

THE RODCHENKOV ANTI-DOPING ACT: CONCERNS AND BENEFITS OF CRIMINALIZING DOPING IN INTERNATIONAL SPORTS COMPETITIONS

ABIGAIL PAGE*

INTRODUCTION	439
I. HISTORY AND BACKGROUND	442
A. Performance-Enhancing Drug Use and the Olympics	442
B. 2014 Sochi Winter Olympics and Dr. Grigory Rodchenkov	445
II. THE RODCHENKOV ANTI-DOPING ACT	448
III. CRITICISMS OF THE RODCHENKOV ANTI-DOPING ACT	450
A. Undermining International Governing Bodies Ability to Regulate	450
B. Extraterritoriality	452
C. Lack of Application to United States Sports Organizations	453
D. Whistleblower Impact	455
E. Precedent for Additional Legislation with Discriminatory Implications	456
IV. BENEFITS OF THE RODCHENKOV ANTI-DOPING ACT	457
A. Ability to Directly Criminalize and Enforce Doping	457
B. Accountability and Cooperation with International Organizations	460
C. Geopolitical Concerns	462
D. Athlete Health and Financial Concerns	464
CONCLUSION	466

INTRODUCTION

“Olympism is a philosophy of life ... seek[ing] to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles.”¹ In

* Juris Doctor Candidate, Belmont University College of Law, 2023; University of Tennessee, Knoxville, B.S. 2016 and M.S. 2018. I would like to thank all my professors,

1889, the modern Olympic Games were founded on these principles of Olympism.² Such fundamental doctrines of ethics and integrity are currently codified in the Olympic Charter published and maintained by the International Olympic Committee (“IOC”), a not-for-profit independent international organization committed to the development of sport and athletes at all levels.³

The same competitive spirit that drives Olympic athletes to achieve national and international success may also foster a desire to claim victory at all costs.⁴ With this temptation, the values of Olympism can take second place to the demands of winning an Olympic medal.⁵ This “win at all costs” sentiment has grown from a temptation in one or two athletes to a systematic problem.⁶ “[D]oping is cheating, but the temptation to cheat and the ability to pull it off is manifest well beyond the level of the individual athlete.”⁷ Entire athletic teams are willing to compete outside the rules of competition.⁸ Entire countries begin to skirt rules and regulations put in place by governing bodies because cheating for success is in their best interest.⁹ Even international sports federations, organizations that administer one or more sports at the world level, may be unwilling or unable to preserve the integrity of international sports competitions.¹⁰

Few ways of unfairly competing in the Olympic Games are as prevalent or successful as the use of performance-enhancing substances.¹¹ The growing reality of doping in international sports competitions led the United States Congress to enact the Rodchenkov Anti-Doping Act (“RADA”).¹² RADA criminalizes doping conspiracies at major international sport competitions, providing punishments of large fines and prison sentences up to ten years.¹³ Importantly, the Act clearly establishes the United States’ extraterritorial and federal jurisdiction over such offenses.¹⁴

especially the Honorable Jeffrey Usman, for their guidance and support. Additionally, I am grateful to the entire Belmont Law Review editorial team for their dedication to this Note. Lastly, I want to express my deepest gratitude to my husband, family, and friends for their love and support throughout my academic career.

1. Int’l Olympic Comm., *Olympic Charter* 11 (July 17, 2020).

2. *Id.* at 10.

3. *Id.* at 9.

4. See Dionne L. Koller, *From Medals to Morality: Sportive Nationalism and the Problem of Doping in Sports*, 19 MARQ. SPORTS L. REV. 91 (2008) (discussing the temptation of athletes to cheat to win competitions).

5. See *id.* at 91.

6. See *id.* at 92–94.

7. *Id.* at 95.

8. See *id.* at 109–10.

9. *Id.* at 117.

10. Int’l Sports Federations, INT’L OLYMPIC COMM., <https://olympics.com/ioc/international-federations> [https://perma.cc/9AZT-553K] (last visited Jan. 15, 2022).

11. See generally Koller, *supra* note 4.

12. 21 U.S.C. §§ 2401–2404 (2020).

13. 21 U.S.C. §§ 2402–2403.

14. 21 U.S.C. § 2402.

RADA quickly became controversial among international sport anti-doping organizations and governing bodies.¹⁵ The IOC and anti-doping agencies around the world have taken a firm stand against the Act, citing the law's potential to undermine international cooperation on the issue of anti-doping.¹⁶ Critics have called upon Congress to abandon the legislation or, at a minimum, address the concerns of the global community.¹⁷ Despite the steady drumbeat of criticism, RADA provides important benefits in the fight against performance-enhancing substance use for both American and international athletes.

Ultimately, this note argues that the current statutory language of RADA, properly applied by federal authorities, is beneficial despite certain international organizations' concerns about interference with the ability to regulate, extraterritorial application, unequal application for American sports leagues, undermining potential future whistleblower protections, and providing precedent for additional legislation that may discriminate based on national origin. Benefits of the Act include providing the United States the ability to criminalize and enforce doping, hold international organizations accountable, and address geopolitical, financial, and safety concerns of American athletes. In addition to defending the Act against critics, this Note also discusses implementation strategies that may aid in cooperation with international governing bodies, addressing some of the concerns raised by groups also working to combat doping in Olympic competitions.

In support of this conclusion, this Note begins in Section I by addressing the history of performance-enhancing drug use in the Olympics, culminating in the Russian doping scandal during the 2014 Sochi Winter Olympic Games. While the Sochi Olympics is not the only Games plagued by athlete doping, it was the most recent and perhaps the most widespread use of state-sponsored doping discovered and provided the catalyst to Congress' decision to act. Section II explores the emergence of the Congressional response to Olympic doping scandals, examines the legislative history of the RADA, and delineates the Act itself. As noted above, the Act has been subjected to considerable criticism; those criticisms of the Act are examined in Section III. Section IV addresses the importance of RADA and ultimately concludes that the Act should be maintained as written. This section also provides guidelines for implementation and enforcement of RADA that can address the concerns of international countries and governing bodies without needing to amend or abandon the Act.

15. See Ali Iveson, *Rodchenkov Anti-Doping Act signed into law by US President*, INSIDE THE GAMES (Dec. 4, 2020), <https://www.insidethegames.biz/articles/1101605/rodchenkov> [<https://perma.cc/ZF58-CZQ2>].

16. *Id.*

17. *IOC Statement on the Rodchenkov Act*, INT'L OLYMPIC COMM. (Mar. 12, 2020), <https://olympics.com/ioc/news/ioc-statement-on-the-rodchenkov-act> [<https://perma.cc/RDD4-E98L>] [hereinafter *IOC Statement*].

I. HISTORY AND BACKGROUND

A. Performance-Enhancing Drug Use and the Olympics

The use of performance-enhancing substances in the Olympics has been a part of the Games for some time. This section provides a brief history of the role of doping in international sporting events and the Olympic Games specifically.

One of the fundamental ideas of sport is to test the natural limits of human nature and by “artificially expanding those limits, doping is at odds with the essence of sport.”¹⁸ However, athletes who seek to gain some competitive advantage over their competition may resort to some form of doping. Using foreign substances to enhance athletic ability is “as old as competitive sport itself.”¹⁹ The Greeks, founders of the Ancient Olympic Games, were known to use natural substances such as dried figs and mushrooms to improve performance.²⁰ Once the modern Games were reborn in 1896, it did not take long for drug use and doping to again become a growing issue.²¹ Performance-enhancing drug use has been part of the Olympic Games for over 100 years, the first documented case being a marathoner who nearly died from a mixture of brandy and strychnine in 1904.²²

The development of pharmacology in the early 1900s allowed athletes to experiment with drugs that helped improve strength and overcome fatigue, creating even the slightest athletic advantage over their competitors.²³ In the infancy of the Olympic movement, doping was not seen as cheating.²⁴ In fact, a nonjudgmental attitude about drug use in sports persisted for decades.²⁵ One American exercise physiologist, Peter Karpovich, wrote in a medical journal, “[t]he use of a substance or device

18. Heather Dyke, *Why is doping wrong anyway?*, THE CONVERSATION (Aug. 8, 2016, 4:08 PM), <https://theconversation.com/why-is-doping-wrong-anyway-63057> [<https://perma.cc/Z7BE-3Q4S>].

19. Åke Andréén-Sandberg, *The History of Doping and Antidoping: A systematic collection of published scientific literature 2000-2015* (2016), <https://www.rf.se/globalassets/riksidrottsforbundet-rf-antidoping/dokument/forskning-och-statistik/the-anti-doping-library-anti-doping-history.pdf> [<https://perma.cc/RTG7-RWTV>].

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. Michael Kremenik et al., *A Historical Timeline of Doping in the Olympics (Part I 1896-1968)*, 12 KAWASAKI J. OF MED. WELFARE 19, 20 (2006), https://i.kawasaki-m.ac.jp/mwsoc/journal/en/2006-e12-1/01_kremenik.pdf [<https://perma.cc/5R6M-CWC4>].

25. Mark Johnson, *Doping has always been part of the Olympics. Of course Russia got off the hook*, WASH. POST (July 29, 2016, 9:50 AM), <https://www.washingtonpost.com/posteverything/wp/2016/07/29/doping-has-always-been-part-of-the-olympics-of-course-russia-got-off-the-hook/> [<https://perma.cc/L37G-NNQB>].

which improves the physical performance of a man without being injurious to his health, can hardly be called unethical.”²⁶

In the early years of organized competition, the IOC and national sports federations were silent on the dangers or unfairness of performance-enhancing drugs in international athletic competitions.²⁷ However, doping began to shift from an athlete’s tool to an “instrument of moral decay” during the 1960 Rome Olympic Games, when Danish cyclist Knud Enemark Jensen died after he collapsed and fractured his skull while competing in a 62-mile race on a blazing hot summer day.²⁸ While the autopsy labeled the cause of death as heat stroke, traces of amphetamine were found in his system.²⁹ Even though cyclists and other athletes may have been using such drugs for years, Jensen’s death in Rome brought media and social awareness to the issue, sparking officials to take a closer look at doping in the sport.³⁰

Consequently, the IOC created a Medical Commission in 1967 to develop a list of prohibited substances and methods, which contained only stimulants and narcotics.³¹ The first formal drug tests were introduced using random urine screenings at the 1968 Grenoble Winter Games.³² The IOC Commission agreed to test for stimulants, narcotics, sympathomimetic amines, antidepressants, and tranquilizers using gas chromatography.³³

Widespread use of performance-enhancing drugs thrust itself into the spotlight again during the Festina Scandal at the 1998 Tour de France.³⁴ Civil customs agents became involved when they found a significant amount of doping paraphernalia in the Festina team car during a routine border search.³⁵ A physiotherapist for the Festina team was arrested for illegal possession of needles, syringes, and over 400 bottles containing steroids, human growth hormones, and other performance-enhancing drugs.³⁶

Today, doping is widely recognized as a type of cheating, and anti-doping measures are in place with the goal of protecting the “spirit of sport.”³⁷ The IOC was established in 1894 to act as the “guardian” of the Olympic Game with a mission “to promote Olympism throughout the world

26. *Id.*

27. Kremenik, *supra* note 24.

28. Johnson, *supra* note 25.

29. *Id.*; Andrén-Sandberg, *supra* note 19.

30. Johnson, *supra* note 25.

31. *1967: Creation of the IOC Medical Commission*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/1967-creation-of-the-ioc-medical-commission#:~:text=At%20the%2066th%20IOC%20Session,issue%20of%20anti%20doping%20controls>. [https://perma.cc/DLP7-DTVS] (last visited Jan. 21, 2022).

32. Andrén-Sandberg, *supra* note 19; Kremenik, *supra* note 24.

33. Kremenik, *supra* note 24.

34. Andrén-Sandberg, *supra* note 19.

35. *Id.*

36. *Id.*

37. Robyn R. Goldstein, *An American in Paris: The Legal Framework of International Sport and the Implications of the World Anti-Doping Code on Accused Athletes*, 7 VA. SPORTS & ENT. L.J. 149, 151 (2007).

and lead the Olympic movement.”³⁸ Protecting sport’s purity is essential to the modern Olympic Movement.³⁹ The IOC expressly lists one of their roles as “protect[ing] clean athletes and the integrity of the sport, by leading the fight against doping, and by taking action against all forms of manipulation of competitions and regulated corruption[.]”⁴⁰

While the IOC and anti-doping authorities around the world worked to improve doping in international sport, testing struggled to keep up with the development of performance-enhancing drugs and the athletes taking them.⁴¹ For example, some experts believe as many as half of the athletes who participated in the 1988 Olympics used performance-enhancing drugs at least once during their training for the Games.⁴²

In 1999, after continuing issues harmed the legitimacy of the Olympics and concerns that civil authorities would take over anti-doping initiatives if the sport organizations did not demonstrate appropriate leadership, the IOC held the World Conference on Doping to bring together government officials, physicians, and sports federation leaders.⁴³ At this conference, the World Anti-Doping Agency (“WADA”) was formed to function as an independent, international agency composed and funded by governments of the world.⁴⁴ President Clinton facilitated the United States government’s role in WADA through Executive Order 13165 and committed to take whatever steps were necessary to fight doping in sport.⁴⁵ WADA was tasked with creating a universal anti-doping code of international standards and implementing models of best practices and guidelines.⁴⁶ The United States government was a leader in the drafting of the World Anti-Doping Code (“Code”), which was adopted in March 2003.⁴⁷ Today, WADA

38. *Int’l Olympic Comm.*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/overview> [<https://perma.cc/69M4-Y7CK>] (last visited Jan. 15, 2022); *IOC Mission*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/mission> [<https://perma.cc/SCP2-RYZN>] (last visited Jan. 15, 2022) [hereinafter *IOC Mission*].

39. Ian Ritchie, *Cops and Robbers? The Roots of Anti-Doping Policies in Olympic Sport*, ORIGINS (Feb. 2016), https://origins.osu.edu/article/cops-and-robbers-roots-anti-doping-policies-olympic-sport?language_content_entity=en [<https://perma.cc/C7Z9-92GR>].

40. *IOC Mission*, *supra* note 38.

41. Andrén-Sandberg, *supra* note 19.

42. Goldstein, *supra* note 37, at 166.

43. *Who We Are*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/who-we-are> [<https://perma.cc/89UJ-GCEL>] (last visited Jan. 16, 2022); Julie Cart, *World Anti-Doping Conference Was a Challenge Itself*, L.A. TIMES (July 18, 1988, 12:00 AM), <https://www.latimes.com/archives/la-xpm-1988-07-18-sp-4363-story.html> [<https://perma.cc/HEF8-4C3E>].

44. *Governance*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/governance> [<https://perma.cc/EYG4-CLWW>] (last visited Jan. 16, 2022) [hereinafter *Governance*].

45. Koller, *supra* note 4, at 113.

46. *See id.* at 113–14.

47. *Id.*

continues to develop, coordinate, and monitor anti-doping rules and policies across all sports and countries.⁴⁸

B. 2014 Sochi Winter Olympics and Dr. Grigory Rodchenkov

The Russian doping scandal that occurred during the 2014 Sochi Winter Olympics once again brought public attention to doping fraud in the Olympics and provided the spark that led to the United States' creation and implementation of the Rodchenkov Act. Intimate details provided by Dr. Grigory Rodchenkov uncovered important information behind Russia's meticulously planned doping program, promulgated to ensure their dominance in Sochi.⁴⁹

Dr. Rodchenkov served as director of the anti-doping laboratory based in the Olympic Village in Sochi, Russia during the 2014 Winter Games.⁵⁰ In this role, Dr. Rodchenkov handled drug testing for the thousands of Olympians participating in the Games.⁵¹ With this access and direction from the Kremlin, he helped facilitate one of the most elaborate and successful doping ploys in sports history.⁵²

The intricate scheme began with Dr. Rodchenkov's creation of a cocktail that he provided to certain Russian athletes containing banned substances mixed with liquor to speed up absorption and shorten the detection window.⁵³ Rodchenkov stated, "[a]ll athletes are like small children. They'll put anything you give them into their mouths."⁵⁴ Two weeks before the Games began, he was given a spreadsheet by Russian Ministry of Sport officials that outlined each athlete's competition schedule and which urine samples were to be substituted.⁵⁵

All major international athletic competitions require athletes to submit a urine sample for testing.⁵⁶ In order for the Russian athletes who had been using the cocktail of illegal substances to pass the standard WADA testing requirements, Dr. Rodchenkov, along with other lab workers and members of the Russian intelligence service, snuck into the anti-doping lab overnight.⁵⁷ WADA typically provides an independent observer to watch

48. *Governance*, *supra* note 44.

49. Rebecca R. Ruiz & Michael Schwartz, *Russian Insider Says State-Run Doping Fueled Olympic Gold*, N.Y. TIMES (May 12, 2016), <https://www.nytimes.com/2016/05/13/sports/russia-doping-sochi-olympics-2014.html>? [https://perma.cc/C2RN-Z2NH].

50. *Id.*

51. *Id.*

52. *Id.*

53. Dr. Rodchenkov described in great detail the procedures used and his role in facilitating the doping scandal to the New York Times in 2016 and through a documentary of which he was the subject. *See id.*

54. Ruiz & Schwartz, *supra* note 49.

55. *Id.*

56. *Id.*

57. *Id.*

over the lab during the day but was rarely there overnight during the two weeks of competition.⁵⁸

Each night, a Sports Ministry official from the Russian government would send Dr. Rodchenkov a list of athletes whose samples needed to be swapped.⁵⁹ The team would break into the supposedly tamper-proof bottles used for all international competitions and replace the dirty urine samples with clean urine collected months earlier, which were passed from a storage room through a discrete hole in a wall concealed by a small imitation-wood cabinet.⁶⁰ The tainted urine would be dumped into a toilet, the bottles washed out, dried with filter paper, and then filled with the clean urine.⁶¹

None of the Russian athletes were caught doping at the Sochi Olympics, proving the scheme to be very successful.⁶² “It was working like a Swiss watch,” said Rodchenkov.⁶³ Russian athletes won thirty-three medals at the Sochi Games, the most medals of any country, including thirteen golds.⁶⁴ A third of those medals were awarded to athletes who appeared on the spreadsheet provided to Dr. Rodchenkov by the Sports Ministry.⁶⁵ In the time after the Olympics, Dr. Rodchenkov received praise not only from Russian President Vladimir Putin, but also from the IOC and WADA, calling Sochi “a milestone in the evolution of the Olympic Games anti-doping program.”⁶⁶

Russia finished sixth in the medal count in the previous Winter Olympics held in Vancouver.⁶⁷ Dr. Rodchenkov testified that Russian officials were under enormous pressure to have Sochi be a “showcase of Russia’s resurgence as a global power[.]”⁶⁸ Billions of dollars were spent transforming the city into a winter sports paradise, and Putin himself was personally involved in much of the planning.⁶⁹ Dr. Rodchenkov told the *New York Times* that he met with the Russian Ministry of Sport and that they were actively guiding the doping effort, though the Sports Minister, Vitaly Mutko, denies the existence of any such doping program.⁷⁰

Two whistleblowers from inside the Russian track and field program initially led investigators to uncover information regarding Russian doping practices.⁷¹ In response to this and Dr. Rodchenkov’s exposure, WADA retained an independent attorney to investigate the allegations of Russian

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

state manipulation of the doping control process.⁷² The report corroborated Dr. Rodchenkov's allegations and implicated the Russian Ministry of Sport and other Russian government entities.⁷³ After the release of the report which identified Dr. Rodchenkov's involvement in the state-sponsored doping program in November 2015, he was forced to resign within days.⁷⁴ Two of his close colleagues, who were also former anti-doping officials, died unexpectedly within weeks of each other.⁷⁵ Fearing for his life, Dr. Rodchenkov traveled out of Russia to Los Angeles.⁷⁶ He currently lives under United States witness protection.⁷⁷

Dr. Rodchenkov recalls, "I am one of the reasons my country won so many Olympic medals from 2004–2014, yet I was also the cause of their banishment from the Olympic movement."⁷⁸ In response to the Sochi scandal, WADA and the IOC officially banned Russia from all major sporting competitions for four years in 2019.⁷⁹ However, Russian athletes who were free from association with the scandal were allowed to continue competing internationally under a neutral flag.⁸⁰ The ROC, or the "Russian Olympic Committee," served as the made-up entity which allowed Russian athletes to compete at the 2020 Tokyo Olympics. This loophole caused leaders of the United States Anti-Doping Agency ("USADA") to characterize Russia's punishment as a slap on the wrist and a farce.⁸¹ The ban was later reduced to two years.⁸²

72. WADA Statement: *Independent Investigation confirms Russian State manipulation of the doping control process*, WORLD ANTI-DOPING AGENCY (July 18, 2016), <https://www.wada-ama.org/en/media/news/2016-07/wada-statement-independent-investigation-confirms-russian-state-manipulation-of> [<https://perma.cc/6S2R-B2LJ>].

73. *Id.*

74. Ruiz & Schwirtz, *supra* note 49.

75. *Id.*

76. *Id.*

77. Geoff Berkeley, *Whistleblower Rodchenkov wins prestigious prize for autobiography detailing Russian doping scandal*, INSIDE THE GAMES (Dec. 3, 2020), <https://www.insidethegames.biz/articles/1101561/rodchenkov-affair-sportsbook-of-the-year> [<https://perma.cc/62VU-WDGS>].

78. GRIGORY RODCHENKOV, *THE RODCHENKOV AFFAIR: HOW I BROUGHT DOWN RUSSIA'S SECRET DOPING EMPIRE*, Intro. (2020).

79. Patrick Smith & Matthew Bodner, *Russia banned from international sporting events for 4 years over doping*, NBC NEWS (Dec. 9, 2019, 6:11 AM), <https://www.nbcnews.com/news/world/russia-banned-international-sporting-events-4-years-over-doping-n1097971> [<https://perma.cc/K8UM-V9U8>].

80. *Id.*

81. Corky Siemaszko & Patrick Smith, *Russians are winning in Tokyo even though Team Russia is banned from the Olympics*, NBC NEWS (Aug. 5, 2021, 3:47 AM), <https://www.nbcnews.com/news/world/team-russia-banned-tokyo-games-russians-are-still-winning-n1275767> [<https://perma.cc/BTW9-3WAV>].

82. Laurel Wamsley & Merrit Kennedy, *Russia Gets Its Doping Ban Reduced But Will Miss Next 2 Olympics*, NPR (Dec. 17, 2020, 9:55 AM), <https://www.npr.org/2020/12/17/947504052/russia-suspended-from-next-2-olympic-games-over-anti-doping-violations> [<https://perma.cc/SZAY-B3SF>].

II. THE RODCHENKOV ANTI-DOPING ACT

Dr. Rodchenkov's whistleblower actions allowed government authorities and sport governing bodies to have an inside look at the state-sponsored doping programs taking place during major international competitions. Here, the introduction of the resulting RADA in the United States legislature, the substantive provisions that make up the Act, and the legislators' purposes behind the Act are discussed.

In early 2018, Dr. Rodchenkov met with members of the Helsinki Commission, an independent commission of the United States federal government which monitors compliance with the Helsinki Accords and promotes human rights, democracy, and economic, environmental, and military cooperation in Europe.⁸³ In this meeting, during which Dr. Rodchenkov notably wore a ski mask for continued protection of his identity, witnesses testified regarding the threat posed by Russia to the United States, corruption within international sports bodies, and how the United States can better contribute to the international effort to counter doping fraud.⁸⁴ The Helsinki Commission held subsequent hearings to further explore doping fraud, globalized corruption, and United States policy responses.⁸⁵ What the commission members learned through these hearings contributed to the introduction of formal legislation in Congress.

Former Helsinki Commissioners Representative Sheila Jackson Lee and Representative Michael Burgess introduced the bipartisan Rodchenkov Anti-Doping Act in the House of Representatives in 2019.⁸⁶ Then Helsinki Commission Co-Chairman Senator Roger Wicker and Commissioner Senator Sheldon Whitehouse spearheaded the Act in the Senate in an effort to target organizers of doping conspiracies and strengthen the integrity of international sports competitions.⁸⁷ RADA passed in the House, unanimously in the Senate, and was signed into law by President Trump in December 2020.⁸⁸

83. *About the Commission on Security and Cooperation in Europe*, CSCE, <https://www.csce.gov/about-commission-security-and-cooperation-europe> [https://perma.cc/G6P4-AGWQ] (last visited Jan. 16, 2022).

84. *Helsinki Commissioners Meet with Russian Doping Whistleblower Grigory Rodchenkov*, CSCE (Mar. 23, 2018), <https://www.csce.gov/international-impact/press-and-media/press-releases/helsinki-commissioners-meet-russian-doping> [https://perma.cc/APA7-KDS3].

85. *Rodchenkov Act Passes Senate, Goes to President for Signature*, CSCE (Nov. 17, 2020), <https://www.csce.gov/international-impact/press-and-media/press-releases/rodchenkov-act-passes-senate-goes-president> [https://perma.cc/E7SA-TS92] [hereinafter *Rodchenkov Act Passes Senate*].

86. *Id.*

87. *Id.*

88. *ONDCP Statement on President Trump Signing of Rodchenkov Act*, OFF. OF NAT'L DRUG CONTROL POL'Y (Dec. 8, 2020), <https://trumpwhitehouse.archives.gov/briefings-statements/ondcp-statement-president-trump-signing-rodchenkov-act/> [https://perma.cc/TKD8-P3GP]; S. 259, 116th Cong. (2019); H.R. 835, 116th Cong. (2019).

The Rodchenkov Act makes it unlawful to knowingly influence, attempt to influence, or conspire to influence a major international sports competition by use of a prohibited substance.⁸⁹ The Act applies to international competitions regulated by WADA where United States athletes participate and competition organizers receive sponsorship or financial support from any entity doing business in the United States or compensation for the right to broadcast in America.⁹⁰

Criminal penalties include fines of up to \$250,000 for individuals and \$1 million for organizations, as well as imprisonment of up to ten years for those who influence competition through prohibited substances.⁹¹ The Act provides for restitution to be paid to victims pursuant to 18 U.S.C. § 3663(a), including the return of damaged property or payment of an amount equal to its value.⁹²

RADA establishes extraterritorial, federal jurisdiction over an offense, even when the sporting events in question take place overseas.⁹³ Importantly, the athletes that participate in doping themselves are carved out of the offense.⁹⁴ The law is instead aimed at those enabling the use of the banned substances, such as doctors, national Olympic committees, and corporate sponsors.⁹⁵ RADA also requires United States authorities to share information with USADA to assist with investigations.⁹⁶

The initial draft points out several motivations behind the Act.⁹⁷ The legislatures' purposes in enacting RADA included providing protection against the harm doping conspiracies bring to the clean athletes, sponsors and broadcasters, and the general public.⁹⁸ They were also concerned about the overall integrity and value of the sports industry to the economy.⁹⁹ Congress found that doping conspiracies harm those clean athletes participating in the competition by “denying them their due recognition and economic

89. 21 U.S.C. § 2402 (making it unlawful “for any person, other than an athlete, to knowingly carry into effect, attempt to carry into effect, or conspire with any other person to carry into effect a scheme in commerce to influence by use of a prohibited substance or prohibited method any major international sports competition”).

90. Bradley Henry & Mariah Vitali, *FCPA Can Guide Foreign Parties' Anti-Doping Act Compliance*, LAW360 (Jan. 7, 2021), <https://plus.lexis.com/document/index?crd=768ae41d-09c6-45be-b331-1b205004f2ce&pdpermalink=24b7b4ae-211a-4a52-8857-6ab45ee27184&pdmfid=1530671&pdisurlapi=true&cbc=0> [<https://perma.cc/54SZ-BCLV>].

91. *Rodchenkov Act Passes Senate*, *supra* note 85.

92. Alexander Chaize & Victoria Artaza, *Rodchenkov Act: the potential impact of controversial new US anti-doping legislation in the fight against international doping conspiracies*, DLA PIPER: MEDIA, SPORT, AND ENT. TODAY (Feb. 5, 2021), <https://www.lexology.com/library/detail.aspx?g=dee67bc7-1cce-4ff2-bf6d-3f7c013aa94e> [<https://perma.cc/455F-FLW2>].

93. 21 U.S.C. § 2402(b); Henry & Vitali, *supra* note 90.

94. Henry & Vitali, *supra* note 90; Chaize & Artaza, *supra* note 92.

95. Henry & Vitali, *supra* note 90; Chaize & Artaza, *supra* note 92.

96. Chaize & Artaza, *supra* note 92.

97. S. EXEC. REP. NO. 110–11, at 4 (2008).

98. *Id.*

99. Chaize & Artaza, *supra* note 92.

rewards.”¹⁰⁰ This harm is also translated to the sponsors and broadcasters, affecting the perception of legitimacy of the product they paid to sponsor and broadcast to the world.¹⁰¹

In support of passage of the bill, Representative Jackson Lee stated, “[t]he proliferation of illegal performance-enhancing drugs in sports damages the integrity of competition and defrauds individuals and corporate entities who participate in sporting competitions, including clean U.S. athletes and U.S. corporate sponsors.”¹⁰² In passing the legislation, Congress took note of the ineffective response from international oversight organizations, such as WADA, the Court of Arbitration for Sport, and the IOC, and that such ineffective responses only continue to embolden the Russian government.¹⁰³ Representative Jackson Lee emphasized, “[t]he Russian doping fraud scandal shook the very foundations of the global anti-doping system, and the problems show no sign of stopping.”¹⁰⁴ These concerns led to bipartisan support for the enactment of RADA.

III. CRITICISMS OF THE RODCHENKOV ANTI-DOPING ACT

While receiving bipartisan support in Congress, RADA received criticism internationally from the beginning.¹⁰⁵ There are five major objections that have been raised in opposition to the Act. These include undermining international governing bodies’ ability to regulate, overreaching jurisdictionally through extraterritoriality, failing to apply the Act to non-Olympic United States sports organizations, undercutting potential future whistleblowers, and providing precedent for national origin discrimination.

A. Undermining International Governing Bodies Ability to Regulate

As the leading governing bodies of international competition and anti-doping, the IOC and WADA have spearheaded the fight against performance enhancing drug use.¹⁰⁶ However, these organizations have been the most outspoken against RADA.¹⁰⁷ They fear that RADA, and the United

100. S. EXEC. REP. NO. 110–11, at 4 (2008).

101. *Id.*

102. 165 CONG. REC. H8342 (daily ed. Oct. 22, 2019) (statement of Rep. Sheila Jackson Lee).

103. *Id.*

104. *Id.*

105. *IOC Statement, supra* note 17. While the drafters of the Act narrowed several of the provisions with which critics had taken issue by the time of enactment, those that were the subject of the most contention were included in the final version.

106. *See generally* Maarten van Bottenburg et al., *The World Anti-Doping Agency: Guardian of Elite Sport’s Credibility* in *GUARDIANS OF PUBLIC VALUE* 185 (Palgrave Macmillan, ed., 2020); *see also* Ritchie, *supra* note 39.

107. *See, e.g., WADA calls on US Senate to consider widely held concerns about Rodchenkov Act*, WORLD ANTI-DOPING AGENCY (Mar. 12, 2020), <https://www.wada-ama.org>

States' subsequent enforcement, undermines their dominion over the creation and enforcement of doping regulations in international sports that has been the core of the anti-doping movement.¹⁰⁸

Critics, such as WADA, fear that the Act will disrupt the international legal anti-doping framework recognized by 190 nations, including the United States, and that introduction of RADA will have negative consequences on the harmonization of this core principle.¹⁰⁹ Anti-doping organizations and sport federations that wish to be governed by WADA became signatories to the World Anti-Doping Code.¹¹⁰ "The Code harmonizes policies, rules, and regulations within sports organizations and public authorities around the world."¹¹¹ It is a comprehensive guide to prohibited substances, testing, laboratories, exemptions, protection of private information, education, and investigations that applies equally to each signatory around the world.¹¹²

WADA and other organizations believe the existence of multiple sets of rules and jurisdictions for the athletes to follow will disrupt this harmony and WADA's ability to govern.¹¹³ Cooperation between government partners and partners in the anti-doping space have been instrumental in the development of the global anti-doping movement,¹¹⁴ and there are fears RADA may harm this cooperation. In response to the introduction of the Rodchenkov Act, WADA released a statement highlighting this concern,

However, some other very important elements of the bill will . . . have unintended consequences that have the potential to disrupt the globally recognized legal anti-doping framework and to undermine WADA's capacity to fulfill its mission as the global anti-doping regulator.¹¹⁵

/en/media/news/2020-03/wada-calls-on-us-senate-to-consider-widely-held-concerns-about-rodchenkov-act [https://perma.cc/2CLH-2Q54] [hereinafter *WADA calls on Senate*].

108. See *WADA statement on U.S. Senate's passing of the Rodchenkov Anti-Doping Act*, WORLD ANTI-DOPING AGENCY (Nov. 17, 2020), <https://www.wada-ama.org/en/media/news/2020-11/wada-statement-on-us-senates-passing-of-the-rodchenkov-anti-doping-act> [https://perma.cc/YC9U-N7FT] [hereinafter *WADA statement on U.S. Senate's passing*].

109. *Id.*; *Governance*, *supra* note 44.

110. *The Code: Code Compliance*, WORLD ANTI-DOPING AGENCY (2021), https://www.wada-ama.org/en/what-we-do/the-code?gclid=Cj0KCQjwnJaKBhDgARIsAHmvz6eSb2PI4FBnGHoF0c9n6NhQQIWsKrOjsTEdvq27h-WTkBxvTBChfD8aAiacEALw_wcB [https://perma.cc/EF33-RS2U].

111. *Id.*

112. *International Standards*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/what-we-do/international-standards> [https://perma.cc/M36A-KNQZ] (last visited Jan. 16, 2022).

113. *WADA calls on Senate*, *supra* note 107.

114. *Governance*, *supra* note 44.

115. *WADA calls on Senate*, *supra* note 107.

WADA's purpose is to "bring consistency to anti-doping policies and regulations within sport organizations and governments right across the world."¹¹⁶ While WADA generally "supports [g]overnments using their legislative powers to protect clean athletes in the fight against doping," elements of RADA lead to overlapping laws in different jurisdictions, compromising a single set of rules for all athletes and all sports.¹¹⁷ Even though the United States has played a significant leadership role as a founding member of the organization, WADA hopes to continue in its role as the leader in the harmonization of the implementation and enforcement of the Code.¹¹⁸

B. Extraterritoriality

The Rodchenkov Act contains an explicit extraterritoriality provision, granting United States courts federal jurisdiction over violations of the statute, even if violations occur outside the country.¹¹⁹ There are political and practical concerns about such authority. These concerns include increased difficulty in investigations, cooperation with other countries, and the limited number of actual prosecutions.

Section 2402(b) of the Act reads, "[t]here is extraterritorial Federal Jurisdiction over an offense under this section."¹²⁰ According to this language, RADA applies regardless of whether the violators are residents of the United States or whether the act of doping took place inside or outside of the United States.¹²¹ To provide an example, if the Festina Scandal, in which a large number of performance-enhancing drugs were found in a Tour de France team car, had taken place after enactment of RADA, individuals involved in facilitating the conspiracy, aside from the athletes themselves, would have been at risk of criminal prosecution in the United States.¹²² Even the Festina company as a sponsor could be subject to substantial fines under RADA.¹²³

Several American criminal laws apply outside of the United States through extraterritorial jurisdiction.¹²⁴ However, "[t]he extraterritorial

116. *What We Do*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/what-we-do> [<https://perma.cc/XCB7-GWZY>] (last visited Jan. 16, 2022).

117. *WADA calls on Senate*, *supra* note 107.

118. *WADA statement on the U.S. Officer of National Drug Control Policy report to Congress*, WORLD ANTI-DOPING AGENCY (May 17, 2021), <https://www.wada-ama.org/en/media/news/wada-statement-on-the-us-office-of-national-drug-control-policy-report-to-congress> [<https://perma.cc/W4VF-Z3B3>] [hereinafter *WADA statement on the U.S. Officer*].

119. 21 U.S.C. § 2402(b).

120. 21 U.S.C. § 2402.

121. Chaize & Artaza, *supra* note 92.

122. Henry & Vitali, *supra* note 90.

123. *Id.*

124. CHARLES DOYLE, CONG. RSCH. SERV., EXTRATERRITORIAL APPLICATION OF AM. CRIM. L. 15–20, 42–52 (Oct. 31, 2016) <https://sgp.fas.org/crs/misc/94-166.pdf> [<https://perma>

application of U.S. law generally receives substantial, and often adverse, attention[.]”¹²⁵ The addition of extraterritorial jurisdiction in legislation is not without controversy within the United States and abroad, questioning how the federal government can assert jurisdiction over a fraud committed in, and sometimes by, other countries.¹²⁶

Critics of the Rodchenkov Act claim that “[n]o nation has ever before asserted criminal jurisdiction over doping offenses that occurred outside its national borders—and for good reason.”¹²⁷ Criminal investigations within another country require acquiescence, consent, or assistance of the authorities of the host country.¹²⁸ Many countries have extradition agreements or treaties with the United States, subjecting them to United States jurisdiction designed to formalize cooperative law enforcement assistance.¹²⁹ Additionally, American investigators and prosecutors generally consider the rules of international law during and after extraterritorial investigations take place.¹³⁰ Even in instances where extradition does not apply, those prosecuted under the Act could experience other consequences, such as increased difficulties when traveling to the United States or doing business with American companies, including financial institutions.¹³¹

Although several federal crimes have extraterritorial application, such prosecutions have been few and far between.¹³² Even where criminal statutes allow for extraterritorial jurisdiction, obstacles to enforcement are prevalent.¹³³ Prosecutors must weigh practical, legal, and diplomatic considerations.¹³⁴ Because of this, actual prosecutions are almost always limited exclusively to multi-jurisdictional crimes.¹³⁵

C. Lack of Application to United States Sports Organizations

Yet another criticism is that RADA does nothing to address doping conspiracies within professional and collegiate organizations that exist inside United States borders.¹³⁶ Different treatment between international

.cc/6QU9-LM49] (including a complete list of federal criminal laws that have express extraterritorial application).

125. Henry & Vitali, *supra* note 90.

126. Emily Xu, *The Controversial Use of Extraterritorial Jurisdiction by the United States*, THE OBSERVER (Jan. 26, 2019), <https://theobserver-qiaa.org/the-controversial-use-of-extraterritorial-jurisdiction-by-the-united-states> [<https://perma.cc/BPW4-83TU>].

127. *WADA statement on U.S. Senate’s passing*, *supra* note 108.

128. Doyle, *supra* note 124, at *Summary*.

129. Chaize & Artaza, *supra* note 92.

130. See Barbara Bergman et al., WHARTON’S CRIM. PRO. § 2:10 (West 14th ed. 2021).

131. Chaize & Artaza, *supra* note 92.

132. Doyle, *supra* note 124, at 23.

133. *Id.*

134. *Id.*

135. *Id.* at 1.

136. *WADA statement on U.S. Senate’s passing*, *supra* note 108; see also *IOC Statement*, *supra* note 17.

competitions and American standards threatens the international community's goal of harmonization in doping regulation.¹³⁷

In its official statement, WADA President Witold Bańka is quoted stating, “[w]e join other stakeholders around the globe in asking why this U.S. legislation, which purports to protect athletes and claims jurisdiction overseas, specifically excludes the hugely popular and influential professional and college leagues . . . If it is not good enough for American sports, why is it being imposed on the rest of the world?”¹³⁸ In the United States, the influential professional leagues to which WADA President Bańka references include organizations such as the National Football League, the National Basketball League, Major League Baseball, and collegiate athletics, among others.¹³⁹

While American professional and collegiate sports are not unregulated in the fight against anti-doping, American sports largely deal with doping issues on a national level apart from organizations like WADA.¹⁴⁰ American leagues handle performance-enhancing drug matters on their own.¹⁴¹ For example, the National Football League and the National Football League Players Association, the union which represents the athletes, collectively bargain on the processes and procedures of the performance-enhancing drug programs, which usually include far less stringent penalties than those contemplated in RADA.¹⁴²

Additionally, performance-enhancing drug prevention and enforcement in collegiate athletics is controlled by the National Collegiate Athletic Association (“NCAA”), the governing body for college sports.¹⁴³ The NCAA regulates the drug testing program and handles all disciplinary actions for college athletes and teams.¹⁴⁴ This drug testing program tests year-round and during championships.¹⁴⁵

American governing bodies, such as the NCAA, have praised RADA in the fight against doping in international competitions.¹⁴⁶ Yet critics note

137. Matthew Futterman, *A New U.S. Law Would Target Doping's Enablers. International Watchdogs Don't Like It*, N.Y. TIMES (Dec. 17, 2020), <https://www.nytimes.com/2020/11/18/sports/olympics/rodchenkov-doping-russia-olympics.html> [<https://perma.cc/2FHN-2TU2>] (quoting WADA President Witold Bańka).

138. *WADA statement on U.S. Senate's passing*, *supra* note 108 (statement of WADA President Witold Bańka).

139. Futterman, *supra* note 137.

140. *See Professional Sports Leagues Steroid Policies*, SPORTS REFERENCE BLOG, <https://www.sports-reference.com/blog/professional-sports-leagues-steroid-policies/> [<https://perma.cc/LDK7-LA9V>] (last visited Jan. 21, 2022).

141. *See id.*

142. NAT'L FOOTBALL LEAGUE PLAYERS ASS'N & NAT'L FOOTBALL LEAGUE MGMT. COUNCIL, *National Football League Policy on Performance-Enhancing Substances* (2022); Futterman, *supra* note 137.

143. *See generally NCAA Drug-Testing Program*, NAT'L COLLEGIATE ATHLETIC ASS'N (2022), <https://www.ncaa.org/drugtesting> [<https://perma.cc/7WCU-235R>].

144. *Id.* at 6.

145. *Id.*

146. Chaize & Artaza, *supra* note 92.

that the “Act’s prime concern is less stopping doping per se, than protecting the purportedly \$500 billion U.S. sports sector.”¹⁴⁷ This fear that RADA threatens the mission of creating a unified system of regulation while only protecting American organizations and profits is another major criticism.¹⁴⁸

D. Whistleblower Impact

Critics note that the Rodchenkov Act could have a negative impact on current and future whistleblowers’ ability to report doping issues and receive necessary protection. The Act exposes whistleblowers to multiple jurisdictions and will prevent “substantial assistance” deals, compromising WADA’s investigation capacity.¹⁴⁹ RADA itself does not include any provisions regarding whistleblowers.¹⁵⁰

Without whistleblowers such as Dr. Rodchenkov, it is unlikely that the Russian scheme in Sochi would have been exposed, and many other instances of performance-enhancing drug usage are discovered in this manner.¹⁵¹ It is important that athletes understand who they can trust and know where to turn to report a violation in order to protect themselves, fellow athletes, and the integrity of the sport.¹⁵² For example, according to WADA’s privacy policy, one of a whistleblower’s primary responsibilities is to maintain confidentiality during and after investigations, and all protection and financial assistance from WADA ceases when the whistleblower goes public.¹⁵³ This policy shows how multiple jurisdictions seeking the same information could negatively impact the whistleblower themselves, especially with no additional protection provided by the Rodchekov Act. This is particularly important if countries are threatening or carrying out harm to participants that come forward, as Russia has shown the willingness to do with Dr. Rodchenkov and his colleagues.¹⁵⁴

Critics also point out that WADA will be unable to carve out agreements with whistleblowers in exchange for collaboration when there is legislation that allows for the whistleblower’s criminal prosecution.¹⁵⁵

147. David Owen, *Rodchenkov Act is no cause for celebration, but things could be worse*, INSIDE THE GAMES (Nov. 17, 2020), <https://www.insidethegames.biz/articles/1100896/david-owen-blog-on-rodchenkov-act> [<https://perma.cc/CV4L-JS2B>].

148. See WADA calls on Senate, *supra* note 107.

149. *Id.*

150. Chaize & Artaza, *supra* note 92.

151. See, e.g., Joshua D. Winneker, IT’S TIME TO BLOW THE WHISTLE ON PERFORMANCE ENHANCING DRUGS, 20 LEWIS & CLARK L. REV. 55, 58–66 (2016).

152. See generally *Privacy Policy*, WORLD ANTI-DOPING AGENCY, <https://speakup.wada-ama.org/FAQs/#:~:text=One%20of%20a%20whistleblower's%20primary,or%20financial%20assistance%20from%20WADA>. [<https://perma.cc/B37G-KZF5>] (last visited Jan. 21, 2022).

153. *Id.*

154. Ruiz & Schwirtz, *supra* note 49.

155. Michael Pavitt, *Exclusive: Rodchenkov Act could undermine anti-doping system, warns drafter of World Anti-Doping Code*, INSIDE THE GAMES (July 5, 2020), <https://www>.

WADA addresses this issue as a potential conflict with its own methods and procedures.¹⁵⁶ There are provisions already in place to encourage whistleblowers to come forward, which play an important role in the operation and maintenance of the Code.¹⁵⁷ Article 10.7.1 of the Code allows for partial suspension of the consequences imposed on an athlete or other person, other than disqualification, if they provide substantial assistance to an anti-doping organization, criminal authority, or disciplinary body that results in a discovery of a violation.¹⁵⁸ People who provide substantial assistance are assured that information can be redacted and kept confidential.¹⁵⁹ The latest version of the Code includes Article 2.11, which addresses new violations for threatening, intimidating, or retaliating against a person who has provided evidence of alleged anti-doping violations.¹⁶⁰ Critics argue that sustaining investigations under the Code procedures, which provide protection to whistleblowers, will be interfered with through the enforcement of RADA.¹⁶¹ Concerns that the Act may interfere with these provisions are unsurprising.¹⁶²

E. Precedent for Additional Legislation with Discriminatory Implications

The Act may also provide an avenue for potential discrimination based on national origin through similar legislation that addresses specific actions taken by other countries.¹⁶³ Critics believe similar legislation could be adopted against certain nationalities for political benefit or because of discriminatory motivations.¹⁶⁴

WADA and the Central European Anti-Doping Organization cautions that “[t]his Act may lead to other nations adopting similar legislation, thereby subjecting U.S. citizens and sport bodies to similar extraterritorial jurisdictions and criminal sanctions, many of which may be political in nature or imposed to discriminate against specific nationalities.”¹⁶⁵ One writer states, “I can also see how the U.S. move might

insidethegames.biz/articles/1095980/haas-waring-rodchenkov-act-consequences [https://perma.cc/9D6V-7DAL] (quoting a statement of WADA drafter Ulrich Haas).

156. *WADA calls on Senate*, *supra* note 107; Chaize & Artaza, *supra* note 92.

157. Chaize & Artaza, *supra* note 92.

158. World Anti-Doping Code, World Anti-Doping Agency 72–73 (2021), https://www.wada-ama.org/sites/default/files/resources/files/2021_wada_code.pdf [https://perma.cc/322K-3XBR].

159. *International Standard for Results Management Guidelines*, WORLD ANTI-DOPING AGENCY 112 (Dec. 2020), https://www.wada-ama.org/sites/default/files/resources/files/wada_isr_m_guidelines_2021.pdf [https://perma.cc/M3BZ-39RL].

160. Chaize & Artaza, *supra* note 92.

161. *WADA calls on Senate*, *supra* note 107.

162. *See id.*

163. *Id.*

164. *WADA statement on U.S. Senate’s passing*, *supra* note 108.

165. *Id.*

tempt other powerful countries to draft copycat laws,” which directly threatens the international harmonization of anti-doping established in recent few decades.¹⁶⁶ Critics worry about the destabilizing effect of the Act and harbor distrust in nations taking anti-doping legislation into their own hands instead of an independent world governing body. This could create a dangerous precedent and misuse of legislation.

IV. BENEFITS OF THE RODCHENKOV ANTI-DOPING ACT

Congress should maintain the Rodchenkov Anti-Doping Act as enacted. Despite the critiques that have been levied at the Act, there are four major benefits stemming from its adoption. These include the ability to directly criminalize doping in international competitions, the ability to hold international organizations accountable, the ability to bring fairness to international competitions that can have important geopolitical implications, and the ability to protect athlete health and finances. With the addition of specific guidelines that can aid in successful implementation, criminalization of the illegal use of performance-enhancing substances under the Act provides another effective method to ensuring athletic integrity.

A. Ability to Directly Criminalize and Enforce Doping

The Rodchenkov Act grants United States agencies the ability to investigate and criminally prosecute people involved in doping conspiracies in countries around the world.¹⁶⁷ While those outside the United States may criticize this ability, implementation strategies regarding the United States’ enforcement of RADA may be useful in addressing critiques and will be vital in maintaining important relationships with other countries and governing bodies. Best practices, such as compliance programs for team support personnel, may be determined through a comparison to the Foreign Corrupt Practices Act (“FCPA”).¹⁶⁸

RADA establishes practical and logistical benefits for law enforcement. While the World Anti-Doping Code has been an effective tool in the fight against international doping, RADA allows for more communication and cooperation while working toward the same goal of anti-doping.¹⁶⁹ To meet the obligations of coordination under the World Anti-Doping Code, countries may rely on anti-doping organizations, such as the United States Anti-Doping Agency (“USADA”).¹⁷⁰ However, USADA is limited because it does not have the same search and seizure or subpoena

166. Owen, *supra* note 147.

167. Chaize & Artaza, *supra* note 92.

168. Henry & Vitali, *supra* note 90.

169. S. EXEC. REP. NO. 110–11, at 4 (2008).

170. *Id.*

powers as other federal agencies.¹⁷¹ Through RADA, the Department of Justice and other bodies are instructed to share relevant information with USADA.¹⁷² Therefore, the ability to cooperate with federal agencies, such as the Federal Bureau of Investigation, is another tool available to the United States under the Act in carrying out its mission to manage doping conspiracies.¹⁷³

Historically, existing criminal statutes, such as conspiracy to commit wire and mail fraud, have been used by law enforcement agencies to fight corruption in major international sport competitions.¹⁷⁴ Federal Bureau of Investigation strategist Joseph Gillespie stated, “[w]e in the past have had to rely on some peripheral crimes to get the group to stop their activities.”¹⁷⁵ Because these existing laws do not support prosecution of doping fraud specifically, the Rodchenkov Act provides a more reliable avenue of investigation and enforcement.¹⁷⁶ Even though organized crime may continue to figure out ways to monetize or influence sports, RADA allows officials to fight back with a more precise and appropriate consequence.¹⁷⁷

As a party to the World Conference on Doping in Sport in 2003, America agreed to adopt measures such as legislation, regulation, policies, or administrative practices at the national and international level which are consistent with the Code.¹⁷⁸ USADA Chief Executive Travis Tygart explains that under RADA, those engaging in doping fraud can now expect the same treatment dealt to officials in the FIFA money laundering and bribery scandal, which included removals from office, fines, or imprisonment.¹⁷⁹ The Act gives the United States broad, extraterritorial jurisdiction to criminally prosecute perpetrators of doping fraud.¹⁸⁰ Tygart warned that any business, governing body, or country plotting doping fraud in the future will not only have to contend with WADA but the United States Department of Justice as well.¹⁸¹

Implementation of any criminal legislation in an extraterritorial jurisdiction can be difficult to enforce correctly. However, comparisons

171. *Id.*

172. Owen, *supra* note 147.

173. S. EXEC. REP. NO. 110–11, at 4 (2008).

174. *Id.*

175. Steve Keating, *Rodchenkov Anti-Doping Act a game-changer, says Tygart*, REUTERS (Feb. 12, 2021, 6:28 PM), <https://www.reuters.com/article/us-sport-doping-rodchenkov/rodchenkov-anti-doping-act-a-game-changer-says-tygart-idUSKBN2AD009> [<https://perma.cc/8FH3-FCZQ>] (statement of FBI Unit Chief and Strategist Joseph Gillespie).

176. *See id.*

177. *Id.*

178. S. EXEC. REP. NO. 110–11, at 4 (2008).

179. Keating, *supra* note 175.

180. Alexandra Wrage, *New Anti-Doping Law Could Be A Games-Changer, If Enforced*, FORBES (July 20, 2021, 12:15 PM), <https://www.forbes.com/sites/alexandrawrage/2021/07/20/new-anti-doping-law-could-be-a-gamechanger-if-enforced/?sh=70744e29250e> [<https://perma.cc/79B2-LQP6>].

181. Keating, *supra* note 175.

between RADA and the Foreign Corrupt Practices Act exist, especially regarding the Act's extraterritorial application and prosecution.¹⁸² It may be helpful to examine the implementation and enforcement of FCPA in order to plan for successful prosecutions under RADA.

FCPA was enacted in 1977 and continues to be controversial legislation.¹⁸³ It is a law used by the Department of Justice and the Securities and Exchange Commission to fight corruption that poses a significant legal and economic risk for corporations doing business around the world.¹⁸⁴ FCPA violations occur if a payment or offer of payment is made to a foreign government official with a corrupt motive and purpose to influence, induce, or secure an improper advantage to assist in obtaining or retaining business.¹⁸⁵ However, "courts are still deciding precisely how much and what types of wrongdoing overseas can be punished."¹⁸⁶ Like RADA, other statutes dealing with conspiracy, fraud, and money laundering complement FCPA prosecutions.¹⁸⁷

One strategy to make sure FCPA is properly enforced is for any organization doing business in a foreign country to implement a compliance program designed to detect and prevent corrupt payments to government officials.¹⁸⁸ Specifically, educating employees and demonstrating good faith efforts may influence United States officials' decision on bringing charges.¹⁸⁹

While controversial, FCPA has been effective in regulating the corruption and bribery between international organizations and foreign government officials.¹⁹⁰ The government has recently increased the number of investigations, settlements, and prosecutions under FCPA, and management and boards of multinational corporations have become more concerned about their compliance efforts.¹⁹¹ Because of this increase, companies are paying major penalties to resolve investigations or violations.¹⁹² If United States law enforcement and the courts follow the FCPA in similar number and application, foreign entities sponsoring teams at major international sporting competitions should be careful in backing athletes and teams that participate in doping schemes or the use of performance enhancing drugs.¹⁹³

182. See Henry & Vitali, *supra* note 90.

183. *Id.*

184. *The Foreign Corrupt Practices Act: Overview*, THOMSON REUTERS PRACTICAL LAW, [https://1.next.westlaw.com/0-502-2006?isplc=true&transitionType=Default&contextData=\(sc.Default\)&firstPage=true&OWSessionId=b8957f40d55f4848a55c1b92be69c229&romAnonymous=true&bhcp=1](https://1.next.westlaw.com/0-502-2006?isplc=true&transitionType=Default&contextData=(sc.Default)&firstPage=true&OWSessionId=b8957f40d55f4848a55c1b92be69c229&romAnonymous=true&bhcp=1) (last visited Jan. 20, 2022).

185. See *id.*

186. Henry & Vitali, *supra* note 90.

187. *The Foreign Corrupt Practices Act: Overview*, *supra* note 184.

188. See *id.*

189. *Id.*

190. See *id.*

191. See *id.*

192. See *id.*

193. See Henry & Vitali, *supra* note 90.

The 2020 Tokyo Olympic Games (held in the summer of 2021 due to the coronavirus pandemic) was the first major test of RADA. Prior to the Games, Dr. Rodchenkov's attorney Jim Walden told the Helsinki Commission in a hearing that "RADA will not make the Tokyo Games clean."¹⁹⁴ He states that in order for RADA's impact to be a factor, Congress should use its oversight authority to ensure the FBI and Justice Department have a complete plan and allocate sufficient resources to bring cases. Secondly, he suggests the United States should withhold funding to WADA until more transparency is achieved.¹⁹⁵

While it is unclear whether Walden was accurate about the amount of doping involved in the Tokyo Games, officials made the first charge under RADA against a doctor from Texas who was supplying a Nigerian track and field athlete with performance-enhancing drugs in January 2022.¹⁹⁶ Many eyes will be on the 2028 Summer Olympics held in Los Angeles, California. Supporters hope that RADA will make these future Games the cleanest ever because of the substantial consequences under RADA.¹⁹⁷ Continued enforcement will be the key to making RADA a worldwide deterrent for the use of performance enhancing drugs.¹⁹⁸

B. Accountability and Cooperation with International Organizations

It is no surprise that countries and governing bodies routinely benefit from their own corruption.¹⁹⁹ Benefits can come in the form of economic success or national legitimization. Because of this, self-policing has fallen short of offering any accountability against doping fraud.²⁰⁰ In recent years, self-policing has been devoid of any real accountability.²⁰¹ RADA seeks to give the United States the ability to implement and enforce appropriate consequences for doping violators. Open and frequent cooperation with international organizations is important to implement and use the Act to its full potential.

After the FIFA scandal in 2015 that uncovered systematic corruption among officials, writer Alexandra Wrage served on FIFA's failed

194. Frank Pingue, *Rodchenkov Anti-Doping Act won't keep Tokyo clean – lawyer*, REUTERS (July 21, 2021, 10:03 PM), <https://www.reuters.com/lifestyle/sports/rodchenkov-anti-doping-act-wont-keep-tokyo-clean-lawyer-2021-07-21/> [<https://perma.cc/MVV4-TPT2>].

195. *Id.*

196. See Eddie Pells, *Texts, pictures lead to 1st doping case under new US law*, ASSOCIATED PRESS (Jan. 13, 2022), <https://apnews.com/article/winter-olympics-sports-business-doping-africa-5f2c057c6978cc580a48c2ab2c8d75f5> [<https://perma.cc/Z645-8GAB>].

197. Futterman, *supra* note 137.

198. *See id.*

199. *See* Wrage, *supra* note 180.

200. *See id.*

201. *Id.*

Independent Governance Committee.²⁰² She stated that FIFA was “resistant to even modest governance and transparency improvements.”²⁰³ She eventually resigned.²⁰⁴

The reaction to the Russian scandal at Sochi provides another recent example. Olympic organizers have been reluctant to punish the Russians for the Sochi scandal. However, in 2019, WADA banned Russia from international competition for four years (later reduced to two years), the most severe punishment for a cheating scheme yet.²⁰⁵ The ban barred Russian sports and government officials from the Olympics and prohibited the country from hosting international events.²⁰⁶ However, while the Russian flag, name, and anthem will not appear at upcoming Games, Russian athletes not implicated in doping are allowed to compete in the Olympics and other world championships under a neutral flag.²⁰⁷ Many view the ban as “largely superficial” and “disappointing.”²⁰⁸ In addition, the ban contains significant loopholes that allow Russia to host other championships and participate in the 2022 World Cup in neutral uniforms.²⁰⁹

The reaction to Russia’s relatively lax punishment for yet another act of corruption is not surprising. Governing bodies like the IOC have significant control over individual athletes.²¹⁰ The monopolistic structure gives the organizations the capacity to impose their own sanctions without requiring enforcement actions through state legal systems.²¹¹ Another benefit of the Rodchenkov Act will be the ability to impose legal sanctions on violators outside of relying on the governing bodies themselves.

RADA creates a new avenue of cooperation between the United States and WADA, the IOC, and others. The relationship between the United States and WADA has already become contentious.²¹² The United States is the largest single contributor of funding to WADA, yet the United States has threatened to withdraw funding unless given greater representation on committees and boards as a voice in decision making.²¹³ However, WADA

202. *Id.*; see generally *Fifa corruption crisis: Key questions answered*, BBC NEWS (Dec. 21, 2015), <https://www.bbc.com/news/world-europe-32897066> [<https://perma.cc/3345-EVJ3>] (describing the 2015 FIFA investigation regarding the systematic corruption among FIFA officials).

203. Wrage, *supra* note 180.

204. *Id.*

205. Tariq Panja, *Russia Banned From Olympics and Global Sports for 4 Years Over Doping*, N.Y. TIMES (Aug. 1, 2021), <https://www.nytimes.com/2019/12/09/sports/russia-doping-ban.html> [<https://perma.cc/54ZU-2KYN>]; see also Wamsley & Kennedy, *supra* note 82.

206. Panja, *supra* note 205.

207. *Id.*

208. *Id.*

209. *Id.*

210. Lloyd Freeburn, *Why International Sports Regulation Needs Reform*, PURSUIT (Sept. 11, 2018), <https://pursuit.unimelb.edu.au/articles/why-international-sports-regulation-needs-reform> [<https://perma.cc/PUX6-QLRE>].

211. See *id.*

212. Chaize & Artaza, *supra* note 92.

213. *Id.*

responded by accusing the United States of attempting to take control of global anti-doping efforts and threatened to find USADA in noncompliance with the WADA Code, which consequently would prevent American athletes from competing in international sporting events.²¹⁴ David Owen writes, “[t]he new Act risks provoking yet frostier relations between WADA and US anti-doping authorities, to the benefit of no-one, except possibly big-time dopers.”²¹⁵ Interestingly, RADA applies only to competitions that involve one or more United States athletes, and any ban on American athletes would call into question the Act’s applicability to those sporting events.²¹⁶

Both the United States and WADA understand the importance of a partnership in order to promote and protect clean sport around the world.²¹⁷ The United States government has historically played an influential role in this collective effort.²¹⁸ In May 2021, WADA expressed its continued support to strengthen the fight against anti-doping in the United States, especially because approximately ninety percent of American athletes do not compete under the World Anti-Doping Code, including the main professional and collegiate leagues.²¹⁹ WADA states, “[w]e are focused on moving forward and meeting today’s challenges together in a spirit of partnership.”²²⁰ This spirit of cooperation will be critical in the ultimate success of the Rodchenkov Act and the goals it hopes to achieve.

C. Geopolitical Concerns

Frequently, the Olympic Games have become a stage for countries to demonstrate power and success to further other objectives. Success on the Olympic stage can correlate to success as a nation on the world stage. The Rodchenkov Act can be a tool to dissuade countries, such as Russia, from using manufactured success at the Olympics as a license to start wars and engage in other geopolitical evils, especially involving the United States.

Doping is detrimental to more than just the integrity of sports. It has long been a means to a geopolitical end throughout history around the world.²²¹ Victories on the international sports stage allow countries to exploit the benefits that flow from those victories.²²² Political leaders often use sport to demonstrate the superiority of their political system.²²³ Countries have

214. *Id.*

215. Owen, *supra* note 147.

216. Chaize & Artaza, *supra* note 92.

217. WADA *statement on the U.S. Officer*, *supra* note 118.

218. *Id.*

219. *Id.*

220. *Id.*

221. Wrage, *supra* note 180.

222. See Koller, *supra* note 4, at 96–97.

223. *Id.* at 96.

successfully run doping programs in order to enhance their reputations worldwide, foster nationalism within their country, and benefit monetarily.²²⁴

Dr. Rodchenkov told filmmakers during filming of the documentary *Icarus* that once Sochi was awarded the 2014 Winter Games, it was important for Russia to “show others who we are.”²²⁵ In Sochi, Russian athletes won thirty-three medals, including thirteen gold with the help of Dr. Rodchenkov’s doping system.²²⁶ Dr. Rodchenkov said, “Putin was very happy.”²²⁷ After the Russian athletic success in Sochi, Vladimir Putin’s approval rating skyrocketed.²²⁸ Immediately after the Sochi Games concluded in February 2014, Putin became aggressively involved in a war in Ukraine, taking control of the Crimean region by March.²²⁹ Dr. Rodchenkov confessed his belief that Putin’s actions occurred because of Russia’s success in Sochi.²³⁰ He told filmmakers that he felt a personal guilt for this event, saying, “[w]ould Russia had less medals, Putin would be not such [sic] aggressive.”²³¹ While this is one of the most recent and visible examples of such a reaction, the Olympics in particular have been used as a pawn in politics and nationalism throughout history.²³²

For example, Hitler used the 1936 Olympic Games in Berlin as a propaganda spectacle to help restore Germany in the world community after its defeat in World War I.²³³ The Cold War again brought nationalism to a “new level.”²³⁴ The official newspaper of the Communist Party of the Soviet Union, Pravda, announced eighty state-sponsored sport schools for Soviet athletes in order to demonstrate the strength of the communist system in 1945.²³⁵ Leading up to the 1980 Moscow Olympics, Russian sportswriter Yevgeny Rubin wrote that Olympic victories were “one of the largest-caliber

224. Wrage, *supra* note 180.

225. ICARUS (ALEX PRODUCTIONS, DIAMOND DOCS, & IMPACT PARTNERS 2017). Dr. Rodchenkov became the subject of the documentary, *Icarus*, which coincidentally followed his journey and aided in the exposure of his experiences with the Kremlin. *See also* Julia Ioffe, *How the Kremlin Tried to Rig the Olympics, and Failed*, ATLANTIC (Dec. 6, 2017), <https://www.theatlantic.com/international/archive/2017/12/kremlin-doping-scandal-sochi-winter-olympics/547616/> [<https://perma.cc/R3GH-H8N2>] (noting that the 2014 Winter Games in Sochi were intended to reaffirm Russia’s historic dominance).

226. Ruiz & Schwartz, *supra* note 49.

227. ICARUS, *supra* note 225; *see also* Ruiz & Schwartz, *supra* note 49 (noting that Dr. Rodchenkov received the Order of Friendship from President Vladimir Putin after the 2014 Winter Games in Sochi).

228. Wrage, *supra* note 180.

229. *See Global Conflict Tracker*, COUNCIL ON FOREIGN RELATIONS (Oct. 20, 2022), <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine> [<https://perma.cc/E6HD-6FRR>].

230. *See* Ioffe, *supra* note 225.

231. ICARUS, *supra* note 225; *see also* Ioffe, *supra* note 225.

232. *See* Koller, *supra* note 4, at 96–97.

233. *Id.* at 97–98.

234. Johnson, *supra* note 25.

235. *Id.*

guns of the propaganda arsenal.”²³⁶ The goal of the Soviet Union was to gain acceptance as part of the international community to great political advantage.²³⁷

Battles between Russian and the United States’ performances in the Olympics have been well documented.²³⁸ In the 1956 Melbourne Games, the Soviets won ninety-eight medals while the Americans took home seventy-four.²³⁹ A year later, the Soviets launched Sputnik.²⁴⁰ The Soviet Union supported its athletes “just like mission control when an astronaut is sent into space,” providing more than 1,500 researchers, 1,000 doctors, and 4,700 coaches.²⁴¹ This support also included anabolic steroids.²⁴² The “athletic space race” through the 1960s and 1970s continued the trend of state-sponsored plans of doping and manipulating test results.²⁴³ The Soviet Union continuously dominated the United States in the medal count, until the United States decided to assign all Olympic organizing authority to the United States Olympic Committee (“USOC”) in an effort to grow the financial and athletic abilities within America.²⁴⁴

The Rodchenkov Act can be a tool to dissuade countries from using manufactured success on an Olympic stage as a license to start wars and engage in other geopolitical evils, especially involving the United States. While Dr. Rodchenkov will always feel some connection to Russia’s involvement with Ukraine after the Sochi Games, RADA may halt autocrats’ abilities to “launder their reputations, stoke nationalism and enrich their cronies.”²⁴⁵ However, a propaganda campaign inside Russia is already attempting to discredit the WADA findings from Sochi as another Western plot.²⁴⁶

D. Athlete Health and Financial Concerns

Today, the concerns about performance-enhancing substances focus more on the financial and health benefits of a clean competition.²⁴⁷ When athletes are rewarded extravagantly for their successes, the temptation to

236. *Id.*

237. Koller, *supra* note 4, at 98.

238. Johnson, *supra* note 25.

239. *Id.*

240. *Id.*

241. *Id.*

242. *Id.*

243. *See id.*

244. *See id.*

245. *See* Ioffe, *supra* note 225 (detailing Dr. Rodchenkov’s feelings of guilt regarding Russia’s invasion of Ukraine); Wrage, *supra* note 180.

246. Panja, *supra* note 205.

247. *See* Chaize & Artaza, *supra* note 92 (noting the economic effects of doping conspiracies); *see also* *Effects of Performance-Enhancing Drugs*, USADA, <https://www.usada.org/athletes/substances/effects-of-performance-enhancing-drugs/> [<https://perma.cc/N5C D-ZYBB>] (delineating the negative health effects of performance enhancing substance use).

cheat can be significant.²⁴⁸ Athletes are harmed by the use of performance-enhancing drugs in competition, whether they participate in taking substances themselves or refraining from doing so. Health and financial concerns for individual athletes provides another benefit of the Rodchenkov Act.

Athletes are negatively impacted whether the athlete is physically involved with doping or competing against others who are. Performance-enhancing drugs interfere with the fairness of sport and the fundamental aspects of Olympism, but they can also be harmful to an athlete's body. The United States Anti-Doping Agency ("USADA") warns that these drugs "can be extremely dangerous and, in certain situations, deadly."²⁴⁹ Just a few of the side effects of anabolic steroids, for example, include increased aggressiveness, depression, suicide, criminal behavior, reduction in sperm production, and stunted development.²⁵⁰ However, using performance-enhancing substances significantly increases an athlete's chances of success.²⁵¹ Because of this conflict, athletes must choose to put their bodies and reputations at risk by engaging in doping or risk not reaching success in the sport they train their whole life for.

Additionally, American athletes lose millions of dollars in sponsorships if they cannot outperform their competition, whether the competitor is doping or not. For example, Alysia Montaña, an American runner who competed in the 2012 Olympics in London, finished in fifth place behind two Russian women.²⁵² The Russian women were later found to have engaged in doping, which meant Montaña rightfully finished in third place.²⁵³ Montaña estimates that the doping fraud cost her a half a million dollars in rollovers and bonuses, not including potential sponsorships coming in.²⁵⁴

American companies also suffer when they sponsor an athlete, only to have them implicated in doping fraud, which causes damage to the company's brand.²⁵⁵ These financial impacts, along with the significant role the United States plays in sponsorship, broadcasting, and other areas of international sport, surely justifies America's role in reasonably expanding beyond the geographic territory to ensure fraud does not occur in such a context.

There is tension between supplying great athletic accomplishments to spectators and the anti-doping efforts to expose doping corruption.²⁵⁶

248. Koller, *supra* note 4, at 93.

249. *Effects of Performance-Enhancing Drugs*, *supra* note 247.

250. *Id.*

251. Koller, *supra* note 4, at 106–07.

252. *The State of Play: Globalized Corruption, State-Run Doping, and International Sport: Hearing Before the Comm'n on Sec. and Coop. in Eur.*, 115th Cong. 17 (2018) (statement of Hon. Sheila Jackson Lee, Comm'r, Comm'n on Sec. and Coop. in Eur.).

253. *Id.*

254. *Id.*

255. *See id.* at 15 (statement of Jim Walden, Att'y for Dr. Grigory Rodchenkov).

256. *See* Johnson, *supra* note 25.

Commercial sponsors and broadcasters pay exorbitant amounts of money for the right to be an Olympic partner. It costs roughly \$200 million to become an official Olympic partner who plans to use the marketing to show “youthful possibility, human achievement, and global unity.”²⁵⁷ If an entire country, or multiple countries, are shown to have evaded the doping rules and cheating to victory, it would undermine the commercial contract “by defiling the sanctifying myth of Olympic purity.”²⁵⁸

CONCLUSION

The Rodchenkov Anti-Doping Act is a beneficial piece of legislation in the fight against doping in international competitions and should be implemented as written. The Act is an exciting step towards further accountability in international sport. Despite concerns of undermining international authority, extraterritoriality, lack of application to American athletics, potential harm to whistleblowers, and potential discrimination, the Act provides many benefits. The ability for the United States to investigate and criminalize doping, working with international organizations to hold them accountable, fighting the geopolitical concerns, and athlete health and finances resulting from doping in the Olympics are ways the Act will better American athletes and the international sports community.

While the Act is new and litigation will undoubtedly follow, the potential for meaningful enforcement by the United States justice system already provides a great deterrence for individuals and organizations dealing with athletes. “International athletics have high stakes and stoke the emotions of the public, which is why assuring their fairness is so important.”²⁵⁹ The fundamental, ethical principles envisioned and codified in the Olympic Charter are undoubtedly at risk with the widespread use of performance-enhancing drugs and normalization of doping in international sports competitions today. In the fight to win at all costs, it is regrettable that countries and governing bodies would risk the athletes themselves to achieve such a goal.

Unfortunately, Russia has found themselves in the center of yet another doping scandal. As recent as the 2022 Winter Olympics held in Beijing, doping was a major headline. Prominent Russian figure skater Kamila Valieva led Russia to win the team figure skating event, but the next day her drug test came back showing banned substances.²⁶⁰ While the

257. *Id.*

258. *Id.*

259. Ronald Katz, *New Dimension in Olympic Anti-Doping Saga: Admissible Evidence*, LAW360 (Apr. 30, 2018), <https://plus.lexis.com/api/permalink/12c39204-723f-4abd-96c2-49211bacdfb8/?context=1530671>.

260. Wajih AlBaroudi, *Winter Olympics: Explaining the Kamila Valieva doping scandal that is clouding the Russian figure skater*, CBS SPORTS (Feb. 19, 2022, 10:59 PM), <https://www.cbssports.com/olympics/news/winter-olympics-explaining-the-kamila-valieva-doping-scandal-that-is-clouding-the-russian-figure-skater/> [https://perma.cc/9RTN-28VD].

Russian Anti-Doping Agency provisionally suspended the skater, they chose to cancel the suspension and the Court of Arbitration for Sport ultimately allowed Valieva to continue competing in the Games.²⁶¹ One critic of the scandal, former Olympic figure skater Adam Rippon, said it “put[] a cloud over the entire event” and made athletes “question[] everything.”²⁶² Valieva was only fifteen years old, and some doubt that she knowingly doped.²⁶³ These most recent Games further expose the need for measures to be taken to ensure the safety of young athletes from state sponsored doping schemes and to preserve the integrity of the Games. Tygart, the head of USADA, commented that athletes like Valieva deserve better, stating, “[s]he’s getting chewed up (for doping) on top of being abused by the Russian state system.”²⁶⁴ With RADA in place and working effectively, the United States could prosecute the Russians involved.²⁶⁵

It is not uncommon for new legislation to experience pushback in the international arena. However, in the waiting period before significant enforcement and litigation, the implementation guidelines proposed in this Note may be useful to minimize potential problems for future competitions. The administration of investigations and prosecutions should be done with due diligence in order to further the purposes of the Act and not in political or discriminatory application. Additionally, more cooperation with international governing bodies, instead of competing, will benefit all parties involved. Lastly, RADA should be enforced regularly and equally to be effective.

The Rodchenkov Act can be an important tool in the fight against doping in major international sporting competitions if used and applied correctly. It is important to use the insider knowledge given through the courageous efforts of Dr. Rodchenkov for the benefit of all athletes and countries. The strength of the United States and the world cooperation of the international governing bodies together can bring sports back from a place of distrust and corruption to unity and hope that the Olympics strives to display.

261. *Id.*

262. Tom Goldman, *'They've ruined it for all of us,' Adam Rippon says of Russia's latest doping scandal*, NPR (Feb. 12, 2022, 5:34 AM), <https://www.npr.org/2022/02/12/1080338657/olympics-2022-russia-doping-kamila-valieva-adam-rippon> [<https://perma.cc/BL9W-ZE7K>].

263. *See id.*

264. Iain Axon, *Exclusive: U.S. could prosecute Russians in Valieva doping case – USADA chief*, REUTERS (Feb. 11, 2022, 10:55 PM), <https://www.reuters.com/lifestyle/sports/us-anti-doping-act-should-be-used-beijing-games-usadas-tygart-2022-02-11/> [<https://perma.cc/9G9N-EV6T>].

265. *See id.*