

MONITORING GROUP (T-DO)

ANTI-DOPING CONVENTION



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**Anti-Doping Convention (ETS 135)
EVALUATION REPORT OF THE MONITORING GROUP (T-DO)**

Evaluation visit to Hungary
10 – 12 October 2023

**EVALUATION REPORT
ON HUNGARY**

Context

The Monitoring Group oversees the implementation and application of the Council of Europe Anti-Doping Convention ([the Convention](#)). The Additional Protocol to the Anti-Doping Convention ([Additional Protocol](#)) 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 component 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 to the Convention 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 2023, the State Secretariat for Sport of the Ministry of Defence of Hungary invited an Evaluation Team to conduct an Evaluation Visit. Prior to the Evaluation Visit the Hungarian authorities submitted a [National Report](#) which provided detailed description of the measures adopted by the Hungarian Government and public bodies in relation to the Convention. This Evaluation Report records the outcome of that Evaluation Visit.

The [National Report](#) and the [programme](#) of the visit, including the [participants](#), are included as Annexes to this Evaluation Report.

This Evaluation Report is divided into two Sections:

Section One [Executive summary](#) containing the conclusions reached by the Evaluation Team (A), identification of [best practices](#) that may be of use and benefit to other Parties (B), and [recommendations](#) made to the Hungarian Government (C).

[Section Two](#) The observations and conclusions of the Evaluation Team.

Annexes [Annex 1](#) - National Report
 [Annex 2](#) - Programme of the visit, including the participants

SECTION ONE

This Section constitutes –

A. Executive Summary – Evaluation Report

B. Best Practices

C. Recommendations

A. Executive Summary – Evaluation Report

The Evaluation Team has considered the measures taken by the Hungarian Government and public bodies to comply with the Convention by reference to the National Report and on the basis of the consultations held with several relevant organisations engaged in the overall anti-doping framework in Hungary. These organisations included the Ministries tasked by the Hungarian Government with responsibility for sport, civil justice and criminal justice, law enforcement bodies, and sport administration bodies including the National Anti-Doping Organisation for Hungary.

The Hungarian public authorities have implemented the Convention in a cumulative manner encompassing primary and subsidiary legislation, administrative policies, and public procurement. The primary public authority with responsibility for anti-doping matters in Hungary is the State Secretariat for Sport, a division within the Hungarian Ministry of Defence. The Convention refers specifically to the contribution that sport plays in ‘the protection of health, in moral and physical education and in promoting international understanding’, and consistent with this, sport and sport participation is a strategic priority for the Hungarian public authorities. An effective anti-doping framework is seen as an important supporting feature for this strategy.

The central anti-doping body in many nations is the National Anti-Doping Organisation, which is most commonly a dedicated public body. In Hungary, the functions of the National Anti-Doping Organisation are carried by HUNADO, the Hungarian National Anti-Doping Organisation. The administrative structure for HUNADO is unusual in that the operational roles and responsibilities assigned to HUNADO are fulfilled by a third-party organisation appointed pursuant to a tender initiated as part of a public procurement process, with the successful tendering party entering into a contract with the Ministry of Defence whereby that party fulfils the functions of HUNADO for a set contractual term. As the Evaluation Report notes, this is of itself not incompatible with the Convention, but does raise certain issues which the Hungarian public authorities will take note of.

The Hungarian public authorities most closely associated with the overall sport strategy coordinate and collaborate with HUNADO to a significant degree. The distribution, sale, and supply of banned substances, as well as devices that can be used in connection with doping, are regulated by a number of legislative and regulatory instruments. These include laws restricting the sale and supply of a number of substances, including certain substances that are routinely included each year as part of the Prohibited List (such as anabolic steroids). The National Police are responsible for investigating most criminal offences arising from the unlicensed distribution of banned substances and use of methods, most of which derive from the Hungarian criminal code. HUNADO is able to exchange information with the National Police based on bilateral agreement in relation to the latter’s investigations, although there are some regulatory restrictions as to the extent to which HUNADO can receive information arising from investigations carried out law

enforcement agencies (especially, by the Police, Hungarian tax and customs, medicines supervisory authority, food safety authority).

Sport organisations collaborate closely with HUNADO, albeit that the matrix of rules and policies that apply to anti-doping is somewhat complex, as is the means by which sports organisations are required to recognise the role and responsibility of HUNADO. Sports organisations and sports persons are able to benefit equally from the services provided by the Centre for Sports Nutrition Science, which advises sports persons on matters associated with nutrition, including providing a service whereby commonly used supplements are analysed for the presence of banned substances. Like many countries, Hungary is vulnerable to the importation of mislabelled and counterfeit products that contain banned substances and the services provided by the Centre for Sports Nutrition Science provide an important control in relation to this risk.

HUNADO is responsible for the testing of sports persons within Hungary, including both domestic sports persons and overseas sports persons who visit Hungary to compete. This testing program fulfils the requirements of the Convention and is compliant with the relevant standards within the World Anti-Doping Code. There is no laboratory accredited by the World Anti-Doping Agency analysis of biological samples located within Hungary, but HUNADO routinely uses the services of such accredited laboratories located in neighbouring nations, primarily that located in Seibersdorf, Austria.

HUNADO is responsible for producing and communicating education and training related to anti-doping to sports persons and support personnel. This is conducted in collaboration with sports organisations and the National Olympic and Paralympic Committees. HUNADO is also the principal organisation with responsibility for investigating anti-doping rule violations and bringing forward disciplinary cases pursuant to the HUNADO Anti-Doping Rules. Disciplinary cases in first instance are subject to resolution by an operationally independent hearing body established pursuant to the HUNADO Anti-Doping Rules.

A number of these features are reflected in the Best Practices identified, and Recommendations made, by the Evaluation Team, as detailed below.

B. Best Practices

The Evaluation Report identifies the following best practices arising from the implementation of the Convention by the Hungarian public authorities.

- a) Major Events are perceived to have value in encouraging participation in sport. However, the value of Major Events is diminished if there is no demonstrable impact on activity levels before and after the Event. The approach taken by the Hungarian public and sporting authorities to ensure engagement and interest before, during and after the Event is a noteworthy initiative in terms of securing the value of Major Events as a trigger for increased interest and participation in sport.
- b) The Hungarian public authorities have adopted targeted fiscal measures designed to encourage investment in sport federations, and so indirectly into the anti-doping framework. Incentivising investment in sport is perceived as an indirect incentive to invest in anti-doping, which the Evaluation Team sees this as a best practice as part of an integrated sport and health policy.
- c) The Monitoring Group *Recommendation on the operational independence of National Anti-Doping Organisations* includes a recommendation that Parties to the Convention provide adequate funding to National Anti-Doping Organisations. The Hungarian public authorities have provided a funding commitment in law, which provides a robust legal security for funding of anti-doping activities in Hungary.
- d) The Centre for Sports Nutrition Science is a best practice example of a ‘supplement testing’ facility. The combination of open trading borders and varying manufacturing and labelling standards as applied to nutritional supplements makes such products an obvious doping risk for sports persons. The Centre for Sports Nutrition Science analysis operations provide a valuable and important service to sports persons and is a high-quality example in terms of what such a facility should encompass.
- e) Training is an essential component of upskilling law enforcement bodies in the identification and seizure of unlicensed and unlawful products that contain banned substances, and the similar identification and seizure of unlicensed products used to facilitate doping. The training provided by HUNADO to the National Tax and Customs authorities has made an appreciable difference to the identification and seizure of illicit doping substances at the various border entry points into Hungary.
- f) The adoption and ratification by Hungary of the Medicrime Convention has assisted the Hungarian public authorities in their efforts to restrict the availability of unlicensed and counterfeit pharmaceutical products and substances. These efforts are, however, compromised by the absence of equivalent standards in countries from where such unlicensed and counterfeit pharmaceutical products and substances are frequently sourced. The adoption of the Medicrime Convention (or the existence of equivalent standards) should be a best practice for all signatories to the Anti-Doping Convention (on an ‘adopt or explain’ basis).

C. Recommendations

The Evaluation Report encompasses the following recommendations to the Hungarian public authorities:

Strategy

The goals associated with the anti-doping program in Hungary are clear in that the State Secretariat for Sport has a strategic approach to the contribution that participation in sport can make to an overall health policy, which appeared to the Evaluation Team to be focussed on the value of sport participation in relation to preventable health conditions, such as cardio-vascular diseases, diabetes, and mobility-related impairments. The Evaluation Team recommends that this strategic approach be encapsulated within a policy document that highlights the role that anti-doping has in ensuring the success of this strategy.

HUNADO

The structure adopted by the Hungarian public authorities as to the National Anti-Doping Organisation is not incompatible with the Convention. Nevertheless, it is recommended that the current tendering system used to identify and engage a partner organisation to fulfil the role of National Anti-Doping Organisation be reviewed to ensure –

- a. that appropriate conflicts of interest policies are in place as between HUNADO, the HUNADO Supervisory Board and the State Secretariat for Sport; and
- b. that there is an operational plan to cater for the risk that a suitable third-party provider cannot be identified pursuant to the public procurement process, which would in turn require the National Olympic Committee to assume the role of National Anti-Doping Organisation.

It is also recommended that the relevant contractual agreement be reviewed to reinforce the operational independence of HUNADO and avoid any risk of undue influence in relation to its activities.

Legislation and Administration

The Hungarian public authorities should consider legislative amendments that would give effect to the following –

- a) The incorporation into relevant provisions of the Criminal Code of the illicit use of certain of the Prohibited Methods referred to in the Prohibited List;
- b) The facilitation of information sharing as between public authorities (especially the Police, the National Tax and Customs authorities, food safety authority and medicines supervisory authority) and HUNADO as regards matters that may be relevant to HUNADO in the discharge of its responsibilities.

The Hungarian public authorities in conjunction with HUNADO should prepare a guideline for sport organizations, federations, and the public bodies) that explains the interrelationship between the HUNADO anti-doping rules, anti-doping rules adopted and implemented by National Federations, and the anti-doping rules implemented by the International Federations under whose jurisdiction the National Federations fall. This will be with a view to that the operational roles and responsibilities of HUNADO across Hungarian sport are given best effect.

Disciplinary Process

The appointment procedure for the members of doping committee rests solely with HUNADO, which given its status as the NADO, in effect means that the investigatory and prosecutorial agency for anti-doping matters also appoints the dispute resolution body. This should be reviewed to ensure that the appointment process –

- a) is compatible with *Recommendation CM/Rec (2022)14 of the Committee of Ministers to member States on general principles of fair procedure applicable to anti-doping proceedings in sport*; and
- b) that safeguards exist to protect the member of doping committee from any internal and external pressure.

The Evaluation Team is aware that international standards relating to fair hearings underpin Athletes' rights in Hungary in respect of the dispute resolution processes used in relation to anti-doping matters. The Evaluation Team recommends that key aspects of these rights, including the right to be represented at hearings, rights to access to evidence, and the right to have adequate time to prepare a defence or mitigation, be expressly included in any future revisions of relevant anti-doping standards.

SECTION TWO

Prior to the Evaluation Visit the Hungarian State Secretariat for Sport provided a [National Report](#) detailing the various measures taken by the Hungarian Government to implement the Convention.

This Section of the Evaluation Report has been prepared by the Evaluation Team and constitutes a detailed description of its findings by reference to the relevant sections of the [National Report](#) and the information provided to the Evaluation Team during the course of the Evaluation Visit.

1. Legislation, Regulations and Administrative Provisions

Legislation

- 1.1. The [National Report \(Annex I\)](#) provides a detailed description of the measures adopted by the Hungarian Government in relation to the Convention. The Hungarian Government signed the Convention in 1990 and signed the Additional Protocol to the Convention in 2004, with ratification taking place in 2007. The Hungarian Government is also a signatory to the UNESCO International Convention Against Doping in Sport (**‘the UNESCO Convention’**).
- 1.2. The State Secretariat for Sport (which sits within the Ministry of Defence) is the leading public authority responsible for advising on, coordinating, and developing legislative and strategic matters associated with anti-doping. The State Secretariat for Sport has regulatory and financial responsibilities for anti-doping, as well as leading Hungary’s international engagement on anti-doping policy through the Council of Europe and UNESCO.
- 1.3. Several governmental decrees are in effect that dovetail to provide the foundation for the legal framework as it applies to anti-doping measures in Hungary. In particular:
 - ☞ *Government Decree 363/2021 (VI.28) on the Rules of Anti-Doping Activities* (**‘Government Decree on Anti-Doping’**) has been enacted pursuant to the *Act on Sports* and contains several enabling provisions intended to provide a secure legal foundation for various core anti-doping components, including the establishment of the National Anti-Doping Organisation and the roles and responsibilities of relevant public authorities and sports bodies.
 - ☞ *Government Decree 99/2007(V.8)* gives effect to certain of the Hungarian Government’s commitments pursuant to the UNESCO Convention, most notably those relating to Therapeutic Use Exemptions and the establishment of the Prohibited List.
- 1.4. Pursuant to the Government Decree on Anti-Doping further instruments have been adopted, including regulations that establish the anti-doping rules implemented by the National Anti-Doping Organisation.
- 1.5. The *Act C on the Criminal Code* (**‘the Criminal Code’**) includes provisions relating to the use of certain prohibited substances (S1, S2, S4), addressed in this Report in further detail below.

Strategy

- 1.6. The Evaluation Team was advised that physical education and participation in sport and/or exercise as part of a healthy lifestyle is a strategic priority for the Hungarian Government. Participation and involvement in recreational and competitive sport is encouraged with a view to ensuring that people remain active throughout adult life. High level sport is seen as an integral part of this strategy and International and Olympic success is a strategic goal within Hungarian sport policy.
- 1.7. The hosting of major sport events also contributes to this strategy, a recent example being the World Athletics Championships in 2023. A specific effort was made to ensure engagement and interest in this latter event through the promotion of tickets to schools and across the country. A similar approach/initiative was undertaken for the Cycling Giro d'Italia in 2022, which included 3 stages hosted within and across Hungary.
- 1.8. The Hungarian Government recognises that encouraging participation amongst young people is challenging – more challenging than it was even relatively recently as the attractions of social media and online interaction draw attention and time away from participation. This is a challenge across Europe and not a unique situation to Hungary. How to 'compete' with social media and online activities is a strategic challenge for the Hungarian Government, and part of its participation initiatives is a heavy focus on using social media itself to promote participation.
- 1.9. Doping is generally accepted as diminishing enthusiasm and respect for sport. The prevention of doping is, therefore, also a strategic priority. Education and training form an important part of this strategy in conjunction with a national testing program.

Best Practice

- 1.10. Major Events are perceived to have a potential value in encouraging participation in sport. However, Major Events are often plagued by poor attendances and/or a disconnect between the event and actual or future participation by attendees – the value of Major Events is diminished if there is no demonstrable impact on activity levels before and after the Event. The approach taken by the Hungarian public and sporting authorities to ensure engagement and interest before, during and after the Event is a noteworthy initiative in terms of securing the value of Major Events as a trigger for increased interest and participation in sport.

2. National Anti-Doping Organisation (NADO) – Structure and Governance

- 2.1. The legislation referred to above establishes the role of the National Anti-Doping Organisation within the Hungarian anti-doping framework. The Hungarian National Anti-Doping Organisation is referred to as '**HUNADO**'.
- 2.2. HUNADO is assigned several administrative and operational responsibilities within the Hungarian anti-doping framework. The Government Decree on Anti-Doping provides that HUNADO's functions will be carried out pursuant to '*an agreement for public benefit concluded with the Minister*' (the 'Minister' being the Minister Responsible for Sports Policy), with the Minister being responsible for concluding this agreement with the '*organization performing the duties of HUNADO*' and for monitoring '*the fulfilment of the provisions of the agreement of public interest*'.
- 2.3. The operational activities of HUNADO are, therefore, carried out by a third-party organisation whose services are solicited by way of a public procurement basis that invites third parties to submit tenders for a contract to be entered into as between the State Secretariat for Sport on the one part, and the entity providing the services on the other part. The successful entity then provides the operational resources (including staff) for HUNADO and in effect becomes HUNADO.
- 2.4. The current service provider in this regard is the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited, which has been the successful tender partner in relation to HUNADO for several years. As required by the State Secretariat for Sport, this is a non-profit organisation. It is contractually obliged to fulfil all the roles and responsibilities assigned to a National Anti-Doping Organisation by the World Anti-Doping Code. (References in this Report to 'HUNADO' should, therefore, be taken to mean the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited, and vice versa.)
- 2.5. The State Secretariat for Sport funds HUNADO on a four-year cycle aligned with the Olympic cycle; this funding is provided to cover the costs of doping controls and other operational activities. The funding provided by the State Secretariat for Sport includes key performance indicators in relation to the number of doping controls to be undertaken by HUNADO each year. This is secured through the Government Decree on Anti-Doping, which provides that the Minister must '*provide state funding to ensure that HUNADO may perform its duties as national anti-doping organization in Hungary under the Code and the International Standards*'.
- 2.6. The tendering process for the entity that fulfils the role of the NADO is intended to ensure that there is operational independence as between the NADO and the relevant public authorities.
- 2.7. The contract term for the provision of HUNADO expired on 31 December 2023; the Evaluation Team was advised that the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited has been reappointed for a further four-year term to commence on 1 January 2024.
- 2.8. HUNADO incorporates a three-person Supervisory Board, appointed by HUNADO. The Evaluation Team did not meet with the Supervisory Board but understood that the role of the Supervisory Board was relatively limited.
- 2.9. The Evaluation Team was of the view that the tendering process for the conduct of HUNADO's operations presents obvious challenges in terms of continuity, retention of knowledge and know-

how, and access to skilled staff, as well as the loss of ‘soft’ benefits based around interpersonal relationships as between NADO personnel and third parties. These challenges have historically been hypothetical rather than actual but the risk of the model, when posited against the perceived benefits in terms of operational independence, do not lend it to being a model that would be recommended. Indeed, overall, it is something that the Hungarian Government may maintain under review.

- 2.10. The World Anti-Doping Code requires that if there is no National Anti-Doping Organisation, then the relevant National Olympic Committee should fulfil the responsibility of National Anti-Doping Organisation. Although this provides some level of assurance in the event that the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited was, for whatever reason, no longer in a position to fulfil the roles and responsibilities of the National Anti-Doping Organisation, there is no indication that in reality the National Olympic Committee would be able to take on these responsibilities. The Hungarian public authorities may wish to consider adopting a training program that ensures that if this situation arose, that the National Olympic Committee would be in a position to provide an effective interim service while a long-term solution was put in place.

Best Practice

- 2.11. The Monitoring Group *Recommendation on the operational independence of National Anti-Doping Organisations* includes a recommendation that Parties to the Convention provide adequate funding to National Anti-Doping Organisations. The Hungarian public authorities have given effect to this by law in the Government Decree on Anti-Doping, which provides a robust legal security for funding of anti-doping activities in Hungary.

Recommendation

- 2.12. The structure adopted by the Hungarian public authorities as to the National Anti-Doping Organisation is not common in Europe, although the structure (including the personnel involved in the management and ownership of the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited) is not per se incompatible with the Convention. Nevertheless, it is recommended that the current tendering system used to identify and engage a partner organisation to fulfil the role of National Anti-Doping Organisation be reviewed to ensure –
- c. that appropriate conflicts of interest policies are in place as between HUNADO, the Supervisory Board and the State Secretariat for Sport; and
 - d. that there is an operational plan to cater for the risk that a suitable third-party provider cannot be identified pursuant to the public procurement process, which would in turn require the National Olympic Committee to assume the role of National Anti-Doping Organisation.
- 2.13. The Agreement as between the Ministry of Defence and the Hungarian Anti-Doping Group Public Benefit Non-Profit Limited should also be reviewed to reinforce the operational independence of HUNADO and avoid any risk of undue influence in relation to its activities, including as regards the number of tests carried out year on year.

3. Public Authorities

- 3.1. Hungarian Government policy is that all public agencies engaged in operations relevant (either directly or indirectly) to anti-doping should collaborate and share information, experiences, and learnings with HUNADO, as well as taking a proactive role within their respective areas of competence.
- 3.2. The Evaluation Team welcomed the opportunity to meet with representatives from a number of these bodies and discuss their roles within the general anti-doping framework in Hungary. These are described below:

State Secretariat for Sport

- 3.3. The role and significance of the State Secretariat for Sport is referred to above in this Report. In addition to the matters already described, a key role ascribed to the State Secretariat for Sport relates to sport funding. The Evaluation Team was advised that approximately ninety (90) 'sport federations' (as that term is used in the Government Decree on Anti-Doping, which broadly equates to the term 'National Federation') are eligible to receive public funding, subject to compliance with a range of criteria including the implementation of Code-compliant anti-doping regulations.
- 3.4. Funding is provided on an individual (sports person and support person) and institutional (sport federation) basis. Funding has been expanded to include private funding supported by tax benefits and breaks made available to institutions. Credit is made available as against the corporate tax that the institutions would otherwise pay. This has resulted in an overall financial support increase of 47% from 2021 to 2022.
- 3.5. Sport federation funding is tied to several criteria, based on factors such as participation numbers, area associations, and the existence of an International Federation. There is a 'dotted line' link and related requirement in relation to anti-doping education and training provision.
- 3.6. The State Secretariat for Sport has also played a significant part in the establishing of sports academies across Hungary, intended for persons under the age of 18.

National Police

- 3.7. The Evaluation Team met with officials from the Hungarian National Police Headquarters, who gave a comprehensive description as to the various offences that exist under their investigative remit. In this regard, the National Police officials indicated that there would be value in incorporating some of the Prohibited Methods referred to in the Prohibited List within the scope of the Criminal Code.
- 3.8. The National Police discussed in some detail the cooperation arrangements that exist with HUNADO, these being mentioned further below in this Evaluation Report. The National Police indicated that there are some regulatory obstacles that exist in terms of information sharing as between law enforcement agencies (in particular, Customs, Public Prosecutors Office) food safety, medicine supervisory authority) and HUNADO, given the model adopted for the operational activities conducted by HUNADO. Legislative reform would be of assistance in this area as at

present it is possible to import significant amounts of potentially performance-enhancing substances on the basis that they are intended for ‘personal use’. Being able to share information relating to such instances would be of benefit to HUNADO, but at present, this is precluded.

National Olympic Committee/National Paralympic Committee

- 3.9. The Hungarian National Olympic Committee (NOC) and Hungarian National Paralympic Committee (NPC) are both publicly funded institutions in Hungary. Like other such bodies, while strongly supporting the clean sport, the practical involvement of the NOC and NPC in anti-doping matters is limited to education and training, the primary engagement in this respect being around major events, most obviously the Olympic and Paralympic Games. All Athletes in the Olympic and Paralympic teams are required to at least undertake anti-doping education, as well as coaches and support personnel.
- 3.10. Pre-Games testing is handled by HUNADO, and both the NOC and NPC provide ‘long lists’ of potential competitors to assist HUNADO in planning its activities to inform, educate, test, and otherwise assist athletes and their support personnel. Education coordination with HUNADO is undertaken on basis that some activities are conducted by HUNADO, some by the NOC/NPC. Both the NOC and the NPC provide funding to HUNADO to assist in the costs of undertaking doping control in relation to Athletes who fall outside of established Testing Pools but are nevertheless considered sufficiently talented to warrant testing (especially at the youth/development level).
- 3.11. Overall, the NOC and NPC primary role as advised to the Evaluation Team is to support Athletes, coaches, and support staff in cooperation with HUNADO.

Athlete Perspective

- 3.12. The Evaluation Team benefitted from hearing the Athlete perspective in relation to the anti-doping framework in Hungary. The perspective was positive as regards the targeting, subject matter, and accessibility of education resources through HUNADO. As is common with Athletes globally, whereabouts obligations were expressed to be challenging and stressful as there is an awareness that a small error or omission can have serious disproportionately consequences.

Best Practices

- 3.13. The Evaluation Team did not examine the specific fiscal measures adopted by the Hungarian public authorities designed to encourage investment in sport federations, and so indirectly into the anti-doping framework. Nevertheless, as a basic proposition, that is, that incentivising investment in sport is an indirect incentive to invest in anti-doping, the Evaluation Team sees this as a best practice as part of an integrated sport and health policy.

Recommendations

- 3.14. The State Secretariat for Sport has a strategic approach to the contribution that participation in sport can make to an overall health policy, which appeared to the Evaluation Team to be focussed on the value of sport participation in relation to preventable health conditions, such as cardio-vascular diseases, diabetes, and mobility-related impairments. The Evaluation Team recommends that this

strategic approach be encapsulated within a policy document that highlights the role that anti-doping has in ensuring the success of this strategy.

4. Sport Organisations

- 4.1. The Evaluation Team benefitted from meeting with and holding discussions with representatives from the National Federations for Swimming, Kayak-Canoe and Water Polo. Each Federation advised that education and training related to anti-doping takes place in collaboration with HUNADO, focused primarily on the WADA ADEL platform. Participation in these activities is managed and monitored by the Federations and is compulsory for international athletes. High level athletes are provided with bespoke operational training in relation to matters such as whereabouts requirements and the use/need to refrain from the use of nutritional supplements.
- 4.2. Each of the National Federations indicated that they felt that the level and breadth of testing undertaken in relation to Athletes from their respective sports was proportionate and were each able to provide funding to HUNADO in order that additional testing can take place.
- 4.3. The Evaluation Team noted that there appeared to be a level of confusion as to which anti-doping rules applied in relation to specific situations (that is, the anti-doping regulations adopted by a National Federation versus the HUNADO Rules). The Evaluation Team did not perceive this confusion to have resulted in adverse consequences for the overall anti-doping framework but observed that it would be of benefit to all concerned parties for this confusion to be dispelled (by the framework being simplified).
- 4.4. The Evaluation Team noted that the Government Decree on Anti-Doping provides as follows –
- ☞ *Sports organizations, federations and the public bodies shall take part in anti-doping activities, perform the duties specified for them in legislation, their respective bylaws, HUNADO Rules, the anti-doping regulations of anti-doping organizations and world anti-doping program;*
 - ☞ *Sports organizations, federations and the public bodies shall perform their duties by recognizing the authority and responsibility of HUNADO for implementing Hungary's national anti-doping program including conducting all aspects of doping control.*
 - ☞ *[F]ederations shall enforce the prohibition of doping in line with this Decree, the anti-doping rules of anti-doping organizations, world anti-doping program, HUNADO Rules and the recommendations of HUNADO.*
- 4.5. The Evaluation Team has the following observations as regards these provisions, by reference to 'sports organisations' (which should be read as encompassing all relevant sport organizations, federations, and the public bodies) -
- 4.5.1. Sports organisations are required to perform the 'duties' assigned to them in a variety of instruments, without there being any corresponding explanations given as to the interrelationship as between those instruments and how the instruments should work in practice together;
- 4.5.2. Sports organisations are required to recognise 'the authority and responsibility' of HUNADO, without there being clarity as to how this 'recognition' is to be given effect. At best, it appears to the Evaluation Team that this requires an additional level of administration on the part of sport organisations and HUNADO. The Evaluation Team observed that defects in this

administration could, for example, result in an uneven application of HUNADO's Testing jurisdiction across Hungarian sport.

- 4.5.3. 'Federations' are required to 'enforce the prohibition of doping' without there being sufficient clarity as to how this is intended to operate in practice given the overriding operational role in anti-doping assigned to HUNADO.

Recommendation

- 4.6. The Hungarian public authorities should prepare a guideline for sport organizations, federations, and the public bodies) that explains the interrelationship between the HUNADO anti-doping rules, anti-doping rules adopted and implemented by National Federations, and the anti-doping rules implemented by the International Federations under whose jurisdiction the National Federations fall.
- 4.7. The Hungarian public authorities should review whether the 'recognition' process referred to above and in the Government Decree on Anti-Doping is the optimal means by which the operational roles and responsibilities of HUNADO across Hungarian sport are given best effect.

5. Restricting the Availability of Doping Substances

- 5.1. The Hungarian Government has enacted a range of legislative and regulatory instruments that address the illicit sale, supply, and distribution of certain substances. These instruments include regulations that in practice restrict the distribution of Prohibited Substances, with different instruments being applicable according to the nature of the particular Prohibited Substance. These are described in detail in the National Report.
- 5.2. The Criminal Code includes provisions relating to the use of prohibited substances. It establishes criminal offences associated with the dealing in of a number of doping agents (other than for legitimate scientific or medical purposes). ‘Organised’ activities in connection with these offences are treated as serious offences carrying a maximum custodial sentence of three years. Criminal policy is directed towards distribution offences as opposed to use-related offences.
- 5.3. The Evaluation Team was advised that pursuant to the Criminal Code, approximately 140 prosecutions had been made in relation to distribution offences in recent years.
- 5.4. Other legislation relevant to restricting access to both doping agents and equipment that could be used in facilitate doping behaviour exists in the field of medicinal products and narcotics. This does not, as noted above, include some of the Prohibited Methods referred to in the Prohibited List.
- 5.5. HUNADO has entered into a cooperation agreement with the National Police whereby HUNADO is able to receive and provide information relevant to the various offences referred to above. HUNADO does not have an equivalent arrangement with the National Tax and Customs authorities but has provided education and training services to Customs officials in relation to matters such as the identification of Prohibited Substances.

Nutritional Supplement Testing Program

- 5.6. The Evaluation Team was provided with a demonstration by the Centre for Sports Nutrition Science (in this Report, ‘CSNC’) as to the CSNC nutritional support program for sports persons, and in particular the nutritional supplement testing program.
- 5.7. The CSNC provides two key services to sports persons: optimising nutrition and testing nutritional supplements to identify the presence of banned substances. This latter function is carried out by laboratory staff using a range of ISO-standard accredited equipment. Like all supplement testing facilities, it is not practically and/or technically possible for the CSNC to test supplements for the presence of all banned substances that are included within the Prohibited List; rather, the CSNC tests for the presence of banned substances that are most likely to be present as contaminants or mislabeled ingredients.

Medicrime Convention

- 5.8. Hungary ratified the Medicrime Convention in 2016. The Evaluation Team noted the following as regards this Convention -

The "Medicrime Convention" is the first international criminal law instrument to oblige States Parties to criminalise:

- *the manufacturing of counterfeit medical products;*
- *supplying, offering to supply and trafficking in counterfeit medical products;*
- *the falsification of documents;*
- *the unauthorised manufacturing or supplying of medicinal products and the placing on the market of medical devices which do not comply with conformity requirements.*

The Convention provides a framework for national and international co-operation across the different sectors of the public administration, measures for coordination at national level, preventive measures for use by public and private sectors and protection of victims and witnesses. Furthermore, it foresees the establishment of a monitoring body to oversee the implementation of the Convention by the States Parties.

- 5.9. The Evaluation Team was advised by HUNADO that, in its view, the uneven application of the Medicrime Convention means that in some countries the domestic production of doping products is not regulated. Hungary shares land borders with seven nations, only three of which have ratified the Convention. This uneven application facilitates the distribution of counterfeit and/or unlicensed medicinal and pharmaceutical products to neighbouring states and undermines the effectiveness of measures taken domestically to comply with Article 4.1 of the Anti-Doping Convention.

Best Practices

- 5.10. The CSNC is a best practice example of a 'supplement testing' facility. The combination of open trading borders and varying manufacturing and labelling standards as applied to nutritional supplements makes such products an obvious doping risk. The CSNC analysis operations provide a valuable and important service to sports persons and is a high-quality example in terms of what such a facility should encompass.
- 5.11. The training provided by HUNADO to the National Tax and Customs authorities has made an appreciable difference to the identification and seizure of illicit doping substances at the various border entry points into Hungary.
- 5.12. The adoption and ratification by Hungary of the Medicrime Convention has assisted the Hungarian public authorities in their efforts to restrict the availability of unlicensed and counterfeit pharmaceutical products and substances. Adoption of the Medicrime Convention (or the existence of equivalent standards) should be a best practice for all signatories to the Anti-Doping Convention on an 'adopt or explain' basis.

Recommendations

- 5.13. The Hungarian public authorities should consider legislative amendments that would give effect to the following –
- ☞ The incorporation into relevant provisions of the Criminal Code of the illicit use of certain of the Prohibited Methods referred to in the Prohibited List;

- œ The facilitation of information sharing as between public authorities (in particular: Police, Prosecutors Office, National Tax and Customs food safety authorities) and HUNADO as regards matters that may be relevant to HUNADO in the discharge of its duties as a NADO.

6. Testing and the Analysis of Biological Samples

- 6.1. HUNADO is the primary testing authority in Hungary. The National Report explains the specifics of HUNADO's operations in this regard including matters such as the extent and scope of the Testing program undertaken by HUNADO, the testing budget and Test Distribution Plan, in some detail. There are no restrictions on the ability of other Anti-Doping Organisations to obtain biological samples from Athletes in Hungary, either directly or through intermediary bodies (including HUNADO).
- 6.2. The HUNADO testing program is based on the International Registered Testing Pools maintained by various International Federations, the HUNADO National Registered Testing Pool, and the HUNADO Testing Pool. The Test Distribution Plan is dynamic and is based on information received, generated, and prepared by the HUNADO testing division.
- 6.3. The HUNADO testing program operates across 55 sports/disciplines in Hungary. Testing follows the operational distribution plan templates designed by WADA, using national and international location information for Athletes. HUNADO utilises the services of 45 Doping Control Officers, which it considers to be sufficient to carry out the operational demands of the HUNADO testing program year on year. A significant percentage of the HUNADO Doping Control Officers have completed trainings provided by the International Testing Agency in addition to the training provided by HUNADO.
- 6.4. Test distribution planning reflects to an extent to the mandated number of tests for HUNADO in its mandate from the State Secretariat for Sport. There do not appear to be any operational issues with the testing program carried out by HUNADO (given that WADA confirmed in 2022 that the corrective actions identified as part of its February 2021 audit had been completed to its satisfaction).
- 6.5. It appeared to the Evaluation Team that there might be a 'soft' restriction on testing Hungarian athletes who are part of an International Registered Testing Pool administered by an International Federation, in that HUNADO refrains from testing these Athletes and relying on the fact that the relevant International Federation is required to test such athletes, both in and out of competition. If athletes are removed from an International Registered Testing Pool, they may be added to the HUNADO Registered Testing Pool or another Testing Pool and are liable to be tested by HUNADO.
- 6.6. The service level expectations placed on HUNADO as far as test numbers are concerned reflect the budget commitments made by the Hungarian Government. The budget provided to HUNADO reflects a requirement that a certain level of testing will take place within a twelve-month period, but this does not appear to operate as an artificial restriction on the amount of testing that can take place. It reflects a basic incompatibility between the realities of public authority budgeting (which tends to be fixed and predictive) and the requirements of a testing program (which is a combination of predictive and dynamic expenditure).
- 6.7. HUNADO manages the recruitment, training, certification, and performance of Doping Control Officers according to recognised International Standards relating to quality assurance. Doping Control Officer trainings are provided on a regular basis to ensure that Doping Control Officers

remain aware of the requirements of the International Standard for Testing and Investigations, and related standards applicable to testing.

- 6.8. There is no laboratory accredited by the World Anti-Doping Agency in respect of the analysis of biological samples located in Hungary. HUNADO utilises the services of WADA-accredited laboratories located in neighbouring nations, most particularly that located in Seibersdorf, Austria.

7. Education and Research

- 7.1. HUNADO operates a comprehensive anti-doping education and training program utilising a number of individual components and modules. It is closely integrated with the other main sport stakeholders and the National Report details several of the programs run by HUNADO in this regard.
- 7.2. The overview of the HUNADO education program provided to the Evaluation Team included a demonstration of a bespoke video explainer of the Doping Control process. The Evaluation Team was advised that HUNADO maintains a dynamic approach to education and training through the provision of a regular newsletter to Athletes and Athlete Support Persons. HUNADO e-learning programs are provided in conjunction with WADA programs, particularly ADEL. To encourage participation, National Federations, the NOC, and the NPC have made participation in educational programs a condition of being selected for participation in major events.
- 7.3. The Evaluation Team noted HUNADO's view that success monitoring according to the International Standard for Education ('ISE') is a challenge to manage. It was observed that the relevant requirements in Article 6 of the ISE are very general in nature, and it is unclear to HUNADO (and many of their fellow National Anti-Doping Organisations) as to what level of time, resource and commitment is appropriate in connection with determining the extent to which the objectives of the education plan have been met. The orthodox way the effectiveness of education is measured is by some form of recipient assessment, but this is widely considered to be a disproportionate and unrealistic exercise for significant numbers of sports persons.
- 7.4. The World Anti-Doping Code International Standard for Education refers to 'Values-based Education' as being '*the provision of activities that emphasise the development of an individual's personal values and principles*' which in turn build '*the learner's capacity to make decisions to behave ethically*'. The Evaluation Team was advised that values-based education is promoted through schools, which emphasise the values of fairness, respect, and integrity. In connection with this, the Evaluation Team noted that Hungarian public education standards require that junior age pupils are involved in Physical Education on a regular basis. This is consistent with the strategic priorities referred to above. The Evaluation Team suggests that the Hungarian public authorities might examine the potential benefit of including values-based Education specifically within its Physical Education curriculum.

8. Disciplinary Measures

- 8.1. HUNADO has the primary responsibility for investigating anti-doping rule violations and initiating disciplinary proceedings against sports persons who are alleged to have committed anti-doping rule violations. These disputes will generally concern the commission or otherwise of an anti-doping rule violation and/or the Consequences that fall to be imposed in relation to an anti-doping rule violation.
- 8.2. HUNADO handles matters for which it has Results Management responsibility according to the processes and protocols mandated by the International Standard for Results Management and the recommendations included within the Guidelines to Results Management.
- 8.3. The HUNADO Anti-Doping Rules apply to HUNADO and regulates its activities. Disputes arising from doping matters are resolved by the domestic anti-doping arbitration dispute resolution forum. The Government Decree on Anti-Doping provides that a pool of hearing panel members or doping committee is to be established by HUNADO (including the appointment of individual members) and that HUNADO will designate the chairperson of the committee. The chairperson of the pool is tasked with appointing the members of the hearing panel within the committee for each doping case. The Government Decree on Anti-Doping also provides the procedural framework for the activities of the doping committee, supplemented by procedural rules for the doping committee prepared and adopted by HUNADO.
- 8.4. Appeals (involving National Level Athletes, as that term is used in the Code), are referred to and resolved by the Permanent Court of Arbitration for Sport (although it shares a similar name, this is body has no connection with the Court of Arbitration for Sport based in Lausanne).
- 8.5. A discrete issue has been identified in relation to appeals available in relation to decisions related to the Therapeutic Use Exemptions. The HUNADO Rules and the rules of procedure of the HUNADO Therapeutic Use Exemption Committee establish a mechanism whereby an Athlete may submit a request for a review to HUNADO Therapeutic Use Exemption Committee in case of an initial rejection. In cases where the rejection is upheld following such a review, the Athlete may appeal that decision to the appeal body established by Decree. Although this mechanism might benefit an Athlete by providing a total of three review stages, there is no clear distinction between the review and the appeal stages. This could helpfully be clarified.
- 8.6. National Federations are permitted to have their own anti-doping rules, although these tend to be those of their own International Federation. National Federations are required to accept the application of the HUNADO Anti-Doping Rules by the Government Decree on Anti-Doping, and to provide that if there is a conflict between their own rules and those of HUNADO that HUNADO rules will apply. By way of example, the Canoe-Kayak Federation Anti-Doping Rules provide that the *‘Federation shall enforce the prohibition of doping in accordance with the Government Decree, the anti-doping rules of anti-doping organisations, the International Anti- Doping Program, the HUNADO Rules and the professional recommendations of HUNADO’*.
- 8.7. The first instance disciplinary panel established pursuant to the HUNADO Anti-Doping Rules consists of seven experts, being a combination of legal and medical specialists. The Chair of the disciplinary panel is specifically recruited on basis of experience and reputation. The Chair appoints

panel members based on the specifics of individual cases. Three person panels usually determine cases. The Panel has procedural rules that regulate how it operates.

- 8.8. Hungarian law provides that the processing of personal data in the context of the HUNADO anti-doping program is in accordance with GDPR Article 9.2.g – *processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.*

Recommendations

- 8.9. The appointment procedure for the members of doping committee rests solely with HUNADO, which given its status as the NADO, in effect means that the investigatory and prosecutorial agency for anti-doping matters also appoints the dispute resolution body. This should be reviewed to ensure that the appointment process –
- is compatible with Recommendation CM/Rec (2022)14 of the Committee of Ministers to member States on general principles of fair procedure applicable to anti-doping proceedings in sport; and
 - safeguards exist to protect the member of doping committee from any internal and external pressure.
- 8.10. The Evaluation Team is aware that international standards relating to fair hearings underpin Athletes’ rights in Hungary in respect of the dispute resolution processes used in relation to anti-doping matters. The Evaluation Team recommends that key aspects of these rights, including the right to be represented at hearings, rights to access to evidence, and the right to have adequate time to prepare a defence or mitigation, be expressly included in any future revisions of relevant anti-doping standards.

9. International Co-operation and Provision of Information

- 9.1. The Convention emphasises the importance of coordination and cooperation among States Parties to the Convention at the international level. A main channel for such cooperation is the Monitoring Group of the Anti-Doping Convention (T-DO) and the Ad hoc European Committee for the World Anti-Doping Agency (CAHAMA), which is responsible for the coordination of the positions of all States Parties to the European Cultural Convention, with regard to questions and policy relating to WADA, WADA policies and WADA's operational activities.
- 9.2. The Hungarian Government and HUNADO attend and/or are consistently represented at the meetings of the T-DO as well as the meetings of CAHAMA. At an operational level, the Evaluation Team was made aware that HUNADO collaborates with many Anti-Doping Organisations and networks.

Annex 1 – National report

Annex 2 – Evaluation visit programme and participants

Evaluation of the implementation of the Council of Europe Anti-Doping Convention by Hungary

**Evaluation Visit
Budapest, Hungary**

10-12 October 2023

PROGRAMME AND PARTICIPANTS

EVALUATION TEAM

Chair	Gabriela ANDREIAȘU General Director General Direction for Doping Control, Investigations, Anti-Doping Education, Traffic Deterrence of Prohibited Substances, Public and International Relations National Anti-Doping Agency Romania
Rapporteur	Graham ARTHUR Independent expert United Kingdom
Members	Farhad ABASOV Head of Legal National Anti-Doping Agency (AMADA) Azerbaijan Teemu JAPISSON Secretary General Finnish Integrity Sport Centre (FINCIS) Finland Kaarel NESTOR Adviser in the Sports Department Ministry of Culture Estonia
Secretariat	Liene KOZLOVSKA Anti-Doping Unit senior programme manager Council of Europe