

Hearing before the Commission on Security and Cooperation in Europe (U.S. Helsinki Commission)

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Chairman Wicker, Co-Chairman Smith and Members of the Commission:

I appreciate the opportunity to address the Commission about the critical need for the Rodchenkov Anti-Doping Act of 2018, H.R. 6067 (“RADA”). The information I offer here derives from a number of sources, including sworn testimony previously submitted by Dr. Rodchenkov to the International Olympic Committee (“IOC”):

As I am sure the Commission is well aware, the problem with organized doping fraud has not been, and cannot be, addressed by the current international framework and its regulatory bodies. Up until now, enforcing anti-doping rules has been largely a measure of self-policing by international sports organizations, such as the IOC, the World Anti-Doping Agency (“WADA”), and the various international sports federations. These organizations have proven to be ineffective at best and complicit or corrupt at worse. Recent events—including Dr. Rodchenkov’s brave decision to reveal the pervasive state-sponsored doping program in Russia—make clear that doping fraud in international sports competitions is also a powerful mechanism for larger campaigns of political aggression and criminal activity against the United States, including money laundering, bribery, fraud, drug trafficking, racketeering, computer hacking, and other forms of corruption. The federal guilty plea by Richard Lai, a former member of FIFA’s Audit Committee, for taking \$850,000 in bribes is a powerful reminder that many countries will do anything to win the right to host major competitions and to have their athletes win there. This, too, is true of doping fraud, as became clear when Austrian criminal authorities raided the headquarters of the International Biathlon Union in March of this year based, in part, on Dr. Rodchenkov’s disclosures about bribes paid to cover-up anti-doping rule violations. In short, state sponsors of doping fraud generally succeed by resorting to many other forms of corruption, to the detriment of the United States.

Yet, the United States and other countries who send athletes to participate in, and have corporations who support, international sporting competitions do not have a legal mechanism to hold aggressors accountable. Countries like Russia—who victimize innocent athletes, corporations, and financial institutions with impunity—have never been made to answer for their criminal behavior. Even for those few international sporting organizations that take doping fraud seriously, such as the International Association of Athletics Federations (“IAAF”), they lack tools to make the activity stop and to bring justice to defrauded victims. No legislation currently exists to criminalize international doping fraud or provide redress to victims or brave whistleblowers in the form of a civil remedy for damages. RADA has the potential to expose international criminal activity and act as a deterrent against those who attempt to injure our country’s athletes and retaliate against the brave individuals who unveil the truth.

The current international framework and its regulatory structure fails us in several ways. First and foremost, even with the best technology and ample resources, cheaters are difficult to catch, given the myriad ways to take performance enhancing drugs, or PEDs. Second, most

international sporting organizations do not have sufficient resources and the kinds of technologies needed to catch the cheaters, even if they desired to do so. Third, most international organizations use tough talk about doping fraud, but their actions have been extraordinarily weak because of the inherent conflicts of interests under which they operate, as well as complicity and corruption. The well documented case of Russian cheating at the 2014 Winter Olympics in Sochi is the clearest lens through which to see the problems with existing structures.

State sponsored doping in Russian had, even by December 2014, been long suspected. For example, in July 2008, the International Association of Athletics Federation (the "IAAF") suspended seven Russian track and field athletes before the 2008 Beijing Olympic Games. In response, the New York Times observed: "The number of suspensions, and the varied events involved, raised troubling questions about possible ineptitude or corruption in Russian drug-testing procedures and also prompted concerns about whether a deliberate, systematic attempt was made by coaches or officials to undermine drug-testing protocols."¹ In those cases, the athletes were (not surprisingly) accused of tampering with urine samples.

The questions about the state-sponsored system have been consistently raised (and unaddressed) ever since. When Yelena Soboleva and Tatyana Tomashova (elite Russian middle distance runners) were thrown out of the Beijing Games based on sample substitution at collection sites (a practice well-used within Russia for many years), the Chairperson of the IOC's Medical Commission at the time (who was also Vice President of WADA), Arne Ljungqvist, said: "This does seem to be an example of systematic planned doping"² Thus, it was certainly no surprise to Dr. Rodchenkov (and should not have been a surprise to anyone) that—after the IOC finally re-tested stored urine sample from the Beijing Games—Russian athletes represented 36% of the new doping violations discovered in the reanalysis (16 of 44).³ It is no wonder, then, that when WADA published its first major report of anti-doping rule violations in 2013, the report found that Russia was the top violator, with 225 violations and approximately 20% more violations than second-place Turkey (with 188).⁴

Then, in December 2014, a German documentary aired a hard-hitting report containing secret recordings and official documents which, taken together, demonstrated clear evidence of systematic doping by Russian athletes. In response, WADA convened an Independent Commission to investigate. In two subsequent reports—on November 9, 2015 and January 14, 2016—WADA's Independent Commission confirmed the existence of a state-sponsored doping system in Russia.

Russia's reaction to the WADA reports was to deny and obfuscate, while they prepared to make Dr. Rodchenkov the scape goat. Dr. Rodchenkov denied them the opportunity to murder and blame him by escaping Russia and then disclosing the truth about Russia's state-sponsored doping system to the New York Times on May 13, 2016. What did WADA do? It formed yet another independent commission to investigate Dr. Rodchenkov's claims. In two more reports—dated July 18, 2016, and December 9, 2016—WADA's independent commission thoroughly

¹ <http://www.nytimes.com/2008/08/01/sports/olympics/O1doping.html>

² <http://www.dailymail.co.uk/sport/olympics/article-1041882/Top-Olympic-official-accuses-Russian-athletes-systematic-planned-doping.html>

³ <https://www.doping.nl/media/kb/4412/IOC-reanalysis-programme-final-eng.pdf>

⁴ <https://www.wada-ama.org/sites/default/files/resources/files/wada-2013-adrv-report-en.pdf>

reviewed Dr. Rodchenkov's evidence, and found additional forensic evidence corroborating his claims that Russia systematically swapped dirty urine samples with clean samples during the Olympic Games.

After two Commissions and four reports laden with evidence of the Russian state-sponsored doping system, what did the IOC do? Almost nothing at first. It refused to ban Russia from the Summer Olympics in Rio de Janeiro in 2016. It then formed two more Commissions to review the evidence amassed by WADA's commissions. Not surprisingly, both of those Commissions also found Dr. Rodchenkov's testimony completely credible. Still, even with its own Commissions having confirmed a doping-fraud scheme of epic proportions and byzantine complexity, the IOC refused an outright ban of Russia from the 2018 Winter Olympics, allowing Russian athletes to compete with Russian insignia on their uniforms and offering to lift the suspension so the Russian flag could fly during the closing ceremonies. And I am fully confident the IOC would have done so had two Russian athletes not been caught doping during the games, forcing the IOC to keep the suspension in place until after the games.

During his testimony before the IOC Commissions, Dr. Rodchenkov presented overwhelming evidence of corruption and doping fraud dating back decades, including acts of bribery and money laundering to cover-up doping. He also disclosed Russian bribery to win the opportunity to host the Sochi Games in the first place. He disclosed the structure of the Russian doping system, which went straight to the top of the Russian government, including the current Deputy Prime Minister of Russia. Dr. Rodchenkov also made clear the pervasive nature of the Russian state-sponsored doping program, which expanded its tentacles across state boundaries, financial institutions, and made a mockery of WADA accredited laboratories tasked with detecting doping. He was not the only witness to make these startling disclosures, but he certainly was the most important whistleblower with the most sweeping knowledge of the many Russian agencies necessary to make the scheme work, including Russia's secret police. And, despite the willful and extensive scheme and the hundreds of athletes and corporations who were defrauded—surely the most brazen scheme in the history of sports—Russia was suspended for a single edition of the winter Olympics and then promptly reinstated. In the meantime, dozens of athletes had their Olympic dreams stolen. All to say this: the international regulatory bodies, WADA and the IOC, who have been entrusted to hold countries like Russia accountable, have failed. As a result, cheaters—whether individual or state actors—who commit acts of international doping fraud have no fear that they will be held accountable for their actions.

This sort of weak-kneed action and the absence of accountability mechanisms has only emboldened Russia, as it will embolden other cheaters. Indeed, throughout this saga, Russia has denied responsibility and sought to blame and retaliate against Dr. Rodchenkov. For example, on the very day that Dr. Rodchenkov was scheduled to be interviewed by Immigration officials in the U.S., Russia announced that it brought charges against him for alleged drug trafficking. Russia has harassed Dr. Rodchenkov's family, seized his property, and is lobbying vigorously to force his return to Russia, where it can silence him permanently. Despite relying on his testimony and finding him credible, the IOC refused to punish Russia or issue any sanctions. WADA alone demanded that Russia cease its efforts, but WADA lacks any way to enforce that demand. WADA directly calls for protection of whistleblowers, like Dr. Rodchenkov, who must be supported to shed light on the criminal activity that threatens the integrity of international sports.

Based on my sorry experiences with the IOC, I asked the Helsinki Commission to consider proposing legislation to create a first-of-its-kind enforcement mechanism when I appeared before the Commission on February 22, 2018. Having reviewed H.R. 6067, I applaud the Commission for proposing legislation that could be the dawn of a new day in anti-doping enforcement. It provides sweeping protections for whistleblowers, like Dr. Rodchenkov, and thus it will encourage more such whistleblowers to come forward. It creates a private right of action for athletes who were defrauded by doping cheats. And, most importantly, it provides powerful criminal-enforcement tools so that the Department of Justice can make doping fraud a true priority, thereby protecting U.S. athletes and corporations who suffer damages at the hands of perpetrators. Once dopers and their accomplices start going to jail, other dopers will be finally deterred.

Dr. Rodchenkov asked that I make a short statement from him: “Again, I wish to apologize to the world for my part in the Russian state-sponsored doping system. During the time I ran the Moscow Lab, my orders came from the top of the Russian Federation. Putin said ‘Russia must win at any cost,’ and the Ministry of Sports executed that command by substantially improving our ability to administer PEDs secretly. To refuse to go along would have been a death sentence. I hope that my difficult decision to come forward and tell the truth will lead to continuing reforms. I believe the Helsinki Commission’s leadership is critical, and I fully support the proposed legislation. I am humbled and grateful it is named after me, and I hope I can continue to be a force for good.”