the Communities have concluded a cooperation agreement on the prevention of doping in order to agree on common rules and principles for matters of national or international interest.

Furthermore, the Federal State has retained responsibility for medicines and the fight against narcotics. As a result, comprehensive legislation which complements the specific anti-doping regulations, and covers a wider field than just sport, criminalises certain acts involving narcotics or hormonal substances.

The Community legislation on the fight against doping has all established a NADO responsible for the development and implementation of anti-doping policy within its jurisdiction. The Flemish, French and German-speaking Communities are therefore responsible for Community federations, elite and non-elite athletes, teams, athlete support personnel and any other person in contact with an athlete from the Community concerned. For its part, the NADO of the Brussels-Capital Community Commission is responsible for elite athletes at national level and for athletes or clubs present on its territory.

In Belgium, each NADO is legally part of a public institution and is fully financed by the government after the parliament has voted on its budget. Consequently, the NADOs are not structurally independent, but this organisation does not necessarily affect their operational independence.

It has been observed that the four NADOs fall into two categories: the two largest NADOs in Belgium, NADO Vlaanderen and NADO Communauté française, and the two smaller NADOs, NADO-CG and ONADO Brussels. This distribution is mainly due to the field of competence of each community and leads to certain difficulties related to resources, which are more prevalent in the two smaller NADOs.

In addition to the NADOs, other public authorities are involved in the fight against doping: the Public Prosecutor's Office, the Federal Police and the Federal Public Service for Health are directly or indirectly involved in the fight against doping in Belgium. For example, at national

level there is a single point of contact with the Public Prosecutor of Ghent, who acts as the reference magistrate, and a federal police service in charge of issues related to the environment, public health and food safety. In addition, the Belgian Federal Public Service for Public Health, Safety of the Food Chain and the Environment, which reports to various ministers and is responsible for addiction and health promotion, supports healthcare professionals by sharing information to help detect the misuse of medicines.

The visit showed that there is good cooperation between the various public authorities involved in the fight against doping, thanks in particular to the cooperation agreement between the communities and a protocol of cooperation between the NADOs, the Federal Police and the Public Prosecutor's Office. On the other hand, the strong involvement of the NADOs seems to go hand in hand with a distancing of the public authorities, in particular the ministries.

In addition to the public authorities, sports organisations such as the Belgian Olympic and Interfederal Committee (COIB), the Belgian Paralympic Committee (CPB) and sports federations play an important role in the fight against doping in Belgium, both through their involvement in prevention and education and through their support for athletes. The mapping of the sports actors involved is complex and requires good coordination to avoid overlapping responsibilities.

As with other anti-doping activities, the Communities are responsible for education, but this is not the exclusive responsibility of the NADOs. While the latter set up educational programmes aimed at a target audience, sports organisations are also involved in education. For example, the Belgian Olympic and Interfederal Committee and the Belgian Paralympic Committee are particularly active in supporting athletes who may be selected for the Olympic and Paralympic Games. In addition to the COIB and the CPB, the national federations are also responsible for implementing educational initiatives, particularly for elite athletes, while educational activities for other athletes are the responsibility of the community federations.

Some prevention and education initiatives caught the attention of the evaluation team, such as the organisation of a day dedicated to the subject or the creation of a kit for schoolchildren in which the actions to be carried out are dedicated to promoting the values of sport.

With regard to research activities, some public authorities and the Ghent laboratory have carried out or are carrying out studies to provide data on anti-doping. For example, the laboratory published nine articles in 2021, most of which were aimed at developing detection methods, and is a member of the Association of Anti-Doping Laboratories, within which laboratories cooperate on research.

In accordance with Community anti-doping legislation, each NADO draws up an annual test distribution plan and carries out urine and blood tests organised in-competition and out-of-competition. Testing is mainly focused on elite athletes, and it is up to each Community to determine the regime applicable to "recreational" athletes (particularly in sports/fitness centres).

Almost all samples collected are analysed by the Ghent laboratory, the only laboratory in Belgium accredited by the World Anti-Doping Agency, which also analyses samples collected by other anti-doping organisations.

In the event of an anti-doping rule violation, whether analytical or not, it is up to the competent NADO to implement a disciplinary procedure. Although the objective is the same and the

sanctions are harmonised, the procedures laid down by Community legislation differ due to the exclusive competence of the Communities in anti-doping matters.

Thus, in the Flemish Community and the Brussels-Capital Region, there are two channels for disciplinary proceedings: on the one hand, disciplinary jurisdiction is devolved to the sports federations, and on the other hand, residual jurisdiction is the responsibility of the NADO when the federations are not competent. On the other hand, in the French Community and the German-speaking Community, there is only one procedural channel under the jurisdiction of a single disciplinary body, which is different from the NADO.

The differences between the Communities are also to be found in the right of access to a lawyer or legal adviser during the procedure and in the recruitment and training of the members of the disciplinary bodies. The question of the training of these "judges" is all the more relevant as the disciplinary bodies of the NADOs of the German-speaking Community and the Brussels-Capital Region have not had any disciplinary proceedings since they were set up (in 2021 and 2022).

Finally, the evaluation visit showed that Belgium is fully committed to international cooperation and the exchange of information in the fight against doping.

In conclusion, the evaluation shows that the system put in place by Belgium to fulfil its commitments is particularly complex due to constitutional constraints and involves a large number of actors, but that the very good cooperation between these actors allows the system to function, despite the fact that it is sometimes difficult for individuals to understand.

Best practice

The following good practices have been identified as a result of the measures taken by the Belgian authorities:

1. The reference in the Community legislation to the general regulation on the protection of personal data and the fact that they all contain provisions on the protection of personal data not only testify to the importance of data protection law in anti-doping matters, but also demonstrate that the Communities have taken it fully in account.
2. The signing and implementation of a cooperation agreement, aimed at harmonising matters of national and international interest and coordinating the actions of each of the Communities, should be noted as very good practice.
3. The possibility for sports organisations to participate indirectly in drafting of the NADOs' control plan is a sign of close cooperation aimed at increasing the effectiveness of the fight against doping.
4. The establishment of a cooperation protocol between NADOs, police forces and judicial authorities, whether or not their main mission is to combat doping, ensures the exchange of information between these authorities.
5. The "Pharma & Food Crime" platform, set up by the Ministry of Justice allow for a very high level of operational cooperation. Its establishment at national level guarantees the involvement of police, judicial and customs authorities.

6. Play True Day is a national day dedicated to preventing and combating doping, bringing together a large number of people involved in the fight against doping and, more generally, those involved in sport, and raising awareness of the issue among sportspeople and the general public.
7. The educational kit for teachers developed by the NADO of the French Community is an effective tool for raising awareness.
8. The allocation of a subsidy to the disciplinary bodies of the Flemish and French Communities guarantees their operation. Moreover, the fact that the amount of the subsidy is fixed by law works encourages their full independence. This type of subsidy should be regarded as good practice.
9. It is very good practice in the German-speaking Community to appoint a legal adviser for all athletes, if necessary at the expense of the LOS, if such an appointment is in the athlete's favour.

Recommendations

With a view to improving the implementation of the Anti-Doping Convention, several recommendations can be made.

- i. The Belgian authorities should consider signing and ratifying the additional protocol.
- ii. In order to increase the harmonisation of the Communities' anti-doping systems, the Belgian authorities could consider adopting a greater number of identical normative provisions during their next revisions.
- iii. The Belgian authorities should consider strengthening the independence of the four NADOs. In particular, NADO staff should be fully responsible for the implementation of the anti-doping programme of the Community and should not hold other positions within the sports administration.
- iv. In order to maintain the high standards of the Community's anti-doping programmes, it is recommended that the Belgian authorities consider the possibility of increasing the resources, both financial and human, available to the anti-doping organisations.
- v. In addition to a simple increase in resources, an increase in public funding could also guarantee the full autonomy of the NADOs by enabling them to pay their own staff.
- vi. It is recommended that the public authorities become more involved, while respecting the independence of the NADOs.
- vii. It is recommended that the authorities consider harmonising the role played by the community federations in the fight against doping.
- viii. The visibility of sports organisations' athletes' commissions should be improved.

- ix. The signing of a cooperation protocol between sports organisations and NADOs could be considered in order to formalise the organisation of exchanges between these stakeholders and to define a minimum threshold of respective obligations.
- x. Notwithstanding the exclusive competence of the Communities in the field of sport, it is recommended that the authorities consider harmonising the criminal provisions contained in the decrees of the three Communities and the ordinance of the Common Community Commission on the fight against doping.
- xi. The Communities are invited to continue their efforts to pool resources in order to strengthen the latter.
- xii. The Belgian authorities are recommended to involve the public authorities more directly in the fight against doping.
- xiii. In addition, and following on from the previous point, the evaluation team recommends that the Belgian authorities responsible for sport consider ways of working in collaboration with the authorities responsible for education and higher education.
- xiv. Given the differences in resources between the Communities, the Belgian authorities could encourage the translation and adaptation of educational products in order to promote the pooling of educational resources between the NADOs and enable each Community to raise the awareness of its sports population as effectively as possible.
- xv. It is recommended that the Belgian authorities examine the possibility of harmonising procedures between the Communities so that each NADO refers disciplinary competence to only one organisation with jurisdiction within the jurisdiction of the Community to which it belongs.
- xvi. As regards the procedure for appointing the members of the disciplinary chambers, in order to ensure their full independence and ensure the absence of any conflict of interest, the Belgian authorities are invited to ensure that the NADOs do not intervene in the selection process of the members of the disciplinary bodies. In addition, a procedure for declaring the absence of conflict of interest should be established for each hearing, as well as rules for postponing a hearing in the event of a real or perceived conflict, to ensure an impartial hearing for the person concerned.
- xvii. It is recommended that the authorities facilitate access to a lawyer, if necessary, provided by and at the expense of the NADO, where it would be detrimental to the athlete not to be assisted by legal counsel.
- xviii. Finally, the authorities are invited to provide for a continuing training process for the members of the disciplinary panels in order to maintain a high level of competence in anti-doping matters and to ensure that they are kept abreast of changes in the relevant Community legislation.

SECTION 2

Prior to the evaluation visit, the Belgian authorities provided a national report detailing the various measures taken to implement the Convention (Appendix 2).

This section of the evaluation report has been prepared by the evaluation team and is a detailed description of their findings with reference to the relevant sections of the national report and the issues identified during the evaluation visit (Appendix 1).

Content

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Appendix 1 - Programme of the visit and participants

Appendix 2 - National report

Note on terminology: in the report, the term "Communities" is sometimes used to refer to the Flemish, French and German-speaking Communities and the Common Community Commission, without prejudice to their respective constitutional status. Where only one Community is to be referred to, it will be specifically mentioned.

It should be noted that, in the Belgian institutional system, the federal government is only competent in matters that have not been assigned to the federated entities.

1. LEGISLATIVE, REGULATORY AND ADMINISTRATIVE PROVISIONS

- 1.1. The Convention contains several articles relating to the obligation to adopt legislative, regulatory and administrative provisions. First, Article 1 of the Convention requires each Party to take the necessary measures to reduce and eliminate doping in sport, in particular by adopting the relevant legislative provisions "within the limits of their respective constitutional provisions". Next, Article 2 provides a definition of "doping in sport", "pharmacological classes of doping agents or doping methods" and "sportsmen and sportswomen" within the meaning of the Convention, which should serve as a framework for the national anti-doping system so that it can be considered compliant with the Convention. Finally, Article 7 requires Governments to encourage their sports organisations to take appropriate measures within their jurisdiction to combat doping in sport, in particular as regards the list of prohibited substances and methods, doping control procedures, disciplinary procedures guaranteeing the fundamental rights of athletes, sanctions applicable to doctors, managers, veterinarians, trainers and physiotherapists, and procedures for the mutual recognition of sanctions imposed by other sports organisations in the same or in another country.

- 1.2. Belgium signed the Convention on 16 November 1989 and ratified it on 30 November 2001.¹ The evaluation team notes however that Belgium has not signed or ratified the 2002 Additional Protocol to the Convention. This lack of commitment could be explained in part by the difficulties encountered by all the Communities in obtaining certification to ISO quality standards for doping control, due in particular to the complexity and length of the procedure for obtaining such certification.
- 1.3. According to the Belgian Constitution, the Flemish, French and German-speaking Communities are responsible for sport and the fight against doping, both of which are cultural matters that can be personalised insofar as the latter is a matter of preventive medicine. In the Brussels-Capital Region, the shared competences of the Flemish and French Communities are exercised by the Brussels-Capital Common Community Commission (COCOM); which is therefore responsible for the fight against doping in the Brussels-Capital Region. In this respect, the provisions of the Convention must be considered to be implemented by each Community.
- 1.4. Each Community has adopted anti-doping laws and regulations. These Community laws and regulations are regularly updated in order to comply with the provisions of the World Anti-Doping Code ("the Code").
- 1.5. The Community anti-doping legislation and regulations are therefore based on the following:
 - 1.5.1. For the Flemish Community:
 - the Decree of 25 May 2012 on preventing and combating doping in sport, as amended by the Decree adapting the Anti-Doping Decree of 25 May 2012 to the 2021 Code;
 - the Flemish Government Decree of 13 February 2015 implementing the Anti-Doping Decree of 25 May 2012, as amended by the Flemish Government Decree amending the Flemish Government Decree of 13 February 2015 implementing the Anti-Doping Decree of 25 May 2012, with regard to the adaptation to the 2021 Code and the International Standards;
 - the Ministerial Decree of 20 December 2021 implementing the Flemish Government Decree of 13 February 2015.
 - 1.5.2. For the French Community:
 - the Decree of 14 July 2021 on the fight against doping and its prevention;
 - the Decree of the Government of the French Community of 16 December 2021 implementing the decree of 14 July 2021 on the fight against doping and its prevention.
 - 1.5.3. For the German-speaking Community:
 - the Decree of 24 January 2022 on the fight against doping in sport;
 - the Government Order of 10 February 2022 implementing the Decree of 24 January 2022 on the fight against doping in sport.
 - 1.5.4. For the COCOM:

¹ By the joint and concomitant deposit by the Communities of their instruments of ratification

- the Order of 21 June 2012 on the promotion of health in sport, as amended by the Order of 24 December 2021 amending the Order of 21 June 2012 on the promotion of health in sport, the prohibition of doping and its prevention;
 - the Order of the College meeting of 10 June 2016 implementing the Order of 21 June 2012 on the promotion of health in sport, the prohibition of doping and its prevention, amended by the Order of the College meeting on 13 January 2022 amending the Order of the College meeting of 10 March 2016 implementing the Order of 21 June 2012 on the promotion of health in sport, the prohibition of doping and its prevention.
- 1.6. At the same time, the Communities have concluded a cooperation agreement on preventing and combating doping ("the cooperation agreement") in order to agree on common rules and principles for matters of national or international interest. It contains certain definitions for which require harmonisation of legislation, such as the definitions of athlete, recreational athlete, team manager, minor or protected person, as well as provisions designed to ensure cooperation between the Communities, in particular with regard to controls, the Coordination Council and the international representation of Belgium. This agreement, initially concluded on 9 December 2011 and revised twice on 17 December 2014 and 7 May 2021 to bring it into line with the provisions of the Code, was approved by decree by the Flemish, French and German-speaking authorities and by ordinance of the COCOM, thus giving it the force of law.
- 1.7. In addition to the number of texts adopted, the team noted the difficulties sometimes encountered by national anti-doping organisations (NADOs) and the competent authorities in meeting with the timetable for implementation of the Code. Indeed, due to the multiplicity of texts, the adoption procedures, and the need to harmonise of the national anti-doping system while taking into account the specificities of the Belgian constitutional and institutional system have made the implementation of the Code lengthy and complex, thus placing the NADOs in a difficult position with regard to their obligation to comply with the Code.
- 1.8. As far as the content of the legislation is concerned, all the aforementioned Community texts organise the fight against doping around four main pillars:
- education, information and prevention in the fight against doping;
 - anti-doping testing;
 - whereabouts obligations;
 - disciplinary procedures and measures.
- 1.9. They also establish a NADO in each Community responsible for the implementation of the anti-doping policy in the territory concerned. More specifically, the NADOs are responsible, each as far as it concerns itself, for the implementation of the anti-doping rules, the anti-doping control policy and the management of the samples collected, the results management, the development and implementation of an education plan, the organisation of information and promotional activities and the support of scientific research.
- 1.10. Each of the decrees and the ordinance contains an article defining all the terms used in the anti-doping legislation (article 2 of the decree of 25 May 2012 of the Flemish Community and the ordinance of 21 June 2012 of the COCOM, article 1^{er} of the decree of 14 July 2021 of the French Community and article of the decree of 24 January 2022 of

the German-speaking Community). As such, they provide a definition of the terms required by the Convention.

- 1.10.1. Article 2 of the Convention defines doping in sport as "the administration to sportsmen and sportswomen, or the use by them, of pharmacological classes of doping agents or methods". The anti-doping legislation of each Community (article 3 of the decree of 25 May 2012 for the Flemish Community, article 6 of the decree of 14 July 2021 for the French Community, article 7 of the decree of 24 January 2022 for the German-speaking Community and article 9 of the ordinance of 21 June 2012 for the COCOM) provides a definition of doping by listing all the acts punishable under the Code, which cover a broader field than the definition given by the Convention, such as the presence or use of a prohibited substance, falsifying of any part of the test or failing to provide a sample, or the accumulation of three failures, by an athlete in the Registered Testing Pool, to comply with his or her whereabouts obligations.
- 1.10.2. With respect to the definition of "classes of doping agents and methods", the Convention refers to those that are prohibited by the relevant international sports organisations and that appear on lists approved by the Monitoring Group. Each year, the Monitoring Group approves the list of prohibited substances and methods adopted by the World Anti-Doping Agency. In this context, it is provided (article 9 of the decrees of 25 May 2012 and 14 July 2021 respectively for the Flemish and French Communities and of the order of 21 June 2012 for the COCOM, and article 10 of the decree of 24 January 2022 for the German-speaking Community) that the governments of each Community adopt the Prohibited List defined by three out of four Communities as "the list of prohibited substances and methods, as annexed to the UNESCO Convention".
- 1.10.3. Finally, with regard to sportsmen and women, the Cooperation Agreement of 9 December 2011, revised on 7 May 2021, and each of the Community legislations define them as "any person who practises a sporting activity at any level" and specify different categories of sportsmen and women: amateur sportsmen and women, elite sportsmen and women and recreational sportsmen and women. This definition is set out in the cooperation agreement, so that it is identical in all Community legislation.
- 1.11. On the other hand, the different legislations do not organise the role of sports federations in the fight against doping in the same way. For example, only the Decree of the Flemish Community of 25 May 2012 lays down specific obligations on sports federations and delegates part of the anti-doping programme to them, so that they are required to devote themselves to preventing and combating doping in sport (Article 5 of the decree), in particular by taking measures to prevent doping and disciplinary measures against their members and accompanying persons or any other person associated with them. In the French-speaking Community, sports organisations are invited to take part in the education programme and must cooperate in testing-related matters, in particular by providing suitable testing facilities. They are also involved in setting up and updating of the target group of elite sportsmen and women. For the other Communities, the role of the sports organisations is not precisely defined, as the entire anti-doping programme is delegated to the NADOs.

- 1.12. Although there are slight differences in the distribution of responsibilities between the sports organisations and the NADOs in the anti-doping legislation of the Communities, the cooperation agreement makes it possible to harmonise a large part of the procedures at national level and, in any event, the sanctions. Article 3 of the agreement stipulates that "cooperation between the contracting parties in preventing and combatting doping is intended to improve the effectiveness of the fight against doping on Belgian territory" and, as thus provides for the automatic recognition of decisions taken in accordance with the principles of the Code by any competent organisation, such as a Community NADO or, for the Flemish Community, a sports federation.
- 1.13. The four Community legislations attach great importance to the protection of personal data collected and processed by their NADOs, and include articles dealing, in particular, with the procedures for processing and storing such data.
- 1.14. In addition to these specific Community laws, the Federal State has retained jurisdiction over legislation relating to drugs and medicines. In addition to the specific anti-doping regulations, a comprehensive body of legislation covering a wider field than just sport criminalises certain acts involving narcotics or hormonal substances. This legal framework, consisting of the law of 24 February 1921 on trafficking in poisonous, soporific, narcotic, psychotropic, disinfectant or antiseptic substances and substances that may be used in the illicit manufacture of narcotic and psychotropic substances, and the Royal Decree of 25 April 1974 and the Law of 25 March 1964 on medicinal products for human use, regulate, in particular, production and distribution, have the purpose and effect of restricting the availability of prohibited substances, and enabling the competent authorities to combat trafficking in prohibited substances effectively (see Part V of this report).

Conclusion

- 1.15. The multiplicity of texts relating to the fight against doping, due to the specific constitutional and institutional nature of the country, can make the Belgian fight against doping appear complex. For this reason, certain differences between Community legislation persist, which can be a source of confusion in understanding the system, particularly with regard to the role of sports organisations in the Community's anti-doping policy.
- 1.16. However, the Cooperation Agreement of 9 December 2011, as amended on 7 May 2021, is a tool for harmonising regulations and, more generally, the national anti-doping system.
- 1.17. In any event, the Communities, and the Federal State, within their respective spheres of competence, have adopted effective legislation to combat doping in sport effectively. Belgium can therefore be considered to have taken the necessary measures to comply with its obligations under the Convention.

Good practice

- 1.18. The reference in the Community legislation to the General Regulation on the protection of personal data and the fact that they all contain provisions on data protection not only demonstrate the importance of the right to the protection of personal data in anti-doping matters, but also demonstrate that the Communities have taken full account of it.

Recommendations

- 1.19. The Belgian authorities are recommended to consider signing and ratifying the Additional Protocol. The possible difficulties associated with the ISO certification for doping controls required by the additional protocol could be overcome by a gradual implementation adapted to the activities of each NADO or by pooling resources so that the German-speaking Community and the Common Community Commission can obtain the certification necessary for the ratification of the additional protocol.
- 1.20. With a view to increasing the harmonisation of the anti-doping systems of the Communities, the Belgian authorities could consider adopting a greater number of identical normative provisions during the next revisions. For example, these common provisions could include all definitions, the definition of doping practices and anti-doping rule violations, the adoption of the Prohibited List, certain details of anti-doping control procedures such as the test report and sample collection, or the sanctions incurred for anti-doping rule violations.

2. NATIONAL ANTI-DOPING ORGANISATION (NADA) - STRUCTURE AND GOVERNANCE

- 2.1. The Convention encourages States Parties to entrust the implementation of certain of its provisions to a governmental, non-governmental or sports organisation. To this end, the Parties must ensure, in particular, that they assist the designated organisation in financing and organising doping controls. Articles 3 and 4 of the Convention encourage the Parties to establish a national anti-doping organisation responsible for doping control and disciplinary follow-up.
- 2.2. Because of its constitutional organisation and the competence of each Community, Belgium has four NADOs on its territory: NADO Vlaanderen for the Flemish Community, NADO French Community, ONADO Brussels for the Common Community Commission and the NADO of the German-speaking Community (NADO-GC).

Areas of competence

- 2.3. As signatories to the Code, all four NADOs are responsible for developing and implementing anti-doping policies within their jurisdictions and in accordance with the rules set out in Community anti-doping legislation. The NADOs of the Flemish, French and German-speaking Communities thus have jurisdiction *rationae loci* and *rationae personae* which they exercise on the territory of the Community to which they are attached, with respect to Community federations and on elite or non-elite athletes, teams, athlete support personnel and any other person in contact with an athlete from the Community concerned.
- 2.4. By decision of the Coordination Council established by the cooperation agreement referred to in point 1.6, ONADO Brussels has been given exclusive jurisdiction over national teams, regardless of their Community of origin. In addition, the Brussels NADO is also responsible for elite sportspeople residing in the Brussels-Capital Region.
- 2.5. Despite the apparent clarity of the distribution of competences, the accessibility of the NADOs and the legibility of the allocation may be perceived as complex for sportspeople in certain specific situations. For example, the question of which NADO has jurisdiction may arise in the case of elite national sportsmen and women who play team sports. Although, there is no conflict of jurisdiction in principle and only one NADO, between ONADO Brussels and a Community NADO, has jurisdiction, the complexity of the system for assigning athletes to the jurisdiction of a NADO is likely to cause difficulties in understanding the system and confusion among athletes.
- 2.6. While this difficulty has little impact on test distribution procedures, the evaluation team considers that the same cannot be said for disciplinary procedures or for therapeutic use exemptions, as they differ between the Communities.

Organisation

- 2.7. Each NADO is legally part of a public body and is not structurally independent. However, this does not necessarily affect the operational independence of the NADOs.

- 2.8. In the Flemish Community, NADO Vlaanderen is part of Sport Vlaanderen, the sports administration of the Flemish Community with legal personality, since the transformation of the internal autonomous agency BLOSO into the agency "Sport Vlaanderen" on 4 December 2015.²
- 2.8.1. In accordance with article 5 of the decree on the internal autonomous agency with legal personality "Sport Vlaanderen" (Sport Flanders), the latter's mission includes, in particular, "the implementation of the anti-doping policy, in accordance with the WADA Code" for which "NADO Vlaanderen has full operational autonomy".
- 2.8.2. This autonomy is partly guaranteed by the autonomy granted to the Director of NADO in the management of day-to-day operations and budgetary expenditure by virtue of the Order of the Administrator General of 20 January 2017 delegating special and specific powers to the Director of NADO Vlaanderen.
- 2.8.3. As such, the Director of NADO Vlaanderen is fully delegated for all operational and management tasks and is not subject to a specific mandate. In this context, the Director of NADO Vlaanderen can only be dismissed in accordance with the conditions laid down in the general civil service regulations governing all administrative staff. Thus, while the Director of NADO Vlaanderen is subject to an annual appraisal by the Head of Sport Vlaanderen, this appraisal may only relate to acts within the scope of general administration and in no way to the anti-doping programme implemented by the NADO. Furthermore, the NADO may only be dismissed after two consecutive unfavourable appraisals or if serious irregularities are discovered in its administrative management.
- 2.8.4. NADO Vlaanderen has eleven employees, organised into five units (General Secretariat, Prevention and Education, Medical and Testing, Legal and Logistics), plus a 21-members TUE Committee and NADO Vlaanderen-accredited testing staff (21 doping control officers and 80 chaperones).
- 2.9. When the NADO French Community was created in 2003, it was part of the general administration of Aide à la Jeunesse, de la Santé et des Sports (ADEPS), which in turn was attached to the ministry responsible for sport. Today, in order to guarantee its operational independence, NADO French Community is administratively attached to the General Secretariat of the Ministry of the French Community, a general transversal service, independent of the Sports Administration.
- 2.9.1. Although it does not have its own legal personality, the operational independence of the NADO French Community is guaranteed by article 5 of the Decree of 14 July 2021 on the fight against doping and its prevention. To this end, the Decree states that the NADO French Community may:
- enter into agreements, protocols and other arrangements directly related to the performance of its duties as a Code signatory with other signatories to the Code;
 - have its own brand and logo (independent of those of the ADEPS or the Ministry, for example);

² Decree amending various decrees, with regard to the integration of the task of assisting policy-making in the field of sport into the *Sport Vlaanderen* (Sport Flanders) agency and amending the Anti-Doping Decree of 25 May 2012.

- have and use its own budgetary resources.
- 2.9.2. As the Flemish Community, the operational independence of the NADO is reflected in the autonomy of its Director in the management of the day-to-day activities and in the administration of the NADO. To this end, the Director is appointed by the Government in accordance with the procedure and is subject to the appointment criteria and grounds for dismissal set out in the General Statute of the Public Service in the French Community, as well as to the general grounds for dismissal and the rules for contestation defined in labour law.
- 2.9.3. The NADO French Community has nine employees, organised into four departments (Legal Affairs, Administration and Controls, Communication and Education, and Logistics), in addition to the Doping Control Officers and the French Community Therapeutic Use Exemption Commission (an independent structure).
- 2.10. In the German-speaking Community, the Department of Sport, Media and Tourism of the Ministry of the German-speaking Community has been designated as the National Anti-Doping Organisation (ONAD-CG), in accordance with article 4 of the Decree of 24 January 2022 on the fight against doping.
- 2.10.1. Given the size and demographics of the German-speaking Community and the size of the Ministry of the German-speaking Community, the Head of the Sport, Media and Tourism Department is also the Director of the ONAD-CG.
- 2.10.2. However, the Decree of 24 January 2022 guarantees the independence of NADO-CG and its Director for the entire implementation of the anti-doping programme. Thus, as in the French Community, NADO-CG's autonomy and independence in its operational decisions and activities allow for entering into agreements, memoranda of understanding or other agreements with other Belgian, European or international organisations that are directly related to the performance of its obligations as a signatory to the Code.
- 2.10.3. NADO-CG has a staff of three, plus the Therapeutic Use Exemption Commission, which is an independent body administratively attached to the NADO.
- 2.11. Within the COCOM, ONADO Brussels was created in 2016 within the services of the *united College*³ as a unit attached to the Directorate of the Health and Personal Assistance and placed under the authority of a coordinator responsible for the day-to-day activities of ONADO Brussels and the decision-making process related to these activities.
- 2.11.1. In view of the size of the COCOM administration, it was decided that ONADO Brussels should be attached to the Preventive Medicine Unit of the Health and Personal Assistance Directorate.
- 2.11.2. The autonomy of the unit is guaranteed by the Order of 21 June 2012, which stipulates that "the NADO of the Common Community Commission is

³ Administration of the Common Community Commission.

independent in its operational decisions and activities with regard to sport and the executive" (Article 11).

2.11.3. ONADO Brussels is organised into three departments (testing, education and legal affairs), under the authority of the coordinator, and composed of five employees, two of whom are employed full-time and three part-time. Some of these staff are also responsible for other preventive medicine issues.

Funding

- 2.12. To the extent that each NADO is attached to a public or governmental body, its budget follows the public budget procedure and the four organisations are entirely financed by their government, after the budget has been approved by the parliaments. As a result, budgets are set annually by decree or ordinance, with the possibility of adjustments during the year.
- 2.13. The budget is related to the size of the NADO and the Community concerned, the sporting population and the NADO's anti-doping programme. The NADOs of the Flemish and French Communities have been allocated an annual budget of approximately one million euros in 2022, while ONADO Brussels has an annual budget of almost 200,000 euros and NADO-CG 50,000 euros. In addition to this governmental funding, the four NADOs may receive services provided for other NADOs, proceeds from fines imposed on sanctioned individuals or federations and any procedural costs.
- 2.14. The budgets allocated by the Community governments cover only the operating expenses of the NADOs, excluding staff costs, which are covered by the budget of the administration to which the NADOs are attached.
- 2.15. Despite the increased demands placed on the NADOs and the development by some of them, of a policy of testing recreational athletes, their budgets are stagnating. As the World Anti-Doping Agency (WADA) norms continue to rise, requiring supplementary resources, the evaluation team noted the NADOs' concern that they will gradually have to abandon part of their anti-doping policy that does not fall under the WADA World Anti-Doping Programme.

Conclusion

- 2.16. Belgium has four organisations responsible for the anti-doping programme under the jurisdiction of each Community. In this respect, the Belgian authorities must be regarded as fulfilling their commitments under the Convention with regard to the national anti-doping organisations.
- 2.17. The four NADOs are divided into two categories: the two large Belgian NADOs, i.e. NADO Vlaanderen and NADO Communauté française, and the two smaller NADOs, NADO-CG and ONADO Brussels. This distribution is mainly consequence to the field of competence of each Community and is not, in itself, questionable. However, certain difficulties related to NADO resources are more prevalent in the two smaller NADOs.

- 2.18. Furthermore, the four NADOs, although operationally independent, in particular by virtue of the legislation governing them, are directly attached to an administration, which may give the appearance of a lack of structural independence. This difficulty is particularly acute in the German-speaking Community and in Brussels, where the NADO reports directly to a directorate of the administration and where the director and the coordinator also perform ancillary functions within the administration to which they are attached.
- 2.19. Finally, the NADOs are encountering resource challenges, insofar as their budget and staffing remain constant despite the need to meet the growing demands of the World Anti-Doping Agency and the desire to invest in a broader area than that covered by WADA, particularly in terms of public health protection.

Recommendations

- 2.20. The Belgian authorities should consider strengthening the independence of the four NADOs. In particular, NADO staff should be fully responsible for the implementation of the anti-doping programme of the Community and should not hold other positions within the sports administration.
- 2.21. In order to maintain the high standards of the Community's anti-doping programmes, it is recommended that the Belgian authorities consider the possibility of increasing the resources, both financial and human, made available to the anti-doping organisations. Such an increase could, firstly, make it possible to have dedicated staff and management within the NADO rather than occupying other functions within the administration; secondly, to maintain the number of tests on recreational athletes, in addition to WADA requirements; and, thirdly, to provide the NADOs with sufficient staff to implement the Community anti-doping programme.
- 2.22. In addition to a simple increase in resources, an increase in public funding could also guarantee the full autonomy of the NADOs by enabling them to pay their own staff.

3. PUBLIC AUTHORITIES

- 3.1. With regard to the public authorities, the Convention invites the States Parties to coordinate the policies and actions of their government departments and other public agencies involved in the fight against doping in sport. To this end, all departments are encouraged to work in a coordinated and constructive manner in order to ensure that the measures taken to combat doping are as effective as possible.
- 3.2. The Explanatory Report to the Convention states that it is up to each State to decide how responsibility is shared, and that the Convention does not prescribe a single model for the involvement and coordination of public authorities. However, it notes that some States have established a consultation or coordination body, which experience has shown to be useful in ensuring the coherence of anti-doping policies.
- 3.3. The commitment of States to the obligations of the Convention with regard to public authorities also consists in making the criteria for granting public subsidies to sports organisations subject to the effective application of anti-doping rules. The Explanatory Report states that account must be taken of the specific situation of the organisations in place in the States and that any prejudice to the practice of sport in general, and recreational sport in particular, must be avoided.

Sports administration

- 3.4. In the French and German-speaking Communities, the management of sport is the direct responsibility of the administration concerned: the General Sports Administration (ADEPS), attached to the Ministry responsible for sport in the French-speaking Community; the Sport, Culture and Media department of the Ministry of Culture and Sport in the German-speaking Community.
- 3.5. In the Flemish Community, sport is a matter delegated by the government to *Sport Vlaanderen*, an agency under the supervision of the Flemish Ministry of Education, Sport, Animal Welfare and Vlaamse Rand. The decree establishing *Sport Vlaanderen* states that the agency "*assists the Flemish Government in drawing up and evaluating the integral Flemish sports policy, from sport for all to top-level sport, including health-conscious sport, and implements the policy*".
- 3.6. On the other hand, the COCOM has no powers in the field of sport.
- 3.7. Each of these administrations has set up a national anti-doping organisation with jurisdiction in the Community concerned, as detailed in Part Two.
- 3.8. The Belgian constitutional organisation thus leads to a multiplicity of administrations responsible for sport and anti-doping in Belgium, insofar as each Community has a competent administration and a national anti-doping organisation, which must be coordinated for all matters of national or international interest.
- 3.9. To this end, the Communities concluded a cooperation agreement on preventing and combating doping in sport on 9 December 2011 (amended by two further cooperation agreements on 17 December 2014 and 7 May 2021), which enables Belgium to comply

with the requirements of the Unesco International Convention against Doping in Sport and the World Anti-Doping Code.

- 3.10. This agreement, approved by decree or ordinance in each Community, has the same value as the legislation of each Community and complements it.
- 3.11. In addition to the common set of definitions and the provisions relating to elite athletes and the group, which by their very nature shall be harmonised at national level, the cooperation agreement sets out in detail the relations between the Communities with the view to improving the effectiveness of the fight against doping on Belgian territory. In particular, the cooperation agreement provides for :
- regular exchanges of information;
 - joint prevention and awareness-raising campaigns;
 - the transmission of doping decisions from one NADO or another signatory to the other NADOs in Belgium;
 - the transmission of draft legislation and regulations from one Community to the other Communities in Belgium;
 - recognition and respect for the autonomy and independence of each NADO;
 - mutual recognition of medical officers and chaperones.
- 3.12. In order to organise effective cooperation between the Communities and to promote the implementation of the cooperation agreement, the latter set up a Coordination Council, with a maximum of four members per Community, at least half of whom are from the NADOs. The Coordination Council is organised around a two-year rotating presidency between each Community and a secretariat provided by the NADO of the party holding the presidency.
- 3.13. In addition to the Coordination Council, the Working Group, composed exclusively of members from the NADOs, deals with the operational aspects of cooperation and issues relating to the independence of the NADOs.

Funding of sports organisations

- 3.14. Since the Communities are responsible for sport and anti-doping, it is their responsibility to draw up a sports policy and to regulate the funding of sports organisations.
- 3.15. To this end, the Flemish, French and German-speaking Communities have adopted decrees on the sports policy applicable in their respective jurisdictions.⁴
- 3.16. For each Community, the above-mentioned regulations explicitly provide for the interconnexion between subsidies, authorisations and anti-doping obligations.
- 3.17. For example, the decree of 10 June 2016 of the Flemish Community states that in order to be and remain recognised as a sports federation, its operation, statutes and internal regulations must comply with the anti-doping decree of 25 May 2012. The decree of 3 May 2019 in the French Community states that "*the organised sporting movement is*

⁴ Decree of 10 June 2016 on the approval and subsidisation of the organised sports sector, for the Flemish Community, Decree of 3 May 2019 on the organised sports movement in the French Community, for the French Community, Decree of 19 April 2004 on sport, for the German-speaking Community.

committed to doping-free sport and is subject to the provisions of the decree of 20 October 2011 on the fight against doping".

- 3.18. While the approval of federations is subject to compliance with the anti-doping regulations applicable in the Community concerned, the payment of a subsidy is directly linked to the approval and/or recognition of a federation by the Community government. In this regard, the decrees provide that, in the event of a breach of the anti-doping rules, the recognition and subsidy may be suspended or withdrawn.
- 3.19. For the application of these decrees and the subsidy regulations, the federations are monitored and controlled by the administrations responsible for sport mentioned in point 3.4, with the assistance of their respective NADOs (except in Brussels, where sport and anti-doping policy are not linked).

Other public authorities involved

- 3.20. In addition to the ministries and/or public authorities responsible for sport at Community level, there is a subsidiary and residual federal responsibility for anti-doping. The public prosecutor's office, the federal police and the public health service are directly or indirectly involved in Belgian anti-doping activities.
- 3.21. With regard to the Public Prosecutor's Office, Belgium has established a single contact point at national level with the Public Prosecutor in Ghent, who acts as a reference magistrate. More generally, the network of experts set up within the College of Public Prosecutors is responsible for investigating and prosecuting relating to food and pharmaceutical offences.
- 3.22. As the use of prohibited substances is not a criminal offence in Belgium, the public prosecutor is responsible over non-analytical violations. Investigations are traditionally initiated following a police investigation that has revealed such facts, or on the basis of information from the NADOs (when following up analytical violations that may lead to the discovery of offences covered by the federal law on medicinal products) or the customs services.
- 3.23. Criminal investigations in the field anti-doping are also the responsibility of a federal police department, which coordinates the investigations carried out by the various local police services. The *Federal Unit for Public Health and Environment Crime* (FUPHEC) is a central service responsible for environmental issues, public health in general and food safety. As a central service, FUPHEC ensures a uniform approach to the phenomena it deals with.
- 3.24. One of the difficulties identified by the evaluation team is the quality of the athlete, particularly when the investigation concerns a member of the athlete's entourage. The link is sometimes tenuous or difficult to establish.
- 3.25. The Belgian Federal Public Service Health, Food Chain Safety and Environment is an administration under the authority of various ministers, with particular responsibility for addiction and health promotion. In the field of anti-doping, one of the missions of the service is to support health professionals by exchanging information in order to facilitate the detection of drug abuse. To this end, the online database (Ebpracticenet), created at

the request of the federal government, provides health professionals with up-to-date information by bringing together all the clinical practice guidelines and other information resources. The Belgian Centre for Pharmacotherapeutic Information, an association of academics, doctors, pharmacists and government officials, aims to provide healthcare professionals with information on human and veterinary medicines to promote the correct use of medicines in clinical practice and to train healthcare providers.

- 3.26. The Federal Public Service for Public Health, Food Chain Safety and the Environment also funds the Drugs Policy Unit. The main task of the unit is to ensure that an integrated and comprehensive drugs policy is implemented and, as such, it provides a platform for coordination between all actors involved in the different areas of drugs policy.
- 3.27. Between 2014 and 2019, this unit set up an anti-doping working group with the relevant stakeholders. This working group was particularly interested in the issue of research and co-financed the study 'Prevalence and effects of performance-enhancing drugs in different groups: lessons for a preventive and curative policy in Belgium'. However, the evaluation team notes that this working group was closed in 2019, although the Federal Public Service for Public Health, Food Chain Safety and the Environment confirmed during the visit that a new working group could be set up if necessary or requested by the authorities.

Conclusion

- 3.28. In conclusion, several public authorities are involved in the fight against doping, whether they are directly linked to sport or not, and whether they are at Community or federal level.
- 3.29. The visit highlighted the very good cooperation between the various public authorities with direct competence in anti-doping matters, which is particularly evident in the cooperation agreement and, to a lesser extent, between the public authorities with indirect responsibility for anti-doping matters, through the drugs policy unit.
- 3.30. However, the strong involvement of the NADOs, both in the Coordination Council and in the overall anti-doping landscape, seems to be at the expense of the involvement of the public authorities, in particular the limited involvement of the Ministries of Education and Higher Education.
- 3.31. Finally, it should be noted that there is a link between subsidies to sports organisations and compliance with the anti-doping legislation of the Community to which they belong. However, the team was not able to make precise assessment of the actual implementation of this link and the possible withdrawal of subsidies.

Good practice

- 3.32. The signing and implementation of a cooperation agreement aimed at harmonising matters of national or international interest and coordinating the actions of each of the communities should be noted as a very good practice. Such an agreement and the associated coordination council make it possible to simplify the fight against doping in a system that is particularly complex because of the constitutional rules in force.

Recommendation

3.33. Although the almost total delegation of anti-doping policy to the NADOs is the result of the general anti-doping policy in Belgium, it is recommended that the public authorities be more closely involved, while respecting the independence of the NADOs. Indeed, ministries are often the authorities able to organise cooperation with other institutions or bodies in order to reach a wide audience. For example, cooperation with ministries could be envisaged to involve the media in communication campaigns aimed at the general public. In particular, the team notes that the centralisation of anti-doping and media policy in the German-speaking Community could be an opportunity for cooperation in this regard. Consideration could also be given to involving the Ministries of Education and Higher Education to disseminate information to young people.

4. SPORTS ORGANISATIONS

- 4.1. The Convention identifies sports organisations have an important place in the national anti-doping landscape.
- 4.2. Furthermore, in recognition of the plurality of actors that may have a role to play in anti-doping, Article 3 of the Convention requires States Parties to ensure the coordination of the policies and actions of the organisations concerned in the fight against doping.
- 4.3. In Belgium, in addition to the NADOs, several sports organisations play an important role in the fight against doping.

Sports federations

- 4.4. As a result of the division of responsibilities described in the first part, sports federations are communitarised. As a result, most sports in Belgium are governed by several community federations. However, sports with a national team and/or Olympic sports are also organised within a national federation. There are about a hundred national federations, which act as umbrella organisations and whose remit overlaps with that of the Community federations. It is the national federations that are affiliated to the international federations and, as such, are required to implement the anti-doping obligations imposed by the international federations.
- 4.5. With regard to Community federations, the anti-doping legislation differs between Communities in terms of their obligations. The Flemish Community's anti-doping Decree of 25 May 2012 includes a Title 4 entirely dedicated to the obligations of sports federations and associations relating to preventing and combating doping practices. In this respect, sports federations are required to take measures to prevent doping, to draw up an education plan and, if they are competent, to take disciplinary measures against those responsible for anti-doping rule violations. In addition, the decree explicitly states that the sports federations, on the one hand, must cooperate with NADO Vlaanderen in setting up controls and, on the other hand, must apply and ensure compliance with the measures taken by the international federation to which they belong and/or by NADO Vlaanderen.
- 4.6. Although it is not explicitly stated in the legislation of the other Communities, the evaluation team notes that the Community federations work closely with the NADO responsible for the Community to which they belong, particularly in the areas of education, the facilitation of tests (including the provision of test facilities) and creating and updating of the target group of elite athletes.
- 4.7. For their part, the national federations are responsible for the national teams and, in some cases, elite athletes (leaving the responsibility for other sportsmen and women to the Community federations).
- 4.8. Although some national federations organised doping controls and had disciplinary powers, these powers have been fully transferred to the NADOs as of 2019. As a result, the National Federations will have only residual powers to support the NADOs.

- 4.9. In this regard, and given their target audience, these federations have a major role to play on the one hand, both in terms of education and in supporting the NADOs in their control plan. In terms of education, for example, the national hockey federation focuses on accidental doping and therapeutic use exemptions, as top-level athletes are already aware of their obligations and the bans on doping. In addition, with regard to support for testing, and as an example, the national cycling federation may request the Belgian NADOs - while respecting their operational independence - to carry out tests on international-level competitions not tested by the International Cycling Union, or at national level competitions that it deems necessary to test.

The Belgian Olympic and Interfederal Committee

- 4.10. As the National Olympic Committee, the Belgian Olympic and Interfederal Committee (COIB) is responsible for all top-level sport in Belgium, irrespective of Community competence. As such, alongside Sport Vlaanderen, the ADEPS and the Sport, Culture and Media department of the Ministry of Culture and Sport of the German-speaking Community, it is one of the "partners in top-level sport" and represents 82 national Olympic and non-Olympic federations, representing more than 30,000 clubs and 2 million sportsmen and women. The COIB has an Athletes' Commission, an Ethics Commission and an Athletes' entourage Commission.
- 4.11. More specifically, the Athletes' Commission, made up of fifteen members, athletes who have participated in the last two Summer and Winter Olympic Games in thirteen different sports, as well as a representative of the Paralympic athletes, acts as an interface between the athletes and the COIB. On the one hand, she represents the athletes and advises the COIB; on the other hand, she shares information with the athletes and is their point of contact for any questions they may have, particularly in the areas of ethics and anti-doping. When it comes to sharing information, the Athletes' Commission is aware that there are many different players in the anti-doping field and ensures that athletes are directed to the right contact person depending on the situation. It also has an important role to play in informing younger athletes, particularly about reporting procedures. However, the Athletes' Commission informed the team that only 42% of Belgian athletes are aware of its role.
- 4.12. Historically organised around "operational" missions (selecting elite athletes, creating a sporting climate, supporting federations), the COIB has recently taken on a new mission to promote the Olympic values of friendship, excellence and respect. With regard to this last value, the COIB has adopted a code of conduct which sets out rights and obligations in the fight against doping. This code stipulates, for example, that athletes have the right to be informed of any report of an anti-doping rule violation received by the COIB and the duty to respect the World Anti-Doping Code or to report any doping facts of which they are aware.
- 4.13. The COIB also assists the NADOs to define their target groups, particularly in the run-up to the Olympic Games, by sending them a quarterly updated list of athletes likely to be selected for the forthcoming Olympic Games. However, the NADOs remain solely responsible for defining and updating their target groups.
- 4.14. Finally, the role of the COIB, which is heavily involved in education and training initiatives, will be developed in part seven.

The Belgian Paralympic Committee

- 4.15. The Belgian Paralympic Committee is unique in that it is both a national committee and a national federation for all Paralympic sports. As such, it covers all disability situations and all levels of sport.
- 4.16. Given the difficulties in understanding and approaching anti-doping, particularly in relation to the intellectual disability of some athletes, the Committee is careful to adapt its actions to the specific needs of Paralympic athletes.
- 4.17. Athletes are provided with general information by accepting the Committee's Sporting Regulations, which include the rules of the World Anti-Doping Code, as well as individual information during a mandatory medical examination.
- 4.18. In addition, the Belgian Paralympic Committee provides proactive information on the World Anti-Doping Code, in particular on Therapeutic Use Exemptions and updates to the Prohibited List, as Paralympic athletes are more likely to take pharmacological treatments than other athletes. Special attention is also paid to this information at the time of entry into competition at any level.
- 4.19. In addition to providing information to athletes, the committee also provides training to persons responsible for accompanying athletes during doping tests and ensuring that their rights are respected.
- 4.20. The evaluation team was also able to note the close links between the Belgian Paralympic Committee and the COIB in that the Paralympic Committee is a member of the COIB's General Assembly and each member of the Olympic and Paralympic delegations is required to sign the COIB's code of conduct.
- 4.21. In addition, like the COIB, the Belgian Paralympic Committee has an Athletes' Commission where information can be exchanged and discussed directly with the athletes and which informs the NADOs of the athletes selected or likely to be selected for the Paralympic Games.
- 4.22. Finally, the committee has established a medical working group responsible for preparing all medical aspects of the 2024 Paralympic Games, including anti-doping issues.
- 4.23. Despite its strong commitment, the Belgian Paralympic Committee intends to strengthen its cooperation with the NADOs, in particular by setting up regular meetings and providing more systematic information on procedures when they do not directly concern the Paralympic Games.

Conclusion

- 4.24. The map of the actors involved is complex, as they sometimes have overlapping responsibilities. In this respect, the team notes that the stakeholders themselves highlight this complexity for sportsmen and women and call for greater clarity, while stressing the good cooperation with the NADOs.

- 4.25. The Belgian Olympic and Interfederal Committee and the Belgian Paralympic Committee should be commended for their commitment and their in-depth knowledge of anti-doping.
- 4.26. In any case, the multiplicity of sports organisations with responsibilities in the fight against doping implies a necessary and successful coordination. In this respect, the evaluation team notes that this cooperation seems to be working. Nevertheless, the team wonders about the relationship between the competences of the Community federations and those of the national federations, in particular in a context where the national federations are accountable to the international federation to which they are affiliated.

Good practice

- 4.27. The possibility for sports organisations to participate indirectly in the development of the NADOs' test distribution plan, by providing key information, is a good practice that should be shared. Indeed, it is indicative of close cooperation aimed at increasing the effectiveness of the fight against doping by actively involving the sports organisations while leaving the NADOs free to determine the tests to be conducted.

Recommendations

- 4.28. In view of the disparity in legislation concerning the role and obligations of federations, it is recommended that the authorities consider harmonising the role of Community federations in the fight against doping.
- 4.29. It is also recommended that the authorities introduce levers to improve the visibility of the sports organisations' athletes' commissions. For example, a special page could be created on the COIB website, as well as specific accounts on social networks. In addition, special communication could be envisaged on the part of the NADOs via their websites and/or during their educational activities. Finally, special communication could also be put in place for *Play True Day*, through the sports organisations' communication media and by setting up dedicated stands at the venues of the events organised.
- 4.30. The signing of a protocol of cooperation between sports organisations and NADOs could be envisaged in order to formalise the organisation of exchanges between these stakeholders and to set a minimum threshold of respective obligations. The aim would be to ensure that cooperation between the institutions goes beyond individual relations.

5. LIMITING THE AVAILABILITY OF DOPING SUBSTANCES

- 5.1 Article 4 of the Convention requires the States Parties to adopt all measures to reduce the availability of doping substances, in particular anabolic steroids, and their use in sport.
- 5.2 To this end, the explanatory report indicates that, in addition to legislative, regulatory or administrative measures, the following could be considered: strict control of medical ethics and the pharmacists' code; cooperation between the police, customs, veterinary services and public health inspectors; control of private gyms and fitness centres; cooperation between the police and customs authorities and sports organisations; inspection of sports teams' luggage at border controls, etc.

Legislative measures

- 5.3 In Belgium, great importance is attached to restricting the availability of doping substances in all areas of society. Federal legislation on health products and drugs complements Community legislation on anti-doping, with the aim of reducing the availability of doping substances and their use in sport.
- 5.4 General federal legislation consists of the following texts:
- The law of 24 February 1921 concerning trafficking in poisonous, soporific, narcotic, psychotropic, disinfectant or antiseptic substances and substances that may be used in the illicit manufacture of narcotic and psychotropic substances (drugs law);
 - The Royal Decree of 12 April 1974 on certain operations involving substances having hormonal, anti-hormonal, anabolic, beta-adrenergic, anti-infectious, anti-parasitic and anti-inflammatory action, issued in application of the above-mentioned Law of 1921;
 - The law of 25 March 1964 on medicinal products for human use (Medicinal Products Act).
- 5.5 The Drugs Act of 1921 provides a general framework and empowers "the King to regulate the import, export, manufacture, storage, labelling, transport, possession, brokering, sale, issue and acquisition of poisonous, soporific, stupefying, disinfectant, antiseptic and psychotropic substances". This law also provides for fines and imprisonment, which can be particularly severe in the case of violation of the provisions set out in the implementing Royal Decrees.
- 5.6 These implementing decrees include the Royal Decree of 1974, which requires the authorisation of the Minister of Public Health for the import, export, manufacture, transport, sale, offer for sale, possession, supply and acquisition, whether in return for payment or free of charge, of substances with hormonal, anti-hormonal, anabolic, anti-infectious, anti-parasitic and anti-inflammatory effects.
- 5.7 Finally, the Medicinal products Act regulates the manufacture, marketing and supply of medicinal products, and expressly prohibits the purchase, possession, sale, offer, supply, delivery, import or export of spoiled, altered, expired, falsified or imitated medicinal products, as well as medicinal products that do not comply with the provisions of the law. It should be emphasised that the fine imposed for these acts is without prejudice to the penalties provided for in the Criminal Code.

- 5.8 In addition to this general legislation on medicines and drugs, there is also Community legislation on the fight against doping. The evaluation team noted that the decrees of the Flemish, French and German-speaking Communities and the COCOM ordinance all provide for criminal sanctions for certain doping offences.
- 5.9 The specific criminal provisions falling within the competence of the Communities are not harmonised in Belgium. On the one hand, the doping offences for which the perpetrators are liable to incur criminal sanctions are not the same in all the Communities and, on the other hand, the sanctions imposed, although similar from one Community to another, are not identical.
- 5.10 In terms of punishable acts, Article 46 of the 2012 decree of the Flemish Community criminalises all doping practices, including the presence and use of a prohibited substance or method or the withholding and refusal of a sample. On the other hand, articles 27 of the 2021 decree of the French-speaking Community, 31 of the 2022 decree of the German-speaking Community and 35 of the 2012 order of the COCOM only criminalise possession, trafficking and administration of a prohibited substance or method and complicity in these acts, to which are added the criminalisation of prohibited association and acts of reprisal against a person wishing to or having reported doping acts for the French and German-speaking Communities. In addition, Flemish legislation excludes criminal prosecution when the acts are committed by an athlete during a competition or in preparation for one, whereas the other three Communities make no distinction between the perpetrators of the punishable acts.
- 5.11 Similarly, there is a disparity between the Communities in terms of penalties. While all offences are punishable by a prison sentence of between six months and five years, the fine incurred ranges from five to fifty euros in the French and German-speaking Communities and in Brussels, to two hundred to two thousand euros in the Flemish Community.

Cooperation

- 5.12 In accordance with the legislation in force set out above and in view of the division of responsibilities in the fight against doping in Belgium, cooperation between the various authorities is necessary in order to coordinate actions aimed at reducing the availability of doping substances and their use in sport.
- 5.13 In this regard, a cooperation protocol on the fight against doping was concluded on 10 April 2019 between the four NADOs, the federal police and the College of Public Prosecutors.
- 5.14 This cooperation protocol repeals the pre-existing cooperation protocols in the Flemish Community and the French Community (from 2000 and 2008) in order to extend the principles of cooperation to the entire territory and to establish a harmonised system at national level.
- 5.15 The objectives of the protocol are to establish a common framework and simplified procedures for the exchange of information, to promote reciprocal exchanges while respecting the confidentiality and the secrecy of investigations, to pay particular attention to the fight against the most organised forms of doping and to facilitate the cooperation

of the signatory parties with any foreign authority in order to contribute to improving of the international fight against doping.

- 5.16 The Protocol provides that each NADO shall systematically transmit to the College of Procurators General and the Federal Police any information relating to an anti-doping rule violation. In turn, the College of Procurators General must provide the competent NADO and the Federal Police with any information regarding the judicial follow-up of information provided by the NADO, as well as a copy of any conviction for an offence that is also an anti-doping rule violation. Finally, the Federal Police undertake to provide the NADOs and the Public Prosecutor's Office with a general report containing quantitative data and information on trends in doping-related crime.
- 5.17 In addition to these general obligations, the Protocol provides for a simplified and specific procedure for requesting specific cooperation from one signatory to another in order to combat the most organised forms of doping, with reference to the World Anti-Doping Code (possession by a third party, trafficking, administration to an athlete, complicity and prohibited association) or in the case of necessary cooperation with foreign police and/or judicial authorities.
- 5.18 In practice, the Public Prosecutor regularly communicates with the NADOs, especially in the context of proceedings where it is important to coordinate police and administrative actions. For example, the Public Prosecutor may ask the NADO to respect a certain time limit for reporting the alleged anti-doping rule violation so as not to jeopardise the police investigation and any seizures.
- 5.19 There is also close cooperation between the Public Prosecutor's Office and the NADOs regarding the follow-up to police investigations, insofar as criminal proceedings are correlated with disciplinary proceedings. In less serious cases, the Public Prosecutor's Office informs the relevant NADO and then closes the case without further action if the NADO has imposed a disciplinary sanction on the person concerned.
- 5.20 Despite the apparent cooperation between the various competent authorities, the police and judicial authorities may encounter difficulties regarding the sporting status of the persons being prosecuted. Verification of this status is mainly carried out through open sources, a practice that has its limitations in recreational sport, particularly when it comes to determining whether the person being prosecuted is part of an athlete's entourage.
- 5.21 In parallel with this cooperation protocol, a platform has been set up in 2019 to replace the multidisciplinary Hormones Unit. Under the aegis of the Ministry of Justice, the "Pharma & Food Crime Platform" brings together all the parties involved in the fight against doping (the Public Prosecutor's Office, the Federal Police, the Agency for the Safety of the Food Chain, the Federal Agency for Medicines and Health Products, the Customs Administration and the NADO), with the main aim of facilitating the exchange of information and coordinating the measures to be taken against those involved, in particular, in the trafficking of doping substances and methods.

Conclusion

- 5.22 Belgium has introduced comprehensive legislation to reduce the availability of doping substances, both at federal level, with regard to the regulation of medicines and drugs, and at Community level, with regard specifically to the fight against doping.
- 5.23 However, while recognising of the Communities' full competence to regulate matters relating to sport, it notes and regrets the discrepancy that exists between Community legislation on criminal law.
- 5.24 There is a high level of cooperation and a strong structure at federal level between all the authorities involved in the fight against doping. This level of cooperation is largely due to the fact that it is organised at State level and involves federal actors such as the public prosecutor's office, the federal police and the customs administration.
- 5.25 The cooperation established between the stakeholders makes it possible to link the legislation on medicines, drugs and public health with the anti-doping legislation, and to build bridges between Community and federal legislation, which increases the effectiveness of the fight against doping.

Best practices

- 5.26 The establishment of a cooperation protocol between the various authorities concerned, whether or not their main task is to combat doping, formalises, organises and guarantees the exchange of information between these authorities, making it partly compulsory.
- 5.27 The "Pharma & Food Crime" platform, the operational counterpart of the above-mentioned cooperation agreement, allows for a very high level of operational cooperation. Its establishment at national level guarantees the involvement of police, judicial and customs authorities.

Recommendation

- 5.28 In view of the disparities in Community legislation on criminal matters, and despite the exclusive competence of the Communities in the fight against doping, it is recommended that the authorities consider harmonising the criminal provisions contained in the decrees of the three Communities and the regulation of the Joint Community Commission on the fight against doping. As the penalties are the same, harmonisation could concern only the offences and the fines, thus making the whole system more readable at national level and more accessible to sportsmen and sportswomen.

6. TESTING AND ANALYSIS OF BIOLOGICAL SAMPLES

- 6.1 The Convention requires the States Parties to implement means of effectively combating doping, in particular by assisting sports organisations in financing doping controls and analyses, but above all by encouraging and facilitating the conduct of doping controls by the responsible organisations. In this regard, sports organisations shall conduct a sufficient number of in-competition and out-of-competition testing sessions without prior notice and in a manner that is fair to all athletes.
- 6.2 The Parties to the Convention also undertake to establish on their territory one or more laboratories responsible for carrying out anti-doping analyses or to facilitate access to such a laboratory on the territory of another Party.

Testing

- 6.3 In accordance with Community anti-doping legislation, each NADO shall establish an annual test distribution plan based on a risk analysis to determine the number and nature of tests, the type of samples to be taken and analyses to be performed, in accordance with the testing priorities in terms of risk by discipline, while ensuring that the plan is effective and proportionate. The four organisations conduct both in-competition and out-of-competition urine and blood tests.
- 6.4 The population of athletes who may be subject to doping controls is left to the discretion of each Community, in accordance with Article 3 of the Cooperation Agreement. The Agreement stipulates that, in the case of recreational sportsmen and women who do not take part in any competition, each Community is free to determine, by decree or ordinance, the legal regime applicable to them.
- 6.5 On the basis of this article, the four Communities have empowered their NADOs to test elite or recreational athletes. However, despite the possibility given to NADOs to test recreational athletes, the distribution of tests tends to be largely in favour of tests carried out on elite athletes (between 70 and 90% of tests are made on top-level athletes, in accordance with WADA requirements).
- 6.6 In order to carry out these tests, the four NADOs use doping control officers (DCO), who are authorised to take urine and blood samples, and who are deployed throughout the territory of each Community: 21 DCOs in the Flemish Community, 3 of whom are employed by NADO Vlaanderen; 10 DCOs in the French Community; 1 DCO in the German-speaking Community and 6 DCOs in the Brussels-Capital Region. All of these DCOs receive theoretical and practical training in anti-doping controls and are also bound by professional secrecy. In addition to these DCOs, the NADOs also appoint chaperones to accompany athletes during doping controls.⁵
- 6.7 According to their test distribution plans, the NADOs conducted a total of 3,508 tests in 2021,⁶ of which more than 82% were urine samples; of the 2,879 urine samples, the split between in-competition and out-of-competition tests was almost even (54% in-

⁵ 80 in the Flemish Community and 63 in the French Community. The evaluation team does not have the number of chaperones for the German-speaking Community or for the Joint Community Commission.

⁶ As the team did not have access to the 2022 statistics, it noted the 2021 figures, without this having any influence on the general assessment of the organisation of controls by the Belgian NADOs.

competition tests and 46% out-of-competition tests). In contrast, 88% of the blood samples (629) were taken out of competition.

- 6.8 The Flemish and French Communities alone conduct the vast majority of tests, insofar as with ONADO Brussels carried out 211 tests in 2021, 155 of which were out-of-competition, and NADO CG 17 tests, of which 13 were out-of-competition. At the same time, NADO Vlaanderen organised 1,170 tests, of which 1,018 were in-competition, and NADO Communauté française carried out 882 tests, of which 480 were in-competition.⁷ The NADOs of the German-speaking Community and of the COCOM, which carry out fewer tests due to the smaller size of their target group, concentrate their activities on out-of-competition tests.
- 6.9 Despite the Community's competence in the organisation of tests, the evaluation team noted a very good level of cooperation between the Communities in this area. The guiding principles for in-competition and out-of-competition testing and the groups to be tested have been coordinated within the cooperation agreement, which defines elite athletes and divides them into three categories (A, B and C) according to the criteria it lays down, such as practising a discipline listed in one of its annexes. The Communities can therefore only include in their respective target groups athletes who meet the criteria laid down in the cooperation agreement.
- 6.10 The cooperation agreement also provides for the case where an elite athlete does not belong to any national target group, or belongs to several national target groups, or is part of a national sports team, in application of the various Community legislations. In such cases, it is up to the Coordination Council to decide on a case-by-case basis which of the four NADOs is the most competent in the athlete's best interests.
- 6.11 Finally, the evaluation team noted that the organisation of tests raising cross-Community issues was dealt with by the NADO Working Group mentioned in point 3.13 above. In this case, the procedure is the same as when a foreign NADO requested to conduct a test: the Community NADO requests the NADO of the relevant Community when one of the athletes it wishes to test is located on the territory of another Community. In this regard, the Cooperation Agreement provides for the mutual recognition of DCOs trained and appointed by another Community, thus facilitating the pooling of testing officers and the organisation of inter-Community testing.

Analysis

- 6.12 Belgium has a laboratory attached to the University of Ghent, established in 1965 for horse doping and in 1973 for human doping.
- 6.13 The ISO 17025-certified laboratory in Ghent is one of thirty accredited by the World Anti-Doping Agency and has a unit for managing the athlete's biological passport. It analyses urine and blood samples according to WADA standards. In addition, procedures for the analysis of dried blood spots are currently being developed.

⁷ For the in-competition/out-of-competition breakdown in 2022: French Community: 1,070 tests, including 663 in-competition tests and 407 out-of-competition tests; Flemish Community: 1,631 tests, including 1,019 in-competition tests and 612 out-of-competition tests; COCOM: 194 tests, including 70 in-competition tests and 124 out-of-competition tests; German-speaking Community: 19 tests, including 16 in-competition tests and 3 out-of-competition tests.

- 6.14 The laboratory is responsible for analysing almost all samples collected by the four NADOs (approximately 98%) and is also a service provider to many other anti-doping organisations. With more than 16,000 urine samples received and analysed in 2021, the Ghent laboratory is one of the largest accredited laboratories and therefore produces the largest number of analytical results.
- 6.15 In accordance with World Anti-Doping Agency international standards, all samples are kept for 10 years. In this regard, the laboratory indicated that any request to destroy a sample before the end of the storage period would be invoiced to the requesting anti-doping organisation and brought to the attention of WADA.
- 6.16 In order to achieve a particularly high rate of analysis, the laboratory is equipped with a substantial range of technologically advanced equipment. However, it has only 19 employees, divided between administrative and scientific staff.
- 6.17 The laboratory, which is attached to the University of Ghent, does not receive any direct subsidies from the state. It is entirely financed by service contracts signed with anti-doping organisations. The laboratory has stated that, despite the constant need to find sources of income in order to maintain the level of activity in a field of competition between accredited laboratories, this method of financing enables it to guarantee its complete independence.

Conclusion

- 6.18 The NADOs carry out checks in accordance with the agreement, i.e. without prior notification and both in and out of competition.
- 6.19 In addition, the organisation of the controls by each NADO also takes into account the specificity of Belgium and the competence of the Communities when the implementation of the control plan results in more than one NADO being designated as responsible. Once again, the good cooperation between the NADOs, in particular through the NADO Working Group attached to the Coordination Council, should be emphasised.
- 6.20 As far as the anti-doping laboratory is concerned, its high level of activity and particularly competitive status should be emphasised, while also highlighting the small number of staff within the laboratory.

Good practice

- 6.21 The possibility for NADOs to test recreational athletes is a good practice, given the requirements of the Convention.

7. EDUCATION AND RESEARCH

- 7.1. Education is an essential aspect of the fight against doping and complements the testing and sanctioning activities of the anti-doping organisations. In order to prevent doping, it is vital to establish education programmes aimed not only at athletes but also at schoolchildren, parents, medical staff and, more broadly, the general public.
- 7.2. To this end, the Convention requires the Parties to implement "educational programmes and information campaigns emphasising the dangers inherent in doping and its harm to the ethical values of sport".
- 7.3. In addition to education, the Convention stresses the importance of research activities to be carried out by the Parties. Thus, on the one hand, the Parties are encouraged to conduct research in cooperation with sports organisations on training programmes that respect physical integrity and, on the other hand, laboratories are encouraged to conduct research and development programmes on doping substances and methods in order to gain a better understanding of the effects of these substances on the body and performance.

Education

- 7.4. As with other anti-doping activities, education is a competence of the Communities. However, Community competence does not preclude coordination between them or action by sports organisations to complement Community action.
- 7.5. In accordance with their obligations under the World Anti-Doping Code, the four NADOs have drawn up and implemented multi-annual education plans applicable within the jurisdiction of the Community to which they belong.
- 7.6. These plans have different objectives depending on the NADO, such as:
 - the protection of athletes, raising awareness among athletes and support staff of the values of clean sport, making athletes and support staff aware of their responsibilities and helping athletes and support staff to take decisions in accordance with clean sport for the NADO French Community;
 - protecting athletes and raising awareness of unintentional doping for NADO Vlaanderen ;
 - raising awareness of the fight against doping and the dangers of doping to health, promoting the practice of healthy sport, developing awareness of doping and creating anti-doping reflexes for ONADO Brussels.
- 7.7. Despite this diversity of objectives, all of the NADOs' education plans share general objective of informing athletes about the dangers of doping, its consequences and its specificities.
- 7.8. However, the NADOs have education strategies that differ in terms of the target audiences. While all of them have a priority strategy for elite athletes and management staff, only NADO Vlaanderen and NADO CF indicate in their education plan that they are targeting talented athletes and athletes who have served a period of suspension and are returning to competition. Furthermore, NADO-CG and ONADO Brussels do not include amateur athletes among the target groups of their education plans due to their specific characteristics, resources and areas of competence. In fact, while the NADO-CG

targets athletes, their entourage and parents, its representatives indicated during the visit that they focus more specifically on sports of particular importance in the Community or those involved in major sporting events. ONADO Brussels also targets young athletes by raising awareness in secondary schools with a sports-study programme. In addition, it appeared that only NADO French Community included the media, the medical and paramedical professions and students of medical and paramedical courses among the targets, albeit secondary, of its education plan.

- 7.9. In addition to these target groups in its education plan, the NADO French Community, together with four other European NADOs, has developed as part of an Erasmus + project between 2020 and 2022, an education kit for primary school teachers comprising activity sheets sorted by age group and organised around five values: fairness, compassion, honesty, responsibility and respect. Although these sheets are not specifically focused on anti-doping education and the fight against doping, the subject is mentioned at length in order to raise awareness among schoolchildren. The aim is to provide teachers with a framework for teaching these values to their students, whether or not the activities are carried out in physical education classes. Although the kit has so far been developed exclusively by the ONAD, its representatives expressed their intention, in the long term, to work closely with the Ministry of Education on its implementation, to raise awareness of the fight against doping among the very young.
- 7.10. The educational activities carried out by the NADOs are mainly face-to-face and, for the NADO French Community and NADO Vlaanderen, also include online activities. In addition to its face-to-face educational activities, the NADO-CG plans to produce media communication materials in 2023. The NADOs use various media (social networks, brochures, posters, webinars, e-learning platforms, etc.) to support their activities.
- 7.11. While all the actions are currently carried out by NADO staff, the education plans provide for the training of educators who would be responsible for rolling out the NADO's educational actions throughout the country in order to spread awareness as widely as possible.
- 7.12. In addition to the NADOs, sports organisations also play a major role in the education of athletes and support staff.
- 7.13. On the one hand, the COIB and the CPB are fully involved in the anti-doping education of athletes who may be selected for the Olympic and Paralympic Games. In addition to organising information and prevention sessions for athletes, the COIB organises training modules during its *Espoirs* team training camps, which bring together around 170 athletes under the age of 18 from the young talent development and support programme. With a view to the 2024 Olympic Games, the CPB has set up a medical working group responsible for medical and paramedical preparations before and during the Games, including the prevention of doping.
- 7.14. With regard to coaches and medical staff, the COIB has a coaches' platform and organises a medical staff meeting, with around 50 participants each time. These meetings provide an opportunity for a medical update, which is given by the chief medical officer once a year, and includes a section on anti-doping, in particular the WADA Prohibited List.

- 7.15. In addition, the *Belgian Olympic Academy*, a sports organisation management course for sports professionals co-organised by the Catholic University of Leuven, the Ghent University and the COIB, organises a training session on ethical and legal aspects, focusing on the Olympic values and including anti-doping training.
- 7.16. In addition to the COIB and the CPB, the national federations are also responsible for the implementation of educational activities, particularly for elite sportsmen and women, while educational activities for other sportsmen and women tend to be the responsibility of the community federations.
- 7.17. For example, the national cycling federation has been running an educational programme since 2013, aimed in particular at young athletes, to make them aware of the risks of doping, in particular through the use of medicines or supplements that may be contaminated, as well as doping control procedures. This training is compulsory for licensed athletes, on pain of being excluded from taking part in provincial, regional and national championships. *Belgian Cycling* also has a medical unit that organises compulsory anti-doping training sessions.
- 7.18. For its part, the national hockey federation supervises the education activities of the community federations and implements training initiatives for clubs and elite athletes. In particular, it broadcast a specific video on therapeutic use exemptions in 2018 and has been organising training sessions for young athletes (U16, U18, U21) since 2019. The federation has set itself the goal of repeating these training sessions every two years, so that no age group receives the same training every year, as it would be counterproductive to repeat the same message all the time.
- 7.19. Despite the number of bodies responsible for education, there is good cooperation between them with a view to harmonisation. The four NADOs coordinate regularly in the working group attached to the Coordination Council, in particular on all educational issues of national interest or to organise joint actions with sports organisations. The latter also regularly cooperate with the NADOs in the organisation of their educational events. Nevertheless, the CPIB representatives raised the question of whether regular coordination meetings with the COIB and the NADOs should be set up.
- 7.20. One of the most notable examples of this coordination is the national organisation of *Play True Day*, a day dedicated to the fight against doping set up by WADA, in which each of the NADOs, the COIB and the CPB and the national and community federations participate. The aim of Play True Day is to raise awareness of the fight against doping among athletes and the general public, to promote the values of doping-free sport, such as fair play, and to warn of the health risks associated with doping.

Research

- 7.21. As far as research is concerned, both the public authorities and the laboratory have conducted or are conducting studies to provide data on anti-doping.
- 7.22. The laboratory published nine articles in 2021, mainly on the development of detection methods, and is a member of the Association of anti-doping laboratories, within which the laboratories cooperate on research. However, as this is a competitive field, the

laboratory informed the evaluation team that it does not share the results of its research or articles prior to publication.

- 7.23. In addition, the Federal Science Policy Office and the Communities have co-financed a study by researchers from the universities of Ghent, Leuven and Lausanne on the "Prevalence and effects of performance-enhancing drugs in different groups - lessons for a preventive and curative policy in Belgium (PREVPED)". During the visit, it was pointed out that it is difficult to carry out research on into doping for research purposes, due to the taboos surrounding the subject.

Conclusion

- 7.24. Both the NADOs and the sports organisations are heavily involved in education, in particular through the development of joint programmes and the investments made by the Belgian Olympic and Paralympic Committees in supporting the athletes within their remit.
- 7.25. Nevertheless, there is a certain disparity between the Communities in the definition of the target groups. In particular, the medical and paramedical professions, apart from athlete support personnel, and the general public, in particular schools, are not targeted in the same way for anti-doping education, depending on the Community.
- 7.26. As far as research is concerned, with the exception of the study funded by the Federal Science Policy Office and the Communities, only the Ghent laboratory seems to carry out anti-doping research.

Best practices

- 7.27. *Play True Day* is a nation day dedicated to preventing and combating doping, bringing together a wide range of persons involved in the fight against doping and sport in general, and raising awareness of the issue among athletes and the general public.
- 7.28. The educational kit for teachers developed by the NADO French Community is an effective tool for raising awareness.

Recommendations

- 7.29. In light of the above, it is recommended that the Belgian authorities involve the public authorities more directly in anti-doping education. The public authorities should play a complementary role to sports organisations and NADOs, in particular by addressing the general public, schools and the medical and paramedical professions. To this end, the public authorities could, for example, enter into partnerships with the media to broadcast messages or advertisements during major sporting events.
- 7.30. In addition, and following on from the previous point, the evaluation team recommends that the Belgian authorities responsible for sport consider ways of working together with the authorities responsible for education and higher education. Such links would make it possible to disseminate prevention messages and educational initiatives to be rolled out to a wide audience and to raise awareness among young people and prevent doping through the impact that raising awareness can have on their behaviour.

7.31. In addition, given the differences in resources between the Communities, the Belgian authorities could encourage the translation and adaptation of educational products in order to promote the pooling of educational resources between the NADOs and enable each Community to raise awareness of its sports population as effectively as possible.

8. DISCIPLINARY MEASURES

- 8.1 The Convention requires the Parties to establish disciplinary procedures that respect fundamental rights, such as the separation of prosecution and adjudication, the right to a fair trial and the right to appeal. These disciplinary procedures must make it possible, where appropriate, to sanction doping offences committed by both athletes and support and medical personnel (managers, coaches, doctors, physiotherapists, veterinarians).
- 8.2 The explanatory report to the Convention emphasises that it is "designed as an instrument to intensify international cooperation and harmonisation in the fight against doping". As such, it requires States Parties to encourage their relevant sports organisations to harmonise their procedures for the mutual recognition of suspensions and other sanctions imposed by other sports organisations, whether in their own country or in another country.

Disciplinary proceedings

- 8.3 Anti-doping regulations in Belgium are primarily aimed at imposing disciplinary sanctions in accordance with the World Anti-Doping Code. However, although the objective is the same and the sanctions incurred are harmonised, the procedures established by the legislation of the Communities are different due to their exclusive competence in anti-doping matters.
- 8.4 In the Flemish Community, there are two types of procedure depending on whether the athlete or person being prosecuted is attached to a sports organisation and the level of sport. The federations have disciplinary jurisdiction and NADO Vlaanderen has disciplinary jurisdiction.
- 8.4.1 This two-track procedure can be explained by the structure of the Belgian administrative justice and by a difficulty encountered by the Flemish Community in implementing the World Anti-Doping Code. Historically, the entire process was centralised within a governmental body of the Flemish Community and came under the jurisdiction of the Council of State in the event of an appeal.⁸ With the adoption of the first and then the second World Anti-Doping Code, a new system was developed allowing elite athletes to appeal to the Court of Arbitration for Sport (CAS). In 2008, the *Vlaams Doping Tribunal* (VDT) was established to hear disciplinary proceedings against elite athletes, to which the federations could delegate their jurisdiction and while retaining the right of appeal to CAS. At the same time, the Disciplinary Commission and the Disciplinary Board were maintained as "governmental" bodies for recreational athletes, for whom recourse to the CAS was not required. In 2021, the VDT was transformed into the *Vlaams Sporttribunal* (VST),⁹ a non-profit association financed by its member federations. The remit of the VST was also extended to cover the majority of Flemish sportsmen and women, mainly due to the affiliation of almost all Flemish federations, leaving the Disciplinary Commission with residual jurisdiction.
- 8.4.2 However, the 2012 Decree does not expressly confer jurisdiction on the VST - insofar as the tribunal would have been "established by law" - which would have

⁸ The sport federations also had disciplinary powers, but any decision had to be approved by the government body beforehand.

⁹ The jurisdiction of the VDT has been extended to include other sporting offences, and no longer relates solely to doping; the *Vlaams Doping tribunal* has therefore been transformed into the *Vlaams Sporttribunal*.

meant that its procedure would have reverted to the traditional administrative procedure and would have prevented recourse to the CAS. Thus, disciplinary jurisdiction is legally the responsibility of the federations, which are free to decide whether or not to join the VST.

- 8.4.3 As far as the procedure is concerned, NADO Vlaanderen is, in any case, responsible for the "first results management phase", which corresponds to all investigative and prosecutorial acts in the event that a doping offence is discovered. In particular, it is responsible for informing the person concerned of the charges against them and, if they do not accept the consequences, for sending the case to the relevant disciplinary body.
- 8.4.4 If the person being prosecuted is an elite or recreational athlete affiliated with a member federation (i.e., a member of an international federation that is a signatory to the Code), a coach or other athlete support personnel who has a contractual relationship with the federation or an affiliated athlete, or a member of a team under the jurisdiction of the federation¹⁰, he or she comes under the jurisdiction of that federation, according to the 2012 Decree. The disciplinary jurisdiction of the federation includes, in particular, the preliminary hearing and the imposition, where applicable, of a provisional suspension; the taking of a decision on the violation of a provisional suspension measure; the taking of a decision without a hearing in the event that the person being prosecuted accepts the consequences incurred; and the holding of a hearing and the taking of a decision on the consequences of the acts being prosecuted. Within this framework, the federation (or the VST if it has delegated its authority) is required to apply the provisions of the Code.
- 8.4.5 The VST is composed of a 15-member executive committee, which is formed by the federations and responsible for the day-to-day management of the Association. Disciplinary proceedings brought before the VST are conducted by a disciplinary chamber, consisting of a first instance panel and an appeal panel, and are governed by specific procedural rules regulating the appointment of judges. Judges are appointed by an Appointments Committee composed of three independent members. The committee appoints a panel of independent judges (magistrates and doctors), whose chairman is then responsible for appointing the members of a disciplinary panel for each disciplinary case brought before it. Lastly, the appointment of judges to the disciplinary panel complies with a VST policy on the prevention of conflicts of interest.
- 8.4.6 If the person being prosecuted is a recreational athlete not affiliated to a member federation, the Disciplinary Commission attached to NADO Vlaanderen is responsible. In this case, the procedure is described in the 2012 Decree, which sets out the rights of the person being prosecuted (right to adversarial proceedings, right of access to the case file, right to be assisted by a lawyer or another person of their choice, right to be represented by a lawyer, right to be assisted by an interpreter, right to appeal).
- 8.4.7 The Disciplinary Commission and the Disciplinary Board are each made up of three members appointed by the government for a five-year renewable term. The

¹⁰ The VST does not exist in the 2012 decree, so when the federations are referred to here, they are in fact the VST.

chairman and deputy chairman must be members of the judiciary, and the other (deputy) members must always include a doctor and a lawyer. The 2012 Decree guarantees the independence of all members and the secretary of the Disciplinary Commission and Board, notably by referring to the rules of incompatibility established by the government.

- 8.4.8 NADO Vlaanderen initiated 14 disciplinary proceedings in 2021 and 24 in 2022. None of these cases were referred to the VST, as they were dealt with by the Disciplinary Committee attached to NADO Vlaanderen due to the (amateur) status of the athletes.
- 8.5 In the French-speaking Community, disciplinary powers were exclusively vested in the federations until 2011, when the disciplinary system was reorganised in order to unify practices. Thirty-five federations created a non-profit association, the *Commission inter-fédérale disciplinaire* (CIDD), with the aim of creating and organising a qualified and impartial disciplinary body to deal, at first instance, with doping cases arising in member federations. The CIDD was subsequently recognised as the only competent anti-doping disciplinary body in the French Community,¹¹ regardless of the sport to which the person concerned belonged.
- 8.5.1 The CIDD therefore has jurisdiction to hear disciplinary proceedings for alleged violations of anti-doping rules (including provisional suspension decisions), as well as appeals by elite athletes regarding whereabouts requirements.
- 8.5.2 The CIDD has seventeen judges (eleven lawyers and six medical doctors) appointed by the Board of Directors for a three-year renewable term, who composed the Disciplinary Commission and the Disciplinary Appeals Commission, divided into chambers as necessary. Each chamber is responsible for one or more cases and comprises three judges: a legal chair, a legal assessor and a medical assessor.
- 8.5.3 In order to guarantee its operational independence and ensure its long-term viability, the 2021 Decree provides that the CIDD will receive an annual subsidy set at a basic amount of 120,000 euros, which may be adjusted upwards or downwards depending on the health index, salary indexation and the actual activity of the Commission.
- 8.5.4 The rules of procedure of the CIDD also guarantee its independence and impartiality, by establishing a procedure for the prevention of conflicts of interest, deferral in the event of conflicts and incompatibilities.
- 8.5.5 From a procedural standpoint, the NADO French Community is competent for initiating disciplinary proceedings in the event of an abnormal analysis report or non-analytical violation of the anti-doping rules and for conducting the initial investigations. It then forwards the case file for the alleged violation to the CIDD, which applies the procedural rules and sanctions set forth in the World Anti-Doping Code.
- 8.5.6 With regard to the rights of those being prosecuted, the Decree provides that the CIDD guarantees respect for the rights of the defence, in particular the right to be

¹¹ Decree of 14 November 2018 amending the decree of 20 October 2011 on the fight against doping and amending the decree of 10 May 2013 establishing a procedure for recognising quality fitness gyms.

heard, to be represented and assisted by legal counsel at one's own expense, the right to a fair and adversarial hearing within a reasonable time, and the right to appeal. With regard to this last right, it is expressly provided that in cases arising from participation in an international event or involving international-level athletes, the appeal against the disciplinary decision taken by the CIDD Trial Chamber shall be made exclusively to CAS.

- 8.5.7 Finally, the rules of procedure are communicated to all persons subject to prosecution so that they may be informed of the organisation of the proceedings before the CIDD.
- 8.5.8 In ten years (2011-2021), the CIDD has conducted 125 disciplinary proceedings.
- 8.6 In the German-speaking Community, as in the French-speaking Community, all athletes and other persons coming under the jurisdiction of NADO-CG can be subjected to disciplinary procedure before the *Leitverband des Ostbelgischen Sports* (LOS), the umbrella association for sport in the German-speaking Community. The LOS has jurisdiction over athletes and all other persons regardless of their sporting affiliation, level or nationality.
- 8.6.1 In the first instance, the LOS consists of a disciplinary Panel, assisted by a secretariat, which acts as a third party delegated by the NADO once the alleged violations have been referred to it. This chamber is composed of at least six members appointed by the LOS Board of Directors for a three-year renewable term. At the time of the visit, the Trial Chamber was composed of four lawyers with expertise in anti-doping, two lawyers with expertise in litigation procedures (who are the Chairman and Vice-Chairman) and two medical doctors with expertise in anti-doping. The President or Vice-President have the responsibility to compose the disciplinary panel for each case referred to the LOS and to appoint a legal assessor and a medical doctor.
- 8.6.2 The LOS also has an Appeal Panel, composed of six members with the same powers as the members of the disciplinary panel,¹² which is responsible for hearing appeals against decisions by the disciplinary panel, appeals by elite athletes concerning whereabouts requirements and decisions of the Therapeutic Use Exemption Committee. Only decisions taken in cases arising out of participation in an international event or in cases involving international-level athletes do not fall within the jurisdiction of the LOS Appeals Board but within that of the CAS.
- 8.6.3 The 2022 Decree expressly guarantees the impartiality and independence of the LOS and leaves it to the rules of procedure to lay down the rules governing the independence and impartiality of the members of the disciplinary body. The rules provide three main guarantees of independence and impartiality: the members of the disciplinary panels must sign a declaration of independence; the person being prosecuted may challenge the appointment of any member and request their removal; and the member is required to resign if a conflict of interest is discovered during the proceedings.

¹² With the exception of the President and Vice-President, certain members may sit on both the Disciplinary and the Appeal Panels but may not, in any event, take part in the appeal of a decision they have heard at first instance.

- 8.6.4 These rules must also guarantee respect for the rights of the defence, the right to a hearing and a reasoned decision within a reasonable time, the right to be heard and the right to be represented by legal counsel at one's own expense. The evaluation team also noted that the rules empower the hearing body to provide legal counsel at the expense of the LOS if it considers that the athlete would be prejudiced by not being represented.
- 8.6.5 As this procedure was developed after the entry into force of the 2021 Code, the LOS has not had to deal with any disciplinary cases to date.
- 8.7 In the Brussels-Capital Region, as in the Flemish Community, there are two channels for disciplinary proceedings. On the one hand, the sports federations are responsible for disciplinary matters concerning persons under their jurisdiction and, as such, must set up a disciplinary procedure with a hearing body in accordance with the COCOM anti-doping legislation.¹³ On the other hand, the United College is required to set up a disciplinary procedure for persons who do not fall under the jurisdiction of sports associations or federations and for those who fall under the jurisdiction of sports associations or federations that have not set up a disciplinary procedure with a compliant hearing panel.
- 8.7.1 To this end, in 2022 the United College created the Anti-Doping Disciplinary Commission (CODA) as a *"fair, independent and impartial disciplinary hearing body competent to hear any doping offence on the territory of the bilingual Brussels-Capital region allegedly committed by an athlete or any other person: / 1° who is a member of a sports association or federation that has not organised the disciplinary procedure referred to in Article 30 of the Ordinance; / 2° or who is not a member of a sports association or federation."*¹⁴, financed by ONADO Brussels.
- 8.7.2 CODA has two chambers, one French-speaking and the other Dutch-speaking. Each chamber has three full members and three deputy members: a legal chairman, a legal secretary, a medical expert and their deputies. Administrative files are forwarded according to the language used in the administrative file.
- 8.7.3 These members, who meet the conditions laid down in the Order of 13 January 2022, are appointed by the members of the Board for four-year renewable term, following a selection procedure involving the members of ONADO Brussels. The evaluation team also noted that the Board may terminate the term of office of a CODA member at his or her request or if he or she no longer fulfils the conditions required for appointment, or if he or she commits an inexcusable fault in the performance of his or her duties or violates the dignity of the office.
- 8.7.4 CODA has its own rules of procedure, which reiterate its fairness, impartiality and operational independence. To this end, the internal regulations lay down rules on incompatibility, in particular with any position in a sports association, an Olympic or Paralympic committee or a government, and require members to sign a

¹³ The evaluation team was unable to evaluate this disciplinary pathway, which is therefore not included in this report.

¹⁴ Order of 13 January 2022 of the United College amending the Order of the United College of 10 March 2016 implementing the Order of 21 June 2012 on the promotion of health in sport, the prohibition of doping and its prevention.

declaration in advance stating that they have no conflict of interest and that, should such a conflict arise, they inform the parties concerned.

8.7.5 The Order provides that CODA shall apply the procedures and sanctions in accordance with the provisions of the Code and the WADA international standards, the UNESCO Convention against Doping in Sport and the 2012 Order. Its decisions may be appealed to the Council of State and the CAS.

8.7.6 As CODA has only recently been established, it has not yet dealt with any disciplinary proceedings.

Mutual recognition of sanctions

8.8 States Parties are also required to encourage sports organisations to recognise suspensions and other sanctions imposed by other sports organisations in the same country or in another country.

8.9 In this regard, the Cooperation Agreement states that each party to the agreement undertakes to *"automatically recognise any decision in a doping case taken in accordance with the principles of the Code by any competent authority or organisation, of which its NADO is aware, and to communicate such decision through its NADO, to the other NADOs of the contracting parties, using secure communication channels, in order to ensure respect for the right to protection of the privacy of the person concerned"*.

Conclusion

8.10 The legal framework of the four organisations fully meets with the requirements of the Convention as regards disciplinary measures, both in terms of procedure and the sanctions.

8.11 However, the complexity of the procedural system is overlaid by the complexity of the division of powers. The procedural differences between the Communities, particularly with regard to the chambers of the competent authorities, affect the clarity of the system for those who may come into contact with it. In this respect, it is questionable whether an athlete, or any other person, can find out which body is or would be responsible for disciplinary proceedings concerning him or her.

8.12 With regard to procedural rights, most of the rights contained in Recommendation CM/Rec(2022)14 on the general principles of procedural fairness in anti-doping disputes in sport are guaranteed by Community legislation or by the procedural rules of the competent bodies. However, contrary to the recommendation, hearings are held in camera, unless the interested party requests a public hearing. This procedural rule derives from the provisions of the Code and is a matter for the NADO to comply with.

Best practices

8.13 The granting of a subsidy to the CIDD guarantees its operation. In addition, the fact that the amount of the subsidy is determined by law supports its full independence. This type of subsidy should be considered as good practice.

8.14 In the German-speaking Community, it is very good practice to appoint a lawyer for athletes undergoing a disciplinary procedure, if necessary, at the expense of the LOS, if such appointment is in the athlete's interest.

Recommendations

8.15 Given the complexity of the system, it is recommended that the Belgian authorities consider the possibility of harmonising procedures between the Communities so that each NADO refers disciplinary cases to only one organisation within the jurisdiction of the Community to which it belongs. Such harmonisation would make the system easier to understand and more accessible to athletes and other prosecuted persons, especially since a Belgian athlete may come under the jurisdiction of several Communities during his or her sporting career.

8.16 With regard to the procedure for appointing members of the disciplinary panels, in order to ensure their complete independence and the absence of any conflict of interest, the Belgian authorities are invited to ensure that the NADOs do not intervene in the selection process for members of the disciplinary bodies. Furthermore, and more specifically with regard to conflicts of interest, a procedure for declaring the absence of a conflict should be provided for each hearing, as well as rules for postponement in the event of a possible real or perceived conflict, in order to guarantee an impartial hearing for the person being prosecuted.

8.17 Inspired by the practice in the German-speaking Community, it is recommended that the authorities facilitate access to a lawyer, possibly provided by the NADO and at its expense, when it would be detrimental to the athlete not to be assisted by legal counsel.

8.18 Given that some jurisdictions have never had to hear a disciplinary case, the authorities are invited to establish a procedure of for the ongoing training of the members of the disciplinary panels in order to maintain a high level of competence in anti-doping matters and to ensure that they are kept abreast of changes in the relevant Community legislation.

9. INTERNATIONAL COOPERATION AND COMMUNICATION OF INFORMATION

- 9.1. Articles 8.1 and 8.2.c of the Convention emphasise the importance of coordination and cooperation among the States Parties to the Convention at the international level. The Monitoring Group of the Anti-Doping Convention (T-DO), as well as the Advisory Groups and ad hoc Groups of Experts, are the main vehicles for this cooperation.
- 9.2. Another important channel of cooperation within the framework of the Council of Europe is the ad hoc European Committee for the World Anti-Doping Agency (CAHAMA), which is responsible for coordinating the positions of the European States with regard to WADA. Representatives of the Belgian NADOs regularly attend the meetings of the T-DO and CAHAMA. The Cooperation Agreement organises coordination between the NADOs in order to decide on the Belgian position to be defended within these bodies, and on the members of these bodies.
- 9.3. The Belgian authorities also provide the Council of Europe with an annual report on the implementation of the Convention by completing the online questionnaire and submitting the relevant documents. This information is made available to the public on the Council of Europe's website.
- 9.4. As mentioned in the first part, Belgium has ratified the UNESCO International Convention against Doping in Sport. However, it has neither signed nor ratified the Additional Protocol to the Anti-Doping Convention, which strengthens the control mechanisms of the States Parties.
- 9.5. The Belgian NADOs regularly cooperate both with foreign NADOs, particularly in the context of doping controls and disciplinary procedures, and with European police forces. In this respect, Belgium took part in operations SHIELD II and SHIELD III, coordinated by Europol, which resulted in the seizure of large quantities of doping substances (mainly anabolic agents).

Conclusion

- 9.6. In view of the above, Belgium is fully committed to international cooperation and the exchange of information in the fight against doping.