

## Act No 351/2020 Coll.

### Act amending Act No 440/2015 Coll. on sport and on the amendment of certain acts, as amended

<https://www.zakonypreludi.sk/zz/2020-351>

Valid from **9 December 2020**

Effective from **1 January 2021**

#### Editorial note

The Act shall become effective on the date of publication with the exception of Article I (5) and (6), § 88 and 93 (10) and § 106g (12) which shall become effective on 1 January 2021.

#### Current wording as of 1 January 2021

351

ACT

of 26 November 2020,

amending Act No 440/2015 Coll. on sport and on the amendment of certain acts, as amended The National Council of the Slovak

Republic has enacted as follows:

#### Article I

Act No 440/2015 Coll. on sport and on the amendment of certain acts, as amended by Act No 354/2016 Coll., Act No 335/2017 Coll., Act No 177/2018 Coll., Act No 221/2019 Coll., Act No 310/2019 Coll., Act No 6/2020 Coll., Act No 148/2020 Coll. and Act No 323/2020 Coll. shall be amended as follows:

1. In § 5 (6) and § 7 (7) the words “§ 90 (5)” shall be replaced with words “§ 90 (3)”.
2. § 8 (6) shall read as follows:

“(6) A sports organisation shall be required to

- a) ensure within its competence that the rules of the World Anti-Doping Code are complied with,
- b) ensure within its competence that measures against manipulation of sports competition course and results and other measures against negative phenomena in sport under international laws and decisions are complied with,
- c) arrange in its regulations the negative phenomena under point (b) above as serious disciplinary offences,
- d) ensure within its competence anti-doping education.”.

3. In § 67 (1) (b) point 2 “or” shall be added at the end.
4. In § 67 (1) (b) point 3 shall be erased. The current point 4 shall be marked as point 3.
5. In § 67 (1) (c) “(3)” shall be replaced with “(1)”.
6. In § 67 (1) (d) “disciplinary” shall be erased and “(3)” shall be replaced with “(1)”.
7. In § 86 (1) the following words shall be added at the end: “in accordance with international treaties which the Slovak Republic is bound by,<sup>34b</sup> according to rules of the World Anti-Doping Code”.

Footnote 34b shall read as follows:

“<sup>34b</sup> Article 2 (17) and Article 4 (3) of the International Convention against Doping in Sport (notification of the Ministry of Foreign Affairs of the Slovak Republic No 347/2007 Coll.).”.

8. § 86 (2) to (5) shall read as follows:

“(2) The Agency is a state-subsidized organization <sup>35</sup> with funding received from the budget of the Ministry of Education.<sup>36</sup>)

(3) The statutory body of the Agency is the Director appointed and withdrawn by the Minister of Education based on a selection procedure; the selection procedure shall be public, with the exception of voting of the selection committee. The term of office of the Director shall be five years; reappointment is possible.

(4) The Agency

- a) performs the tasks of the World Anti-Doping Code,
- b) performs, organizes and manages doping controls,
- c) draws up the annual doping control plan,

- d)** provides analysis of samples collected for doping control purposes (hereinafter referred to as "Collected sample"),
  - e)** cooperates with the Ministry of Education in preparing general binding legal regulations issued in accordance with § 100 (1) (a),
  - f)** grants an Athlete who is not an international-level athlete an exemption to use an otherwise prohibited substance or method for therapeutic purposes (hereinafter referred to as "Therapeutic use exemption") under the rules of the Agency adopted as referred to in § 87 (1),
  - g)** maintains a register of athletes for testing in which it processes doping control related data of athletes pursuant to § 80 (2) (a), (b), (g), (i), (j) and (l), data pursuant to § 80 (4) or (5), telephone number and their image,
  - h)** notifies the World Anti-Doping Agency of final decisions related to anti-doping rule violations,
  - i)** elaborates an annual anti-doping education plan in cooperation with national sports federations and national sports organizations,
  - j)** cooperates with the Ministry of Education, the World Anti-Doping Agency, anti-doping agencies in other countries, international sports organizations, national sports federations and national sports organizations in the fight against doping in sports,
  - k)** provides cross-border cooperation in
    1. the movement of the doping control team in the performance of its activities,
    2. the timely transport of Collected samples so as to maintain their safety and integrity,
  - l)** concludes reciprocal testing arrangements in accordance with the World Anti-Doping Code,
  - m)** recognizes and implements the procedures for doping control and testing of anti-doping organizations in other countries that are in line with the World Anti-Doping Code and sport sanctions resulting therefrom,
  - n)** supports research and provides education in the fight against doping in cooperation with national sports federations and national sports organizations,
  - o)** draws up the annual activity report that includes in particular
    1. information on changes in the Agency's policies,
    2. information on the bodies, changes thereto and their activities,
    3. an overview of doping controls performed and the education plan in the previous calendar year,
    4. evaluation of the annual doping control plan in the previous calendar year,
  - p)** notifies law enforcement authorities without undue delay following the analysis of Collected samples of any findings related to substances with anabolic and other hormonal effects in the collected sample.
- (5)** Details of the tasks and organization of the Agency shall be regulated by the statute issued by the Ministry of Education.”.

9. § 86 (6) shall be erased.

10. § 87 to 93 shall read as follows:

#### “§ 87

- (1)** The Agency is obliged to adopt anti-doping rules in accordance with the World Anti-Doping Code.
- (2)** The purview of the Agency and its anti-doping rules applies to
  - a)** a sports organisation seated in the Slovak Republic,
  - b)** the organiser of a sporting event competition established in the Slovak Republic,
  - c)** an athlete who is a citizen of the Slovak Republic,
  - d)** regardless of nationality, to
    1. an athlete and his or her entourage as members of a national sports federation or sports club with a binding membership in the national sports federation,
    2. an athlete and his or her entourage participating in a sporting event that is organised by the national sports federation or sports club with a binding membership in the national sports federation,
    3. a natural person who, for the purposes of the fight against doping in sport, is a member of a sports organisation,
    4. an athlete and his or her entourage participating at a national sporting event not organised by a national sports federation or sports club with a binding membership in a national sports federation,
    5. an athlete who is not an athlete under the first, second and fourth paragraph, and wishes to participate in an international sporting event or a national sporting event,
    6. an athlete who in and out of competition is in the territory of the Slovak Republic,
    7. an athlete who is a resident of the Slovak Republic.

#### Doping

#### § 88

- (1) In accordance with Agency rules adopted pursuant to § 87 (1), doping is
- a) the presence of the prohibited substance or its metabolites or its markers in a collected sample,
  - b) use or attempted use by an Athlete of a prohibited substance or a prohibited method,
  - c) evading, refusing or failing to submit to sample collection by an Athlete,
  - d) whereabouts failures of an Athlete,
  - e) tampering, or attempting to tamper, with any part of doping control by an Athlete or other person,
  - f) possession of prohibited substances or means to enable an Athlete or Athlete support personnel to use a prohibited method,
  - g) trafficking, or attempting to traffic, in a prohibited substance or prohibited method by an Athlete or other person,
  - h) administration or attempted administration to any Athlete in-competition of any prohibited substance or prohibited method by an Athlete or other person, or administration or attempted administration to any Athlete out-of-competition of any substance or method prohibited out-of-competition.
  - i) complicity, or attempted complicity, involving an anti-doping rule violation by an Athlete or other person,
  - j) prohibited association by an Athlete or other person,
  - k) acts by an Athlete or other person to discourage under a) to j) or retaliate against reporting anti-doping rule violation under a) to j) to the competent authority, unless provided otherwise under e).
- (2) Doping is prohibited in competition or out of competition in relation to participation of an athlete in a competition.
- (3) If an Athlete has been granted a Therapeutic use exemption, aspects or proceedings under paragraph 1 a), b), f) or h) shall not be considered an anti-doping rule violation.

#### Doping Control

##### § 89

- (1) Doping is detected through doping control, which includes in particular
- a) test distribution planning,
  - b) maintaining a register of athletes for testing,
  - c) sample collection, sample handling and sample analysis,
  - d) handling the results of analyzes of Collected samples,
  - e) investigating, hearing and deciding anti-doping rule violations.
- (2) Natural persons under the authority of the Agency are required to submit to doping control.

##### § 90

- (1) The Agency performs doping control in accordance with international treaties by which the Slovak Republic is bound, 34b)
- a) on its own initiative, or
  - b) on the initiative of a natural person or legal entity having jurisdiction over a sports organisation required to incorporate the rules of the World Anti-Doping Code.
- (2) The costs of doping control carried out based on of a complaint lodged pursuant to paragraph (1) (b) shall be borne by the person that lodged the complaint.
- (3) No visual recordings, sound recordings or audio-visual recordings may be made at the doping control site provided for this purpose by the competition organizers.

##### § 91

#### Doping Control Officer

- (1) Doping control is carried out by the Agency through doping control officers appointed by the Director of the Agency. When carrying out doping control activities, the doping control officer has the status of a public official.
- (2) Only doping control officers may be authorized to carry out doping controls who are not
- a) persons affiliated to a sports organization whose Athlete is subject to doping control,
  - b) persons close to an Athlete who is subject to doping control,
  - c) support personnel of an Athlete subject to doping control, or persons close to Athlete support personnel.
- (3) In the performance of doping controls, the doping control officer shall present a written authorization to carry out the doping control issued by the Agency and a proof of identity or their doping control officer identification. Details regarding authorization to carry out the doping control and doping control officer identification shall be laid down in a statute of the Agency as referred to in § 86 (5).

- (4)** In addition to carrying out doping controls, the doping control officer is also entitled to
- a)** assess the suitability of the premises provided by the organizers for doping control,
  - b)** determine the manner in which an Athlete is selected for doping control in accordance with the doping control mandate.

**§ 92**

**Doping hearing panel**

- (1)** A doping hearing panel of first instance and a doping hearing panel of second instance to conduct anti-doping rule violation proceedings are hereby established.
- (2)** A doping hearing panel has three members and two alternates for events of conflicts of interests under § 93 (3) appointed by the Minister of Education based on a selection procedure in such a manner that
- a)** a call for proposals for candidates for a member and alternate of the doping hearing panel is published well in advance of the selection procedure,
  - b)** the selection procedure is public, with the exception of voting of the selection committee,
  - c)** CVs of the candidates for the members and alternates of the doping hearing panel are disclosed on the website of the Ministry of Education, together with information on their professional experience in sports and the entity nominating them, at least 15 working days before the selection procedure date,
  - d)** information about members and alternates of the doping hearing panel is disclosed on the website of the Ministry of Education within 3 working days after their appointment.
- (3)** Member and alternate of the doping hearing panel may be appointed an individual who
- a)** has full legal capacity;
  - b)** is a person of integrity;
  - c)** has a master's degree or higher university education in law – this applies to the chairman of the doping hearing panel;
  - d)** has professional experience of at least three years in the field of legal, natural, medical, pharmaceutical or body culture sciences;
  - e)** has no legal relationship with the Agency.
- (4)** The term of office of a member and alternate of the doping hearing panel is four years; re-appointment is possible.
- (5)** Member and alternate of the doping hearing panel shall cease to hold their office
- a)** upon expiry of the term of office,
  - b)** by written notification of resignation delivered to the Minister of Education or on the date specified in the notification,
  - c)** by withdrawal,
  - d)** upon entry into force of a judgement sentencing the member or alternate of the doping hearing panel for an intentional criminal act,
  - e)** by limitation of legal capacity,
  - f)** by death or declaration of death, or
  - g)** at the moment of establishment of a legal relationship with the Agency.
- (6)** The Minister of Education shall withdraw a member or alternate of the doping hearing panel if they have violated the obligation as referred to in § 93 (3).
- (7)** The Minister of Education may withdraw a member or alternate of the doping hearing panel if
- a)** their health condition does not allow them to perform their duties properly for at least six months, or
  - b)** they have grossly neglected the duties imposed by this Act or by the statute of the doping hearing panel, unless they prove that they were not liable for the negligence or could not prevent it.
- (8)** If a member or alternate of the doping hearing panel cease to hold office upon expiry of their term of office, the Minister of Education shall appoint a new member or alternate of the doping hearing panel not later than one month before the expiry of the term of office of the current member or alternate of the doping hearing panel and the term of office of the new member or alternate of the doping hearing panel shall start on the date following after the expiry date of the term of office of the current member or alternate of the doping hearing panel.
- (9)** If a member or alternate of the doping hearing panel cease to hold office before expiry of their term of office, the Minister of Education shall appoint a new member or alternate of the doping hearing panel without any undue delay and the term of office of the new member or alternate of the doping hearing panel shall continue until the end of the term of office of the current member or alternate of the doping hearing panel.

(10) Members of doping hearing panels cannot be substituted.

(11) In connection with participation in meetings of the doping hearing panel, members of the doping hearing panel are entitled to remuneration and reimbursement of proven travel, subsistence and accommodation costs.<sup>8)</sup>

(12) Activities of doping hearing panels shall be practically organized by the Ministry of Education.

(13) Details about organisation and activities of doping hearing panels shall be laid down in a statute of the particular doping hearing panel adopted by the Ministry of Education.

#### § 93

##### Anti-Doping Rule Violation Proceedings

(1) Doping hearing panels shall deal with doping in accordance with Agency rules adopted pursuant to § 87 (1), while adhering to the principles of fair hearing in the extent as referred to in § 89 (1) (e).

(2) Parties to the anti-doping rule violation proceedings are persons who are reasonably suspected of doping and who are obliged to comply with the rules of the World Anti-Doping Code and Agency rules adopted as referred to in § 87 (1).

(3) If, with regard to the relationship of a member of a doping hearing panel to the case or persons involved in the proceedings, there may be reasonable doubts about their impartiality, or if there is an existing or potential conflict of interest of a member of a doping hearing panel in a particular case, that member is obliged to notify thereof and may not participate in its discussion and decision-making. If there is any doubt as to the existing or potential conflict of interest, the chairman of such doping hearing panel decides which member is subject thereto; in the case this applies to the chairman of the doping hearing panel, the other members of the relevant doping hearing panel shall decide on the existing or potential conflict of interest by secret ballot. A member of a doping hearing panel who discussed and decided on the same matter at a doping hearing panel of another level or before another body shall also be excluded. An excluded member of the doping hearing panel shall be substituted by an alternate of the doping hearing panel in the particular case; the procedure in accordance with the second sentence shall be used for selecting an alternate of the doping hearing panel.

(4) A representative of the Agency shall have the right to be present at the hearing of the matter by the doping hearing panel.

(5) The relevant doping hearing panel is obliged to deliver a copy of the file of the case to the Agency without undue delay as soon as the decision has been issued.

(6) A doping hearing panel decides by voting. The decision of the doping hearing panel shall require the consent of at least two members.

(7) Discussions of doping hearing panels are public.

(8) Decisions of the panel shall be signed by the chairman of the particular doping hearing panel or another member of the doping hearing panel authorized by the chairman. A member of the doping hearing panel who does not agree with the decision of the panel or with its reasoning may elaborate a dissent which shall be annexed to the decision. The dissent of a member of a doping hearing panel shall be delivered and published in the same way as the other parts of the decision.

(9) Any decision in the case of doping must contain a statement, justification and instructions and other particulars in accordance with Agency rules adopted pursuant to § 87 (1). The statement of reasons for the decision shall include the facts on which the decision was based, how the evidence was assessed, how the competent authority dealt with the proposals and appeals of the persons concerned and their comments related to the grounds for the decision.

(10) The instructions shall include an indication of whether an appeal may be lodged against the decision, within what period, to which authority and where the appeal may be lodged.

(11) The written copy of the decision shall also include the name of the issuing authority, the date of issue of the decision and the name and surname of the natural person or the name of the legal entity which is subject thereto.

(12) An appeal against a decision on anti-doping rule violations may be filed by a natural or legal person subject to the decision in the manner, by the deadline and applying the procedure determined in accordance with Agency rules adopted pursuant to § 87 (1).".

11. In § 100 (1) (a) "international conventions by which the Slovak Republic is bound, 40)" shall be replaced with "international treaties by which the Slovak Republic is bound,<sup>34b)</sup>".

Footnote 40 shall be erased.

12. § 106f and 106g shall be added after § 106e and they shall read as follows:

#### "§ 106f

##### Transitional provisions related to regulations effective on the date of publication

(1) A national sports federation shall harmonize its statutes and regulations governing disciplinary proceedings and proceedings on violations of rules of the World Anti-Doping Code with this Act no later than by 30 June 2021.

(2) The Minister of Education shall appoint members and alternates of doping hearing panels by 28 February 2021.

(3) The Ministry of Education shall issue a statute of a competent doping hearing board by 31 January 2021.

#### § 106g

**Transitional provision related to regulations effective from 1 January 2021**

Any anti-doping rule violation proceedings which started before 1 January 2021 shall be finished before competent boards whose members are appointed and withdrawn by a competent national sports federation or entity organising the particular sports competition in accordance with regulations effective until 31 December 2020.”.

**Article II**

The Act shall become effective on the date of publication with the exception of Article I (5) and (6), § 88 and 93 (10) and § 106g (12) which shall become effective on 1 January 2021.

Zuzana Čaputová in her own hand

represented by Gábor Grendel in his

own hand Igor Matovič in his own hand

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