

Government Decree No. 363/2021. (VI. 28.) on the rules of anti-doping activities

Based on the authorisation granted in Article 79 (1) *b) ba)* of Act I of 2004 on sports, acting within its role specified in Article 15 (1) of the Fundamental Law of Hungary, the Government hereby orders the following:

Article 1

For the purposes of this Decree

1. anti-doping activity: anti-doping Education and information, test distribution planning, maintenance of a Registered Testing Pool, managing Athlete Biological Passports, conducting Testing, organizing analysis of Samples, gathering of intelligence and conduct of investigations, processing of TUE applications, Results Management, monitoring and enforcing compliance with any Consequences imposed, and all other activities related to anti-doping to be carried out by or on behalf of an Anti-Doping Organization, as set out in the World Anti-Doping Code (hereinafter called: Code) and/or the International Standards,

2. Anti-Doping Organization: World Anti-doping Agency (hereinafter called: WADA) or a Signatory to the Code that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organizations that conduct Testing at their Events, International Federations, and National Anti-Doping Organizations,

3. doping control: all steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of Consequences, including all steps and processes in between, including but not limited to, Testing, investigations, whereabouts, TUEs, Sample collection and handling, laboratory analysis, Results Management and investigations or proceedings relating to status during Ineligibility or Provisional Suspension,

4. other person: where the regulation requires a Person – covering natural Person or organization or other entity – other than an Athlete or Athlete Support Person to be bound by the Code, such Person, including those Persons who have legal relationship with an organization participating in anti-doping activities – including activities carried out without remuneration –, would not be subject to Sample collection or Testing, and would not be charged with an anti-doping rule violation under the Code for which only Athletes or Athlete support personnel may be charged,

5. national organizations participating in anti-doping activities: national sports federations, national sports associations and the national sports federations of the disabled (hereinafter collectively called: federations), the Hungarian Olympic Committee, the Hungarian Paralympic Committee and the Hungarian Competitive Sport Federation (hereinafter jointly by its Hungarian abbreviation: public bodies), national anti-doping organization (hereinafter called: HUNADO), as well as the Ministry headed by the Minister Responsible for Sports Policy (hereinafter called: Minister),

6. world anti-doping program: encompasses all of the elements needed in order to ensure optimal harmonization and best practice in international and national anti-doping programs, adopted by WADA, including in particular the Code, the International Standards and Technical Documents, as well as Models of Best Practice and Guidelines,

7. international standard: a standard adopted by WADA in support of the Code. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed properly. International Standards shall include any Technical Documents issued pursuant to the International Standard;

8. international sport event: an event or competition where the International Olympic Committee, the International Paralympic Committee, an International Federation, a Major Event Organization, or another international sport organization is the ruling body for the event or appoints the technical officials for the event pursuant to the Code and this Decree,

9. *registered testing pool*: The pool of highest-priority Athletes established separately at the international level by International Federations and at the national level by HUNADO, who are subject to focused In-Competition and Out-of-Competition Testing as part of that International Federation's or HUNADO's test distribution plan and therefore are required to provide whereabouts information as provided in WADA Code and the International Standard,

10. *Recreational Athlete*: A natural Person who is so defined by HUNADO; provided, however, the term shall not include any Person who, within the five years prior to committing any anti-doping rule violation, has been an International-Level Athlete (as defined by each International Federation consistent with the International Standard for Testing and Investigations) or National-Level Athlete (as defined by each National Anti-Doping Organization consistent with the International Standard for Testing and Investigations), has represented any country in an International Event in an open category or has been included within any Registered Testing Pool or other whereabouts information pool maintained by any International Federation or National Anti-Doping Organization,

11. *Technical Document*: a document adopted and published by WADA from time to time containing mandatory technical requirements on specific anti-doping topics as set forth in an International Standard,

12. *prohibited list*: the list identifying the prohibited substances and prohibited methods. It is set out in the Government Decree on the promulgation of the UNESCO International Convention against Doping in Sport Annex I and its annually updated version maintained by HUNADO and published on HUNADO's website supplemented and applicable in line with WADA's requirements;

13. *testing*: parts of the doping control process involving test distribution planning, sample collection, sample handling, and sample transportation to the laboratory.

Article 2

(1) HUNADO is a non-profit association classified as a public benefit organization, which in the course of its anti-doping activities, acts in line with the provisions of this Decree, other legislation and the provisions of the world-anti-doping program applicable to national anti-doping organizations, based on an agreement for public benefit concluded with the Minister.

(2) In its operational decisions and activities HUNADO is independent from all national and international sport organizations, anti-doping organizations and governments.

(3) By way of performing its anti-doping activities, HUNADO has a key role in the protection of athletes' and recreational athletes' health.

(4) HUNADO shall have a liability insurance to cover any damage occurring in the course of doping control, an international ISO certification and WADA accreditation in connection with its anti-doping activities.

(5) In performing its functions, in line with the world anti-doping program, HUNADO shall regulate anti-doping activities, doping controls, anti-doping rule violations, and sanctions in its own rules (hereinafter called: HUNADO Rules), which shall be published on HUNADO's website together with WADA Code.

(6) In the framework of its anti-doping activities and doping controls, HUNADO shall comply with the provisions of HUNADO Rules and the world anti-doping program.

(7) HUNADO ensures that the prohibited lists is updated, as well as provides information and awareness raising activities related to the prohibited list and publish the actual prohibited list on its website.

Article 3

Acting within his roles and responsibilities, the Minister shall perform the following tasks required for complying with the national and international provisions applicable to anti-doping activities:

- a) conclude an agreement of public interest with the organization performing the duties of HUNADO and monitor the fulfilment of the provisions of the agreement of public interest,
- b) 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,
- c) participate in international anti-doping co-operation, and
- d) co-operate with other organizations participating in anti-doping activities.

Article 4

(1) 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, tasks related to information, awareness raising and education in line with HUNADO Rules, and co-operate with other organizations participating in anti-doping activities.

(2) 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.

(3) The federations 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.

Article 5

(1) In accordance with this Decree, other legislation, HUNADO Rules and the world anti-doping program, the hearing panel shall be responsible for conducting hearing of the first instance. A pool of hearing panel members (doping committee) shall be established, from which the hearing panels for specific cases shall be nominated. The head of HUNADO designates the chairperson of the pool. The chairperson of the pool designates the members of the hearing panel, including the chairperson, from among the members of the pool for each case.

(2) The doping committee and the hearing panel shall operate within the organizational framework of HUNADO. The administration tasks related to the preparation of doping procedures connected to the functioning of the doping committee shall be provided by HUNADO, in accordance with the requirements of doping committee's operational independence.

Article 6

(1) The appeal doping procedure to be launched as a result of appealing the hearing panel's decision adopted in the first instance, or cases set out in WADA Code, relevant international standards, and other grounds specified in HUNADO Rules, shall be conducted by doping appeal committee except for cases provided for in Section (2). The appeal doping committee shall operate within the organizational framework of the Permanent Court of Arbitration for Sport.

(2) In cases arising from participation in an International Event or in cases involving International-Level Athletes the decision may be appealed exclusively to Court of Arbitration for Sport (CAS).

Article 7

(1) According to the requirement of operational independence of the hearing panel, Hearing panels on appeal, board members, staff members, commission members, consultants and officials of the HUNADO or its affiliates (e.g., member federation or confederation), as well as any Person involved in the investigation and pre-adjudication of the matter cannot be appointed as members and/or clerks (to the extent that such clerk is involved in the deliberation process and/or drafting of any decision) of hearing panels of HUNADO. Hearing panels shall be in a position to conduct the hearing and decision-making process without interference from the

HUNADO or any third party. The objective is to ensure that members of the hearing panel or individuals otherwise involved in the decision of the hearing panel, are not involved in the investigation of, or decisions to proceed with, the case.

(2) Hearing panels on appeal – in addition to Section (1) – shall be fully independent institutionally from HUNADO. They must therefore not in any way be administered by, connected or subject to the HUNADO.

(3) For any person who is asserted to have committed an anti-doping rule violation, the Anti-Doping Organization with responsibility for Results Management, as well as Hearing panels on appeal shall provide, at a minimum, a fair hearing within a reasonable time by a fair and impartial doping procedure in compliance with the provisions of the world anti-doping program and HUNADO Rules.

Article 8

(1) The remuneration of pool members acting in the hearing panel is regulated in HUNADO Rules.

(2) The national federation of sport association affected by the doping case of the Athlete, Athlete Support Personnel or other Person, who fall under their authority, shall cover the remuneration of hearing panel members and the related costs of the doping procedure.

(3) Recreational Athletes, Athlete Support Personnel or other Persons who do not fall under the authority of national federation of sport association mentioned in Section (2), shall bear the remuneration of hearing panel members and the related costs of the doping procedure on their own.

(4) The appeal doping procedure, the remuneration of the appeal doping committee and the related costs of the appeal doping procedure is regulated in the Rules of the Permanent Court of Arbitration for Sport.

Article 9

This Decree shall come into force on the 10th day following its promulgation.

Article 10

(1) Articles of this Decree shall be applied to anti-doping rule violations committed after 1 January 2021.

(2) With respect to cases where a final decision was not rendered prior to 1 January 2021; the regulations of this Decree shall be applied under the circumstances of the case if less severe for person subject to doping hearing procedure.

(3) The period of ineligibility shall be reduced in light of the regulations set out by this Decree with respect to cases where a final decision was rendered prior to 1 January 2021, if the person subject to doping hearing procedure is still serving the period of ineligibility. Where a final decision was rendered prior to 1 January 2021, and the person subject to doping hearing procedure is still serving the period of ineligibility as of the effective date of this Decree, the person subject to doping hearing procedure may apply to the doping committee to consider a reduction in the period of ineligibility in light of the references set out by this Decree.

Article 11

Government Decree No. 43/2011. (III. 23.) on the rules of anti-doping activities is hereby repealed.