

MONITORING GROUP (T-DO)

ANTI-DOPING CONVENTION



Strasbourg, 1 June 2023

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EVALUATION REPORT OF THE MONITORING GROUP (T-DO)

**EVALUATION VISIT TO SPAIN
18 - 20 OCTOBER 2022**

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 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 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 October 2022, the Spanish Government invited an Evaluation Team to conduct an Evaluation Visit. Prior to the Evaluation Visit the Spanish authorities submitted a **National Report** which provided detailed description of the measures adopted by the Spanish authorities in relation to the Convention. This Evaluation Report records the outcome of that Evaluation Visit.

This Evaluation Report is divided into two Sections:

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| Section One | 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 Spanish Government. |
| Section Two | A detailed set of observations and conclusions of the Evaluation Team. |

SECTION ONE

A. Executive Summary

The Evaluation Team considered the measures taken by the Spanish Government to comply with the Convention by reference to the National Report and the consultations held with a number of relevant organisations engaged in the overall anti-doping framework in Spain.

These organisations included the Ministries tasked by the Spanish Government with responsibility for sport, civil justice and criminal justice, law enforcement bodies, sport administration bodies including the National Olympic and Paralympic Committees, accredited Laboratories and the National Anti-Doping Organisation.

The Evaluation Team noted that the Spanish Government has adopted various pieces of legislation that have the cumulative effect of implementing the operational provisions of the Convention. In addition, the Spanish Government has established the National Anti-Doping Organisation, CELAD, which has a legal responsibility to fulfil the roles and responsibilities assigned to National Anti-Doping Organisations by way of the World Anti-Doping Code.

The Spanish Government has put into effect a strategy whereby a number of its public authorities collaborate as part of an overall anti-doping framework, coordinated through a National Anti-Doping Platform. These public authorities include the agencies responsible for food, pharmaceutical and medicinal product regulation, law enforcement bodies and customs regulation agencies. This framework is designed to make the exchange and communication of information relating to the sale, supply and distribution of doping agents and devices as effective and efficient as possible.

CELAD has the primary responsibility for ensuring that an effective anti-doping program is operated in Spain, in compliance with the World Anti-Doping Code. It is supported and assisted in this regard by a number of key sporting organisations, including the Supreme Council for Sports, and both the National Olympic and Paralympic Committees.

The Supreme Council for Sports is the primary funder of sports bodies in Spain and requires that sport bodies cooperate with and support CELAD's operational activities. Funding can be withdrawn from any organisation that fails to support CELAD or in some other way fails to comply with the standards encapsulated within the World Anti-Doping Code.

The distribution, sale and supply of banned substances, as well as devices that can be used in connection with doping, is 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).

A number of 'cross-over' offences exist under Spanish criminal law, which has the effect of making the most serious anti-doping rule violations (such as dealing in and administering banned substances) criminal offences. Spanish law enforcement bodies have achieved notable successes in recent years in identifying and disrupting illicit manufacturing and supply operations in Spain, with the collaboration established through the National Anti-Doping Platform facilitating anti-doping rule violation investigations conducted by CELAD.

CELAD is responsible for the testing of sports persons within Spain, including both domestic sports persons and overseas sports persons who visit Spain to both train and compete. This testing program fulfils the requirements of the Convention and is carried out in compliance with the relevant standards within the World Anti-Doping Code. The analysis of biological samples is conducted by two laboratories, located in Madrid and Barcelona respectively, both of which are accredited by the World Anti-Doping Agency.

CELAD is responsible, in collaboration with partner organisations, 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, in particular the Supreme Council for Sports. The content and reach of the education and training meets the requirements of the Convention, albeit that there is an absence of clarity amongst sports organisations as to the nature of their role in relation to the provision of education and training.

The primary piece of anti-doping legislation in Spain positions CELAD as the principal organisation with responsibility for investigating anti-doping rule violations and bringing forward disciplinary cases. Disciplinary cases are to be resolved by the operationally independent hearing body established by the same law. At the time of the Evaluation Visit the hearing body had not resolved any disputes (being constituted relatively recently); nevertheless, the Evaluation Team did identify one important area of practice that it believes requires attention, in connection with the manner in which disputes are resolved.

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

B. Best Practices

The Evaluation Team identified the following best practices arising from the measures adopted by the Spanish Government:

- a) The regular use of the National Anti-Doping Platform for facilitating communications and cooperation between public authorities, as well as acting as a central information and data collection repository in relation to compliance reporting, is of significant value. The Terms of Reference and Rules of Procedure used in connection with the National Anti-Doping Platform may be a valuable best practice template.
- b) The lead role taken by the Spanish Agency For Medicines and Sanitary Products (AEMPS) in conjunction with pharmaceutical suppliers as regards product labelling, specifically with regards to patient information enclosed with pharmaceutical products containing information as to the potential doping risks top sports persons associated with the relevant pharmaceutical products, has the potential to reduce the risk of inadvertent anti-doping rule violations occurring.
- c) The lead role taken by the Spanish Agency for Food Safety and Nutrition (AESAN) in relation to the requirement that food supplements must be notified to AESAN in order to be made available for legitimate sale in Spain, and the power delegated to AESAN to order the withdrawal from market of any adulterated, contaminated or otherwise unlawfully manufactured or sourced food supplements, makes a significant contribution to the reduction of doping risk associated with the use of food supplements.
- d) The close collaboration between CELAD and law enforcement bodies is a striking example of modern integrated best practice whereby different agencies with an overlapping brief and jurisdiction cooperate in relation to their different areas of authority and jurisdiction. This includes the participation within CELAD of officers deployed/assigned from the Spanish police authorities. The success of this approach is highlighted by the fact that CELAD has been involved in several police investigations involving public health offences that involved sports persons.
- e) CELAD's leading role in the development of the 'NoDop' application designed for Spanish and Portuguese speaking sports persons is an important best practice in terms of assistance and development support provided to nations with less developed anti-doping frameworks.

- f) The establishment of the “*Red Iberoamericana de Lucha Contra el Dopaje*” (RILD), the Ibero-American Anti-Doping Network, is an essential tool to mutually reinforce NADOs. The leading role taken by CELAD to establish and ensure the sustainability of the Network is a good practice.

C. Recommendations

The Evaluation Team makes the following recommendations arising from the measures adopted by the Spanish Government in connection with the Convention:

- i. In relation to anti-doping education and training, the NOC and NPC shall develop their own anti-doping education and information strategies regarding the provision of information and training, complementary to and supportive of those pursued by CELAD.
- ii. In relation to Testing, that the Spanish authorities and CELAD shall review what operational measures may need to be taken so that effective Testing of Spanish athletes who are located outside of Spain, particularly those training in North Africa, can take place.
- iii. In relation to research, a strong collaboration between the two Laboratories (for example by the provision of joint research funding) shall ensure that the funding, resources and expertise of both Laboratories is utilised in a coordinated manner.
- iv. In relation to governance, the practice whereby the President of the Supreme Council for Sports is automatically appointed to be President of the CELAD Governing Council shall be reviewed to ensure that no actual or perceived conflicts of interest arise.
- v. In relation to disciplinary matters, the anticipated practice of resolving disputes by way of written representations and documents alone is not considered to be an optimal model. Resolving anti-doping disciplinary disputes by way of consideration of written materials should be a means of resolving a dispute if it is available as an alternative to an in-person hearing, whereby parties are able to present their case, provide testimony and evidence, and cross-examine such testimony and evidence. In this regard it is also recommended that anti-doping hearings should, at the hearing panel’s discretion, be held in public.

SECTION TWO

Prior to the Evaluation Visit the Spanish Ministry of Culture and Sport, in conjunction with the Spanish National Anti-Doping Organisation, provided a National Report detailing the various measures taken by the Spanish 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 matters identified during the course of the Evaluation Visit (Annex 1).

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1. Legislation, Regulations and Administrative Provisions

- 1.1. The National Report provides a detailed description of the legislative measures adopted by the Spanish Government in relation to the Convention. In relation to the Convention itself, the Spanish Government signed the Convention in 1989 and ratified it in 1992. It signed and ratified the Additional Protocol to the Convention in 2017.
- 1.2. The primary piece of enabling legislation in relation to anti-doping practice and operations is *Law 11/2021 on the prevention and fight against doping in sport* which came into force on 28 December 2021 (orig.: *Ley Orgánica 11/2021, de 28 de diciembre, de lucha contra el dopaje en el deporte*), referred to as the **Organic Law 11/2021**, enacted in part to ensure that the Spanish anti-doping framework is compatible with the World Anti-Doping Code. The Organic Law provides the basis for the annual update of the International Standard for the Prohibited List and the institutional presence and role of the National Anti-Doping Organisation.
- 1.3. Subsequent to the Evaluation Visit, the Spanish Government adopted Royal Decree 908/2022 which gave effect to a number of subsidiary instruments relating to the anti-doping framework in Spain, including the operational regulations of the National Anti-Doping Organisation.
- 1.4. The Spanish Government has adopted a number of legislative and regulatory instruments that have a direct bearing on the application of the Convention. These are referred to in this Evaluation Report and include measures within the Spanish criminal justice system that make certain aspects of ‘doping behaviour’ a criminal offence, most particularly the dealing in Prohibited Substances in circumstances where that dealing constitutes a risk to public health. This resonates directly with the founding principles of the Convention, which specifically refer to the risk to health of participants in sport caused by the use of doping agents and methods.

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

- 2.1. The precursors to the Organic Law provide the legislative base for the Spanish National Anti-Doping Organisation, being the Spanish Commission for the Fight Against Doping in Sport (CELAD). CELAD's status and identity as the National Anti-Doping Organisation for Spain is repeated and ratified within the Organic Law.
- 2.2. The Spanish Government has overseen a national anti-doping program in Spain for a number of years, which has involved a number of public authorities, including in particular the Supreme Council for Sports, referred to below in this Report.
- 2.3. Prior to the formation of CELAD, the former agency for health protection in sport (AEPSAD) performed the functions of the National Anti-Doping Organisation in Spain (taking on this role from 2008), in addition to a number of other duties. As per the Organic Law, AEPSAD's health and sport responsibilities were assigned to the Supreme Council for Sports, with AEPSAD being reconstituted as CELAD.
- 2.4. CELAD is responsible for fulfilling the roles assigned in the World Anti-Doping Code to National Anti-Doping Organisations. CELAD is a public authority and regulated by the relevant governmental instruments concerning such entities (this is explained further in the National Report). Senior staffing appointments are drawn primarily from the Spanish civil service.
- 2.5. CELAD is overseen by a 'Rector Board' and a 'Control Commission' with the President of the 'Rector Board' being the President of the Supreme Council for Sports (CSD) (further information concerning the CSD is included at Section 3.2.5 below). A 'Rector Board' is a feature of Spanish public authority structures such as CELAD. The CELAD Rector Board is referred to as the 'Governing Council' within the overall CELAD governance structure.
- 2.6. The 'Governing Council' is appointed through a process overseen by and accountable to the Ministry of Culture of Sport. The President of the Governing Council is ultimately responsible for appointing the Chief Executive of CELAD. It is responsible for approving senior level appointments within CELAD, as well as overall budget approval and the adoption of final accounts (this is a typical role assigned to 'Rector Boards' such as the Governing Council). The Governing Council also has a key role in preparing and agreeing the operational budget for CELAD with the Ministry of Culture and Sports. This process is explained in the National Report.
- 2.7. In addition, CELAD is subject to supervision by a 'Control Commission', an ancillary body appointed by and reporting to the Governing Council in relation to economic and financial matters. Its role is essentially to ensure that CELAD's operations are both adequately financed and that CELAD stays within its annual operational budget. The budget allocated to CELAD for 2022 was reported to be approximately Euro 9 million, with the budget allocated to CELAD for 2023 (national budget and European Union grant) to be above Euro 11 million as it also included the budget of the Madrid antidoping laboratory and the national sports medicine centre. It is expected that CELAD budget in 2024 will be substantially reduced as it will solely finance the NADO-related activities.
- 2.8. The Evaluation Team was advised that a number of senior roles within CELAD were required to be filled by civil servants with a specific minimum grade and level of experience, and that in certain instances these roles were filled on a fixed-term basis. The Evaluation Team noted that there were general public administration reasons underpinning this policy, which appeared to be a general policy adopted across a number of public authorities. There is a risk, the Evaluation Team noted, that an unintended consequence of such a policy is that its rigidity may deny CELAD the expertise and experience of key personnel.

- 2.9. The Evaluation Team did not note any significant concerns as regards the compatibility of CELAD's governance structures with the Convention or the Monitoring Group Recommendation as to the Operational Independence of National Anti-Doping Organisations. The governance structures are, it was noted, large in relation to comparable National Anti-Doping Organisations, but it was also noted that the structure applied to CELAD is a feature more of Spanish public authority organisation than a specific structure adopted specifically in relation to CELAD.

Recommendation

- 2.10. In relation to governance, the practice whereby the President of the CSD is ex officio also the President of the CELAD Governing Council shall be reviewed to ensure that no actual or perceived conflicts of interest arise.

3. Public Authorities

- 3.1. It is a familiar feature of public administration that a number of agencies can be engaged in operational activities that overlap with each other, and/or contribute to similar overall goals and strategies. It is not always the case that these agencies work in cooperation regarding such operations. The Spanish Government has adopted a policy whereby its public agencies engaged in operations relevant (either directly or indirectly) to anti-doping are encouraged to collaborate and share information, experiences and learnings. This is explained in the National Report.
- 3.2. The National Report refers to a number of public bodies that are expressed to be stakeholders in the fight against doping in sport. These stakeholders are described in detail in the National Report. The following bodies play a distinctive role within the general anti-doping framework in Spain:
- 3.2.1. **AEMPS**: the Spanish Agency for Medicines and Medical Devices (AEMPS). AEMPS regulates the distribution of medicinal devices and pharmaceutical products in Spain. The relevant regulations are enforced by AEMPS through a combination of seizures, investigations and online enforcement. AEMPS collaborates with the suppliers of pharmaceutical products as regards product labelling, specifically with regards to patient information enclosed with pharmaceutical products containing information as to the potential doping risks top sports persons associated with the relevant pharmaceutical products (for example, the product 'Testex' includes such a warning given that it contains testosterone, a Prohibited Substance). AEMPS operates within a network of agencies, including CELAD, and the two organisations routinely exchange information that is potentially relevant to their operational work.
- 3.2.2. **AESAN**: the Spanish Agency for Food Safety and Nutrition (AESAN) includes within its designated authority the regulation of food supplements. Food supplements are required to be notified to AESAN in order to be made available for legitimate sale in Spain, with AESAN having the power to order the withdrawal from market of any adulterated, contaminated or otherwise unlawfully manufactured or sourced food supplements. Information concerning illicit supplements is shared with CELAD by AESAN, and CELAD also provides information to AESAN in relation to any supplements that have been identified through its anti-doping investigations as being potentially in contravention of supplement regulations.
- 3.2.3. **Customs**: Spanish customs officials are active in the pursuit of unlawfully imported medicinal and pharmaceutical products, including counterfeit products. Customs officials collaborate closely with AEMPS, in that the importation of medical equipment and related products into Spain is subject to notification and registration requirements administered

by AEMPS. Customs officials are most active at international points of entry into Spain such as airports, ports and postal hubs (the Evaluation Team noting that the open borders associated with the Schengen area have a limiting effect on the ability to completely restrict the importation of medicinal and pharmaceutical products). There is a close cooperation between Customs officials and CELAD as regards the exchange of information relating to the unlawful dealing in of medicinal and pharmaceutical products.

3.2.4. **Law Enforcement:** the National Police and the Civil Guard are the two main law enforcement agencies engaged in the investigation and detection of offences associated with the illegal sale, supply and distribution of doping substances and related materials. As noted at paragraph 3.3 below, each agency has formalised cooperation arrangements with CELAD, which include a representative from each agency working within CELAD on a seconded basis. (Both the National Police and the Civil Guard are ultimately accountable to the Spanish Government Ministry of the Interior.)

3.2.5. **Ministry of Justice:** the Ministry of Justice is a significant stakeholder in the overall antidoping framework, arising in connection with criminal and administrative offences established within the Spanish criminal justice system in relation to ‘public health’. Public health is the basis of anti-doping policy in that the illicit sale, supply and distribution of doping substances is recognised as a serious public health issue. A range of offences, including those related to medicine abuse, misuse of medical devices and the manipulation of sport performances exist in circumstances where there is a ‘risk to public health/life’. If the circumstances that give rise to public health offences take place at the same time as other related offences such as supply and distribution, with the offence that carries the highest sanction being pursued. Possession of restricted substances is not generally criminalised, and ‘mere’ use of a banned substances does not constitute an offence. The investigation of such offences is undertaken by law enforcement officers. CELAD is obliged to share information with law enforcement bodies if its investigations identify evidence relating to the commission of a criminal offence. In practice this relates only to trafficking and administration related offences. CELAD has been involved in several police investigations relating to public health offences that involved sports persons. These generated a number of cases against sports persons. As noted further in this Report the presence of law enforcement personnel seconded to CELAD makes a significant contribution to the efficient sharing and exchange of information as between CELAD and law enforcement agencies.

3.2.6. **Supreme Council for Sports:** the Supreme Council for Sports (CSD) is a division within the Ministry of Culture and Sport, with a number of sport administration and regulatory responsibilities. These include the provision of funding support to National Federations (and equivalent bodies) for sports. Funding to National Federations is by way of grant on application primarily for an Olympic cycle, as well as funding provided to sports persons. Financial support is contingent on compliance with anti-doping regulations. The CSD has an express obligation to work with CELAD.

3.3. CELAD enjoys a level of close cooperation and engagement with the public authorities mentioned above, and those referred to in the National Report. In particular, CELAD incorporates officers deployed/assigned from the Spanish police authorities on a seconded basis, namely the National Police (*Policía Nacional*) and the Civil Guard (*Guardia Civil*). The Evaluation Team was provided with an extensive presentation delivered by the representatives of law enforcement bodies that emphasise the utility of this cooperation.

3.4. The Evaluation Team was provided with a breadth of statistical information that illustrates the amount of activity undertaken by the Spanish public authorities in relation to the identification and seizure of doping substances and materials. The Civil Guard has a lengthy track record in this area as evidenced by numerous operations and substances seizures. The National Police

referred to its Operations Barinas, Skype, Jimbo and Chamberi which resulted in, respectively, 11, 10, 42 and 22 arrests being made. (Similar statistics were provided by the Spanish Customs.) Both police forces are collaborating in joint operations with a particular focus on the dismantling of clandestine laboratories producing doping substances.

- 3.5. There is both synergy and complementarity between the administrative and penal systems, in that the severity of potential sanctions (i.e., what is the most severe offence charged with) determines where the system is heard. The Ministry of Justice explained that there are mechanisms in place to ensure that CELAD provides information to relevant authorities for follow-up in the penal system, and similarly to require judges to inform CELAD of possible administrative infractions for follow-up.
- 3.6. Whilst the penal and administrative systems are separate and focusing on different infractions, mechanisms are in place to ensure flow of information and cooperation, enhanced by the presence of law enforcement officers within CELAD. This is a positive element.
- 3.7. The public authorities engaged in operations related to anti-doping have established a National Anti-Doping Platform, which is explained in detail in the National Report). The National Anti-Doping Platform is expressed to be a vehicle to facilitate communications and cooperation between public authorities, as well as acting as a central information and data collection repository in relation to compliance reporting. The National Anti-Doping Platform provides an important facility for information exchange and consultation amongst the participating public authorities.

Best Practices

- 3.8. The lead role taken by AEMPS in conjunction with pharmaceutical suppliers as regards product labelling has the potential to reduce the risk of inadvertent anti-doping rule violations occurring, specifically with regards to patient information enclosed with pharmaceutical products containing information as to the potential doping risks to sports persons associated with the relevant pharmaceutical products.
- 3.9. The lead role taken by AESAN in relation to the requirement that food supplements must be notified to AESAN in order to be made available for legitimate sale in Spain, and the power delegated to AESAN to order the withdrawal from market of any adulterated, contaminated or otherwise unlawfully manufactured or sourced food supplements, make a significant contribution to the reduction of doping risk associated with the use of food supplements.
- 3.10. The close collaboration between CELAD and law enforcement bodies is a striking example of modern integrated best practice whereby different agencies with an overlapping brief and jurisdiction cooperate in relation to their different areas of authority and jurisdiction. This includes the participation within CELAD of officers deployed/assigned from the Spanish police authorities. The success of this approach is highlighted by the fact that CELAD has been recently involved in several police investigations involving public health offences that involved sports persons.
- 3.11. The regular use of the National Anti-Doping Platform for facilitating communications and cooperation between public authorities, as well as acting as a central information and data collection repository in relation to compliance reporting is of significant value. The Terms of Reference and Rules of Procedure used in connection with the National Anti-Doping Platform may be a valuable best practice template for other Governments looking to adopt a similar model.

4. Sport Organisations

- 4.1. CELAD enjoys a close level of cooperation and collaboration with the key sporting organisation stakeholders in Spain, in particular the CSD, the National Olympic Committee (NOC) and the National Paralympic Committee (NPC). Persons who wish to participate in sport at a high/elite level are required to have a licence, with the terms for such licencing including a commitment to comply with anti-doping regulations. This licencing framework facilitates in turn the provision of education and training to sports persons.
- 4.2. There is an established process whereby sanctions are applied to sports persons who commit anti-doping rule violations in respect of any funding that such persons receive (indirectly or directly) from the CSD, the NOC or the NPC. This is explained in detail in the National Report).
- 4.3. The NOC and NPC have a general responsibility for assisting CELAD in the fulfilment of CELAD's roles and responsibilities under the World Anti-Doping Code. National Federations (and equivalent bodies) are required to be members of the NOC/NPC in order for athletes from their sports to be eligible for selection to represent Spain at the Olympic/Paralympic Games. This membership is contingent on compliance with the relevant International Federation Anti-Doping Rules, the IOC/IPC Anti-Doping Rules and the World Anti-Doping Code, although compliance management and oversight are generally reactive rather than proactive. A number of codes of conduct regulate the relationships between the NOC, NPC and their members.
- 4.4. The NOC did not appear to be fully engaged in the overall process of educating and training Athletes and Athlete Support Persons as to matters concerning anti-doping. This is, in part, a reflection of the overlapping responsibilities between the NOC and CELAD as referred to in the Code. Nevertheless, the Convention anticipates that a collaborative approach should be taken by sports organisations to educational and informational programmes concerning the health risks of doping and its harm to the ethical values of sport. A closer level of engagement as far as the provision of education and training by the NOC would, therefore, be desirable. While not covering all anti-doping issues, the NPC took measures to promote the fight against doping among athletes, in particular through the "plan adop" which formalises the relation as between the NPC and Athletes and Athlete Support Persons.
- 4.5. The provision of education and training in relation to anti-doping is perceived by the CSD, the NOC and the NPC to be primarily the role of CELAD, with the CSD, the NOC and the NPC providing practical assistance where appropriate. This view appears to extend to National Federations. In this regard, it was reported that there is a perceived absence of clarity within the World Anti-Doping Code standards (in particular Article 7 of the International Standard for Education) as to the extent of anti-doping education responsibilities. This results in a degree of confusion as to both accountability and provision responsibility in terms of education. This is not, it was reported, an issue that appears to be confined to Spain.
- 4.6. The CSD has agreements with National Federations (and other sports organisations) that have the effect of making the receipt of funding conditional on those organisations complying with their anti-doping responsibilities. As noted in this Report, the CSD does not undertake any active compliance role in this regard but is empowered to respond to concerns brought to its attention by CELAD, should any such arise.

Recommendation

- 4.7. The NOC and NPC are recommended to develop their own education and information strategies, complementary to and supportive of those pursued by CELAD, regarding the provision of information and training concerning anti-doping matters.

5. Restricting the Availability of Doping Substances

- 5.1. The Spanish 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 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. These instruments concern matters such as the sale and supply of medicines, pharmaceutical products, medical devices and other sanitary material (such as counterfeited face masks of inferior quality). The responsibility for investigating such offences falls primarily to the National Police and Civil Guard. The law enforcement authorities have been successful in identifying and closing down a number of clandestine facilities engaged in the manufacture and supply of Prohibited Substances.
- 5.3. As noted above, the annual update of the Prohibited List is brought into effect in Spain each year by publication in the Official Bulletin (BOE) and thereby incorporated into the Organic Law. This ensures that sports persons are subject to the current version of the Prohibited List on a rolling basis.

6. Testing and the Analysis of Biological Samples

Doping Control

- 6.1. CELAD is the primary Testing agency in Spain. The National Report explains the specifics of CELAD's operations in this regard including matters such as the extent and scope of the Testing program undertaken by CELAD, the Testing budget and Test Distribution Plan, in some detail.
- 6.2. The Test Distribution Plan used by CELAD is dynamic and is based on information received, generated and prepared by the NADO's intelligence division. CELAD uses the services of third-party providers (Verun, Víctor Roldán and PWC) to support the domestic Testing Plan. A further provider, IADS, supports the non-domestic Testing Plan.
- 6.3. CELAD manages the recruitment, training, certification and performance of Doping Control Officers according to recognised International Standards relating to quality assurance through third-party providers.
- 6.4. CELAD has signed cooperation agreements with numerous NADOs to facilitate the Testing of Spanish athletes residing or training outside the country. CELAD advised that it encounters difficulties in testing Athletes – notably in athletics - in certain countries, in particular in North Africa. Whilst these difficulties are primarily operational, the Evaluation Team was informed that a Royal Decree was currently under revision to alleviate the requirements for testing abroad.
- 6.5. CELAD utilises DIOCLES, a bespoke software application, to support the operation of the Testing program. This encompasses a paperless doping control process and integrates the Testing program with related actions and information across CELAD's operations. The DIOCLES application is used as it is understood to possess a wider functionality than the commonly used ADAMS platform administered by the World Anti-Doping Agency. DIOCLES is being developed in order to improve interoperability with similar systems used by other Anti-Doping Organisations.

- 6.6. CELAD has been successful in attracting European Union funding to develop a Plan of Modernization and Digitization of the Anti-Doping Fighting between 2022 and 2024. Part of this funding will be for the further development of the DIOCLES system.
- 6.7. The Evaluation Team noted that the World Anti-Doping Agency has raised a small number of operational issues regarding the Test Distribution Plan adopted by CELAD, although none of these compromised compliance with the Convention.

Analysis of Biological Samples

- 6.8. There are two Laboratories in Spain accredited by the World Anti-Doping Agency in respect of the analysis of biological samples, located in Madrid and Barcelona (referred to in this Report for simplicity's sake as 'the Madrid Laboratory' and 'the Barcelona Laboratory').
- 6.9. The Madrid Laboratory (Laboratorio de Control del Dopaje de Madrid) is well supported by CELAD in that it provides virtually all of its anti-doping Samples to that Laboratory for analysis. At the time of the Evaluation Visit, CELAD and the Madrid Laboratory existed under the same administrative 'umbrella' within the Spanish Government, which the Evaluation Team was concerned might raise issues of perception as far as the independence of the Madrid Laboratory was concerned. In this regard, the Spanish Government has, subsequent to the Evaluation Visit, completed the necessary administrative steps to separate the sponsoring ministries for CELAD and the Madrid Laboratory which now operates under the "Carlos III" Health Institute Research - a public biomedical research institution under the Minister of Science and Innovation.
- 6.10. The Madrid Laboratory analyses approximately 7,000 Samples per annum, with a peak of 8,747 in 2019, but considers that it has the capacity to analyse 10,000. It has 28 experienced staff members. It is adequately equipped with analytical instruments although has only one high resolution mass spectrometer (it appeared that there may be issues with the acquisition of new instruments). It also has appropriate space for the long-term storage of samples.
- 6.11. The Barcelona Laboratory (the Catalonian Antidoping Laboratory) has an APMU (Athlete Passport Management Unit) approved by WADA and provides this service for CELAD. It receives most of its biological samples from outside of Spain. Like the Madrid Laboratory it analyses more than 7,000 per annum and considers that it has the capacity to analyse 10,000.
- 6.12. Detailed information regarding the composition and staffing levels of each of the Laboratories is contained within the National Report.

Recommendation

- 6.13. It is recommended that the Spanish authorities and CELAD review what operational measures may need to be taken that effective testing of Spanish athletes who are located outside of Spain, particularly those training in North Africa, can take place.

7. Education and Research

Education

- 7.1. CELAD 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 in Spain in this regard.
- 7.2. The National Report details a number of the programs run by CELAD. The Evaluation Team received sufficient information in relation to these programs during the

course of the Evaluation Visit to be satisfied that the requirements of the Convention were being met by the Spanish Government.

- 7.3. CELAD utilises 12 national level educators, including former athletes, who provide education sessions. As noted above, there is a level of confusion stemming from the World Anti-Doping Code and related standards as to the levels of responsibility that fall to the varying sport stakeholders when it comes to the provision of anti-doping education. There is recognition, for example, from CSD that it is required to ensure the cooperation of National Federations and other sport organisations with CELAD so as to facilitate the provision by CELAD of anti-doping education and training. There is less of an understanding as to what is required in terms of such provision by the same National Federations and other sport organisations.

Best Practice

- 7.4. CELAD's leading role in the development of the 'NoDop' application designed for Spanish speaking sports persons is an important best practice in terms of assistance and development support provided to nations with less sophisticated anti-doping frameworks.

Research

- 7.5. The National Report provides a significant amount of detail as to the research exercise and projects conducted under the auspices of CELAD and the Laboratories.
- 7.6. The Barcelona Laboratory provides a training and consultancy service helping many new sports analytical laboratories obtain accreditation. It has close connections with universities especially the Universitat Pompeu Fabra (UPF) in Barcelona; Laboratory staff teach on a variety of programmes and also support Masters and PhD students. It has an excellent research output, in the period 2015-2021 it recorded over 300 scientific publications, more than 30 PhDs and more than 30 Masters students.
- 7.7. The Evaluation Team noted that one notable feature of research is on collaboration with health institutions into 'positive' research as to the health benefits of certain medicines and substances.

Recommendation

- 7.8. In relation to research, a strong collaboration between the two Laboratories (for example by the provision of joint research funding) should be envisaged to utilise the funding, resources and expertise of both Laboratories in a coordinated manner.

8. Disciplinary Measures

- 8.1. CELAD has the primary responsibility pursuant to the Organic Law 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 (as that term is used in the Organic Law) that fall to be imposed in relation to an anti-doping rule violation.
- 8.2. The dispute resolution body established in relation to anti-doping rule violation matters is the Anti-Doping Sanctioning Committee (ADSC). CELAD has the responsibility of bringing proceedings before the ADSC.
- 8.3. The ADSC is comprised of seven members, appointed for a four-year term. The Evaluation Team understood that the ADSC is considered by WADA to be compatible with the requirements of the World Anti-Doping Code as regards the Operational Independence of the

ADSC is concerned. The Evaluation Team did not have any concerns arising from the Monitoring Group Recommendation as to Hearing Panels.

- 8.4. Given its recent establishment the ADSC had not, at the time of the Evaluation Visit, resolved any anti-doping rule violation disputes brought before it pursuant to the Organic Law.
- 8.5. It appears from consultations conducted during the Evaluation Visit that disputes brought before the ADSC will be resolved solely on the basis that the parties to a dispute (which will usually be, on the one side, CELAD, and on the other, an athlete or athlete support person) will make written submissions to the ADSC, with the dispute being resolved on the basis of those submissions. This appeared to exclude the possibility of there being the more usual 'in-person' hearing format whereby the parties to a dispute appear in person before a hearing panel, present their evidence and witnesses, and allow an opportunity for evidence and witnesses to be tested by way of verbal examination.
- 8.6. Appeals made by either party in relation to a decision of the ADSC are resolved by the ADSC. A further right of appeal to the Administrative Court exists, as provided by Spanish administrative legislation.

Recommendation

- 8.7. In relation to disciplinary matters, the anticipated practice of resolving disputes brought before the ADSC by way of written representations and documents alone is not considered to be an optimal model. Resolving anti-doping disciplinary disputes by way of consideration of written materials could be a means of resolving a dispute if it is available as an alternative to an in-person hearing, whereby parties are able to present their case, provide testimony and evidence, and cross-examine such testimony and evidence. In this regard it is also recommended that anti-doping hearings should, at the hearing panel's discretion, be held in public.

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 Spanish Government and CELAD attend and/or is 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 CELAD collaborates with many Anti-Doping Organisations (other European and American NADOs, law enforcement authorities from other countries, Interpol and Europol and international federations). CELAD participates as National Expert within the structures of the Medicrime Convention of the Council of Europe - Convention on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211).
- 9.3. As noted above, it also has a leading role in the development of the 'NoDop' application designed for Spanish and Portuguese speaking sports persons.
- 9.4. CELAD took a leading role in establishment of the Ibero-American Anti-Doping Network ("*Red Iberoamericana de Lucha Contra el Dopaje*"- RILD) in 2021 by being one of the 23 founding NADOs and providing the secretariat to the Network. RILD has been created with the aim to consolidate itself as a worldwide reference representing the cultural and structural commonalities of fight against doping in the region. In addition, the RILD also aims at

providing technical assistance and supporting knowledge transfer between its member organisations (including support for the establishment of a NADO for those countries where the National Olympic Committee is still acting as the NADO), to promote initiatives for adequate communication and collaboration among NADOs, to establish links with other stakeholders, and to execute projects of mutual interest.

Good practice

- 9.5. The establishment of RILD, the Ibero-American Anti-Doping Network, is an essential tool to mutually reinforce NADOs. The leading role taken by CELAD to establish and ensure the sustainability of the Network is a good practice.

Annex 1 – Evaluation Team and programme of the visit

EVALUATION TEAM

Pia HASCHKE
Head of the Evaluation Team
Chair of the European Ad Hoc Committee for the World Anti-Doping Agency (CAHAMA)
Head of Unit, Departmental Legal Affairs, Sport Department, Federal Ministry for Arts, Culture, the
Civil Service and Sport
Austria

Graham ARTHUR
Rapporteur
Independent Expert, Anti-Doping Lawyer
United Kingdom

Sara-Ioana SARAGEA
Chief of staff, Office of the President, Romanian National Anti-Doping Agency (ANAD)
Romania

David COWAN
Professor Emeritus in Pharmaceutical Toxicology, Former Director of the Drug Control Centre,
Department of Analytical, Environmental & Forensic Sciences, King's College London
United Kingdom

Mr Martin HOLMLUND LAUESEN
Director, International Relations and Medical, Anti-Doping Norway (ADNO)
Norway

Secretariat

Julien ATTUIL-KAYSER
Head of the Anti-Doping Unit, Sport Division, Council of Europe

Leonor TEJADO HINOJO
Anti-Doping Unit, Sport Division, Council of Europe

Observer

Olympia KARAVASILI
Manager, Government and NADO Relations, European Office, WADA

PROGRAMME OF THE VISIT AND STAKEHOLDERS MET

Day 1 - Tuesday, 18 October 2022

9:00h Welcome and opening of the evaluation visit by the Director of the Spanish Commission for the Fight Against Doping in Sport (Comisión Española para la Lucha Antidopaje - CELAD). Structure and governance of CELAD.

Attendees:

- *Evaluation Team*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

10:00h Meeting with the Doping Control Department.

Attendees:

- *Evaluation Team*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Jesús Muñoz- Guerra - Head of the Doping Control Department of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

11:00 Coffee Break

11:30h Meeting with the Education Department.

Attendees:

- *Evaluation Team*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Jesús Garrido - Head of the Education Department of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

12:00h Meeting with the Legal Affairs Division.

Attendees:

- *Evaluation Team*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Rosa Godino - Head of the Legal Affairs Division of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

12:30h	<p>Meeting with the International Relations and Cooperation Area.</p> <p><i>Attendees:</i></p> <ul style="list-style-type: none"> • Evaluation Team • José Luis Terreros - Director of CELAD • Ramón Sánchez - General Secretary of CELAD • Carlos Gea - Head of the International Relations and Cooperation Area of CELAD
13:00h	<p>Joint meeting with Spanish Olympic Committee (COE) and Spanish Paralympic Committee (CPE).</p> <p><i>Attendees:</i></p> <ul style="list-style-type: none"> • Evaluation Team • Victor Sánchez (Treasurer) - COE • Ma Rosario Ureña (Scientific and Medical Committee) - COE • Miguel Carballeda (President) - CPE • Alberto Jofre (Managing Director) - CPE • José Luis Terreros - Director of CELAD • Ramón Sánchez - General Secretary of CELAD • Carlos Gea - Head of the International Relations and Cooperation Area of CELAD
14:00h	<p>Lunch break.</p>
16:00h	<p>Joint meeting with: Spanish Agency for Medicines and Medical Devices (AEMPS), Spanish Agency for Food Safety and Nutrition (AESAN).</p> <p><i>Attendees:</i></p> <ul style="list-style-type: none"> • Evaluation Team <ul style="list-style-type: none"> • Manuel Ibarra (Head of the Pharmaceutical Inspection and Enforcement Department) - AEMPS. Ministry of Health.

- *Victorio Teruel (Deputy Director- General for Food Safety Management) - AESAN. Ministry of Consumer Affairs.*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez- General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

16:40h Joint meeting with: Deputy Directorate of Customs Surveillance of the Department of Customs and Special Taxes (State Agency of Tax Administration), General Directorate of the General State Administration in the Territory (Ministry of Territorial Policy and Public Function), Pharmaceutical Inspection Services at Customs and Foreign Health Services at Customs.

Attendees:

Evaluation Team

- *Jose Luis Valle (Head of the Intelligence and Information Area) - Deputy Directorate of Customs Surveillance of the Department of Customs and Special Taxes.*
- *Francisco R. Andrés Suárez (Head of the Security and Safety Area) - Deputy Directorate of Customs Surveillance of the Department of Customs and Special Taxes.*
- *Marta Noval (Head of Área) - General Directorate of the General State Administration in the Territory. Ministry of Territorial Policy and Public Function.*
- *M' José Grajera (Head of Service) - Pharmaceutical Inspection Service at Madrid-Barajas Airport*
- *Ana María Sanz (Head of International Goods Control Area - Deputy Directorate General for Foreign Health)- Ministry of Health*
- *Gema Santiago - Foreign Health Coordinator at Madrid-Barajas Airport*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez- General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

Day 2 - Wednesday, 19 October 2022

9:00h Meeting with Ministry of Justice.

Attendees.

- *Evaluation Team*
- *Josefa Navarro (Office of the Minister of Justice)- Ministry of Justice*
- *Mario Maraver (Office of the Minister of Justice) - Ministry of Justice*
- *Rosa Godino - Head of the Legal Affairs Division of CELAD*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

10:00h Travel to the Supreme Council for Sports (CSD).

10:30h Meeting with the Supreme Council for Sports (CSD).

Attendees.

- *Evaluation Team*
- *Conchi Bellorín - Deputy to the General Director of Sports. Supreme Council for Sports*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez - General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

11:30h Meeting with Anti-doping Laboratories.

Attendees.

Evaluation Team

Gloria Muñoz - Director of the Anti-doping Laboratory in Madrid

Rosa Ventura - Director of the Anti-doping Laboratory in Madrid

José Luis Terreros - Director of CELAD

Ramón Sánchez - General Secretary of CELAD

Carlos Gea - Head of the International Relations and Cooperation Area of CELAD

12:30h Return to CELAD.

13:00h Meeting with the Anti-Doping Sanctioning Committee (CSA).

Attendees.

- *Evaluation Team*
- *Rafael Cabellera - President of the CSA*
- *Ramón Sánchez - General Secretary of CELAD / Secretary of the CSA*
- *José Luis Terreros - Director of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

14:00h Lunch break.

16:00h Joint meeting with National Police and Civil Guard. Intelligence and Investigations.

Attendees:

- *Evaluation Team*
- *Patricia Angulo (Captain) - Civil Guard*
- *Santiago Rivera (Captain)- Civil Guard*
- *Miguel Ángel Marcos (Warrant officer) - Civil Guard*
- *Juan José Castro (Chief Inspector)- National Police*
- *Juan Pablo Armenteros (Inspector) - National Police*
- *Lucía Ferrero (Officer)- National Police.*
- *José Luis Terreros - Director of CELAD*
- *Ramón Sánchez- General Secretary of CELAD*
- *Carlos Gea - Head of the International Relations and Cooperation Area of CELAD*

17:30h End of the day.

Day 3 – Thursday, 20 October 2022**9:30h****Wrap up meeting with CELAD.****Attendees:**

- *Evaluation Team*
- *Juan Martorell (Deputy Director for International Relations - President's Cabinet) – Supreme Council for Sports*
- *José Luis Terreros – Director of CELAD*
- *Ramón Sánchez – General Secretary of CELAD*
- *Carlos Gea – Head of the International Relations and Cooperation Area of CELAD*

11:00h**Coffee and end of the evaluation visit.**