

A Deeper Dive into WADA’s Structure and Compliance Requirements: Could the Rodchenkov Act Put the Salt Lake City Games at Risk?

Madeleine L. Breunig *

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I. INTRODUCTION

As with all Olympic cycles, the Paris 2024 Olympics represented the pinnacle of sporting triumphs, accompanied by a frenzied excitement of watching sporting heroes achieve spectacular results. While the 2024 Games were full of historic achievements—being the first Olympics to achieve full gender parity¹—they also led to critiques of the global anti-doping apparatus. In April 2024, reports emerged that twenty-three Chinese swimmers tested positive for a banned substance in the seven months leading up to the Tokyo

* J.D. Candidate, The University of Iowa College of Law, 2026; B.A. History and Political Science, Grinnell College, 2020. I would like to thank my family, and friends for their support and encouragement throughout the note-writing process. I would also like to thank the TLCP editors and student-writers who helped with editing this note, especially Catriona Barr, Hunter Eigenman, Benjamin Walsh, Maya Jalukar, Kelcie Fay, and Bryce Merges. I would also like to extend a special thank you to Professor Don Ford, for his assistance in research.

¹ #GenderEqualOlympics: *Paris 2024 Making History on the Field of Play*, INT’L OLYMPIC COMM. (July 28, 2024), <https://olympics.com/ioc/news/genderequalolympics-paris-2024-making-history-on-the-field-of-play> [https://perma.cc/HRC3-UXWS]; *Paris 2024: Record-Breaking Olympic Games On and Off the Field*, INT’L OLYMPIC COMM. (Aug. 11, 2024), <https://www.olympics.com/ioc/news/paris-2024-record-breaking-olympic-games-on-and-off-the-field> [https://perma.cc/NG6V-WRL8].

Games in 2021.² The Chinese Anti-Doping Agency submitted a report to the World Anti-Doping Agency (“WADA”), the world’s governing body for international sports doping, arguing the swimmers tested positive due to food contamination.³ The report attracted significant attention as some of these swimmers went on to win gold in Tokyo and swam in Paris.⁴ The report also renewed critiques of WADA coming from the public and the U.S.’s National Anti-Doping body.⁵ These critiques accuse WADA of covering-up of the story, failing to hold dopers accountable, and neglecting their mission as the global governing anti-doping body.⁶

WADA, as the world’s anti-doping organization, developed the World Anti-Doping Code (“the Code”)⁷ to harmonize anti-doping efforts globally.⁸ Signatories to the Code⁹ are responsible for establishing the rules and procedures to ensure compliance with the Code.¹⁰ The Anti-Doping Code sets out what constitutes an anti-doping rule violation, which includes, among others, a positive test for a prohibited substance, use or attempted use of a prohibited substance or method, an athlete “evading, refusing or failing to submit a sample collection,” an

² Michael S. Schmidt & Tariq Panja, *Top Chinese Swimmers Tested Positive for Banned Drug, Then Won Olympic Gold*, N.Y. TIMES (Apr. 21, 2024), <https://www.nytimes.com/2024/04/20/world/asia/chinese-swimmers-doping-olympics.html> [https://perma.cc/9QB7-VD8E].

³ *Id.*

⁴ *Id.*; Michael S. Schmidt & Tariq Panja, *China, Citing Tainted Burgers, Cleared Swimmers in a New Doping Dispute*, N.Y. TIMES (July 30, 2024), <https://www.nytimes.com/2024/07/30/us/politics/china-swimmers-doping-food.html> [https://perma.cc/3GV6-NBPX].

⁵ Schmidt & Panja, *supra* note 2; Schmidt & Panja, *supra* note 4.

⁶ Schmidt & Panja, *supra* note 2 (discussing the cover-up and concerns about lack of WADA intervention); Schmidt & Panja, *supra* note 4 (discussing two additional positive tests from 2022 for athletes who were cleared to compete in China). It’s worth noting WADA has released substantial responses justifying their lack of action into the swimmers. See *WADA Statement on Case of 23 Swimmers from China*, WORLD ANTI-DOPING AGENCY (Apr. 20, 2024), <https://www.wada-ama.org/en/news/wada-statement-case-23-swimmers-china> [https://perma.cc/7NNT-SYL9].

⁷ WORLD ANTI-DOPING AGENCY, WORLD ANTI-DOPING CODE 2021, at 9 (4th ed., 2020), https://www.wada-ama.org/sites/default/files/resources/files/2021_wada_code.pdf [https://perma.cc/XBQ6-5HRK] [hereinafter WADA Code]. Please note that a new World Anti-Doping Code will enter into force on January 1, 2027, but that this Note addresses the current world anti-doping code currently in force. See WORLD ANTI-DOPING AGENCY, WORLD ANTI-DOPING CODE 2027, at 111 (5th ed., 2026) https://www.wada-ama.org/sites/default/files/2026-03/2027_world_anti-doping_code_code_final_feb_2026_0.pdf [https://perma.cc/S333-NPUF].

⁸ WADA Code, *supra* note 7, at 9.

⁹ See *infra* Part II.B.

¹⁰ WADA Code, *supra* note 7, at 17 (Part 1, Doping Control); see, e.g., *id.*, art. 12 (“Each Signatory shall adopt rules that obligate each of its member organizations and any other sporting body over which it has authority to comply with, implement, uphold and enforce the Code within that organization’s or body’s area of competence.”); *id.*, art. 4.1 (stating that Signatories are responsible for distributing the list of prohibited drugs).

athlete's whereabouts failure¹¹, and tampering with any part of the testing and control process.¹²

Under the current WADA structure, athletes can be tested by their National Anti-Doping Organizations ("NADOs"), International Federations ("IFs")¹³, or by any Major Event Organizations, such as the International Olympic Committee ("IOC").¹⁴ The World Anti-Doping Code International Standard for Testing and Investigations "establishes mandatory standards for Test distribution," including sample collection, transport of samples to laboratories, and testing of samples.¹⁵ It establishes standards for the gathering of evidence, as well as the assessment and use of intelligence in detecting potential violations.¹⁶ Following the collection of a biological sample according to testing procedures, the sample is transferred to a WADA-accredited laboratory for anonymous testing.¹⁷ A positive test can trigger results disqualification, ineligibility to participate in competition for a specified time period, a provisional suspension (with opportunity for review), financial consequences, and public disclosure, with these sanctions imposed following an adjudication with possibility for an appeal.¹⁸

WADA's system faced critiques prior to the 2024 Olympic Games cycle. In an attempt to address these critiques, in June 2018, U.S. lawmakers introduced

¹¹ WADA Code, *supra* note 7, art. 2.4; WORLD ANTI-DOPING AGENCY, WORLD ANTI-DOPING CODE: INTERNATIONAL STANDARD FOR RESULTS MANAGEMENT 2023, at 40–41 (2021), https://www.wada-ama.org/sites/default/files/2023-01/international_standard_isrm_-_abp_update_2023_final_0.pdf [<https://perma.cc/J8LR-THP5>] [hereinafter WADA INTERNATIONAL STANDARD FOR RESULTS MANAGEMENT] (detailing Whereabouts Failure as a "combination of Filing Failures," where an athlete failed to comply with testing requirements, "and/or Missed Tests," where an athlete is not reachable for their specific 60-minute time slot they have indicated for testing).

¹² WADA Code, *supra* note 7, arts. 2.1–2.11 (also including possession of a prohibited substance or method by athletes or their support system, "trafficking or attempted trafficking in any prohibited substance or prohibited method," administration or attempt to administer a prohibited substance by one athlete to another, any attempt of or complicity by athletes or another person, prohibited association with someone who is ineligible, and acts that discourage reporting or retaliate against authorities as violations.).

¹³ International federations are responsible for a sport globally. *International Federations*, WORLD ANTI-DOPING AGENCY <https://www.wada-ama.org/en/anti-doping-partners/international-federations> [<https://perma.cc/2LP2-8EUY>] (last visited Apr. 27, 2026, at 12:16 CT).

¹⁴ WADA Code, *supra* note 7, art. 5.2 (outlining who has the authority to test); *id.* at 16; *Anti-Doping Process*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/athletes-support-personnel/anti-doping-process> [<https://perma.cc/8ND6-MW9B>] (last visited Mar. 25, 2026, at 01:16 CT).

¹⁵ WORLD ANTI-DOPING AGENCY, INTERNATIONAL STANDARD FOR TESTING AND INVESTIGATIONS 2023, art. 1.0 (9th ed., 2022), https://www.wada-ama.org/sites/default/files/2022-12/listi_2023_w_annex_k_final_clean.pdf [<https://perma.cc/LJB4-GYSN>] (last visited Apr. 27, 2026, at 12:20 CT).

¹⁶ *Id.*

¹⁷ *Anti-Doping Process*, *supra* note 14 (typically a biological sample is a blood or urine sample).

¹⁸ WADA INTERNATIONAL STANDARD FOR RESULTS MANAGEMENT, *supra* note 11, at 6–7 (discussing Consequences of Anti-Doping Rule Violations); for further details, see art. 6.0 for provisional suspensions, art. 5.0 for the results management phase, art. 8.0 for the hearing process, art. 9 for the decision, and art. 10 for appeals).

a bill seeking to criminalize “the use, manufacturing or distribution of performance-enhancing drugs in global competitions.”¹⁹ This bill is referred to as the Rodchenkov Act (“the Act”).²⁰ The Act drew criticism from WADA and the IOC for multiple reasons, including that the Act excludes the NCAA system and American sports leagues.²¹ WADA expressed further concerns over potential consequences, such as disruptions to “the global legal anti-doping framework” and that the extraterritoriality component of the Act would “undermine the fight against doping worldwide.”²²

Since the Paris Olympics, tensions have heightened between WADA and the U.S. Anti-Doping Agency (“USADA”). WADA has allegedly placed the American NADO under a compliance review after reports surfaced that USADA was permitting athletes found guilty of doping to continue competing (in contravention of the WADA process), in exchange for help from these athletes in gathering evidence to catch other potential dopers.²³ The athletes permitted to continue competing retained the performance enhancing benefit from their doping violations, as their previous results were never disqualified, prize-money was never returned, and no suspension was served.²⁴ Additional tensions have emerged around the Rodchenkov Act’s implementation: While

¹⁹ Rodchenkov Anti-Doping Act, 21 U.S.C. §§ 2401–2404 (2020); Rebecca R. Ruiz, *U.S. Lawmakers Seek to Criminalize Doping in Global Competitions*, N.Y. TIMES (June 12, 2018), <https://www.nytimes.com/2018/06/12/sports/american-doping-criminal-law.html> [https://perma.cc/D2NB-283Y].

²⁰ 21 U.S.C. §§ 2401–2404.

²¹ 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/4A9Z-5E3Y] (“That provision excludes American college sports and most of the professional leagues and associations that are based in North America, including the N.F.L., N.B.A., Major League Baseball and the N.H.L., except when athletes from those sports are participating in international competitions.”).

²² WADA Statement on U.S. Senate’s Passing of Rodchenkov Anti-Doping Act, WORLD ANTI-DOPING AGENCY (Nov. 17, 2020), <https://www.wada-ama.org/en/news/wada-statement-us-senates-passing-rodchenkov-anti-doping-act> [https://perma.cc/S6QF-MWUT] [hereinafter *WADA Statement on Rodchenkov*].

²³ Steve Keating, *Exclusive: WADA to Put U.S. Anti-Doping Agency Under Compliance Review*, REUTERS (July 24, 2024, at 11:4 CT), <https://www.reuters.com/sports/wada-put-us-anti-doping-agency-under-compliance-review-2024-07-24> [https://perma.cc/T6DV-8QER]; WADA Statement on Reuters Story Exposing USADA Scheme in Contravention of World Anti-Doping Code, WORLD ANTI-DOPING AGENCY (Aug. 7, 2024), <https://www.wada-ama.org/en/news/wada-statement-reuters-story-exposing-usada-scheme-contravention-world-anti-doping-code> [https://perma.cc/7EFX-U5MZ] [hereinafter *WADA’s Statement on USADA Scheme*]; Rob Draper, *Revealed: How a Kenyan Runner Turned Undercover Agent to Lift the Lid on Dopers*, THE GUARDIAN (July 28, 2024, at 03:00 ET), <https://www.theguardian.com/sport/article/2024/jul/28/revealed-how-a-kenyan-runner-turned-undercover-agent-to-lift-the-lid-on-dopers> [https://perma.cc/HYD6-D8WK]; Rob Draper, *WADA Investigator ‘Helped’ with USADA Scheme to Recruit Kenyan Runner*, THE GUARDIAN (Aug. 14, 2024, at 16:00 ET), <https://www.theguardian.com/sport/article/2024/aug/14/wada-doping-investigators-helped-with-us-scheme-to-recruit-kenyan-runner> [https://perma.cc/246V-MEMM] [hereinafter *WADA Investigator Helped With USADA Scheme*]; Luke Boshier, *WADA, USADA Clash Over American Agency’s Use of ‘Undercover Agents’ to Catch Drug Cheats*, N.Y. TIMES: THE ATHLETIC (Aug. 8, 2024), <https://www.nytimes.com/athletic/5688595/2024/08/08/wada-usada-undercover-agents-doping> [https://perma.cc/58HV-JT46].

²⁴ WADA’s Statement on USADA Scheme, *supra* note 23.

the Act has only been used in two domestic cases,²⁵ the FBI and the U.S. Department of Justice are investigating all twenty-three Chinese swimmers implicated in the report and whether any of their positive tests were covered up.²⁶

The Act exempts athletes from criminalization, but criminalizes other actors for “knowingly carry[ing] into effect, attempt[ing] to carry into effect, or conspir[ing] 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,” domestically and internationally.²⁷ The culmination of these tensions are reflected in legal developments surrounding the award of future Olympic Games. The 2034 Olympic Games contract awarded to Salt Lake City contained a clause giving the IOC “the right to ‘terminate Olympic host city contracts in cases where the supreme authority of the World Anti-Doping Agency in the fight against doping is not fully respected or if the application of the world antidoping code is hindered or undermined.’”²⁸

This Note will begin by giving an overview of the international bodies and legal frameworks that address international doping, namely WADA and the Court of Sports Arbitration (“CAS”). This will be followed by a deeper dive into the relationship between WADA and NADOs by focusing on historical examples. This Note will then take a closer look at the extraterritoriality of the Rodchenkov Act by comparing it to France and Germany’s anti-doping laws. Finally, this Note will propose amendments to the Rodchenkov Act.

II. INTERNATIONAL SPORTS LAW BACKGROUND

A. *The Structure*

The interplay between sports and law has been present throughout history, intertwined with contract, tort, employment, and competition law.²⁹ In the last

²⁵ See *United States v. Lira*, No. 22 Cr. 151 (LGS), 2022 WL 17417129, at *1 (S.D.N.Y. Dec. 5, 2022); *United States v. Barrett*, Case No. 1:23-cr-00623 (JLR), 2025 WL 371084, at *1 (S.D.N.Y. Feb. 3, 2025).

²⁶ Schmidt & Panja, *supra* note 4; Michael S. Schmidt & Tariq Panja, *How a U.S. Antidoping Law Fueled Global Tensions*, N.Y. TIMES (July 25, 2024), <https://nytimes.com/2024/07/25/us/politics/olympics-us-antidoping-wada.html> [<https://perma.cc/MQ72-JURD>].

²⁷ The Rodchenkov Anti-Doping Act, 21 U.S.C. § 2402 (2020).

²⁸ Jeré Longman, Tariq Panja & Michael S. Schmidt, *Salt Lake Awarded 2034 Olympics Under I.O.C. Pressure Over Doping Inquiries*, N.Y. TIMES (July 24, 2024), <https://www.nytimes.com/2024/07/24/world/olympics/salt-lake-city-winter-olympics-2034.html> [<https://perma.cc/R63J-9SXY>]; see also Michael S. Schmidt, *Senators Assail Antidoping Regulator for ‘Stonewalling and Intimidation’*, N.Y. TIMES (June 17, 2025), <https://www.nytimes.com/2025/06/17/us/politics/senate-swimmers-antidoping-regulator.html> [<https://perma.cc/ST3K-67HW>] (indicating this clause appears to have been added to the award of the Games as part of “Olympic officials staged a dramatic power play, publicly pressuring Gene Sykes, a member of the International Olympic Committee, and other American officials to end the federal investigations as a condition for receiving the bid”).

²⁹ James A.R. Nafziger, *International Sports Law*, in HANDBOOK ON INTERNATIONAL SPORTS LAW 2, 2 (James A.R. Nafziger & Ryan Gauthier eds., 2d ed. 2022).

century, the “special status of sports activity, and hence sports law, has gained particular recognition in public international law” as competition and the problems—such as doping, violence, and politics—became globalized and interconnected.³⁰ More specifically, “the international regulatory regime” consistently addresses the process of doping.³¹

Intergovernmental organizations active in the international and regional law frameworks have been instrumental in creating the framework of public international sports law.³² Primarily, the United Nations Educational, Scientific, and Cultural Organization (“UNESCO”) has played a key role in the international sports law framework, notably through the International Charter of Physical Education and Sport.³³ This Charter was adopted in 1978 and presents “a comprehensive set of rules and guidelines for national programs and transnational sports activity.”³⁴ UNESCO has used this framework to create additional resolutions, such as asking States to abide by “principles of non-discrimination, fair play, non-violence, and the rejection of harmful substances.”³⁵

Following these resolutions specifically attempting to address doping in sport, UNESCO introduced the “International Convention Against Doping in Sport [, which] entered into force in 2007.”³⁶ The United Nations (“U.N.”), through “[o]ther specialized agencies and special programs” and its General Assembly, helped establish the international anti-doping framework by encouraging certain developmental programs and adopting declarations.³⁷ Regional bodies have also been part of establishing this framework,³⁸ the most notable being the European Union (“EU”). The EU is the area of “origin[], growth, and institutional leadership of modern sports.”³⁹ Europe has significantly influenced the world of sports law both practically and legally: from hosting a near majority of Olympic games and World Cups, and through the European Court of Justice’s (“CJEU”) decisions which have “generated important developments and decisions” relating to athletes.⁴⁰

³⁰ *Id.* at 3.

³¹ *Id.*

³² *Id.* at 4–5.

³³ *Id.* at 4.

³⁴ Nafziger, *supra* note 29, at 4.

³⁵ *Id.* at 4 (citing UNESCO General Conference, *Records of the General Conference, 25th Session*, 25 C/Resolution 1.20, at 91, UNESCO 25 C/Proceedings (Oct. 17–Nov. 16, 1989)).

³⁶ *Id.*

³⁷ *Id.* at 4 (indicating that the U.N. General Assembly’s declaration against apartheid in sports was influential on the process of international sports law).

³⁸ *Id.* at 4–5 (“[N]oteworthy inter-governmental institutions include the Commonwealth Federation; the EU; the Supreme Council for Sports in Africa . . .”).

³⁹ Nafziger, *supra* note 29, at 5.

⁴⁰ *Id.*; *see infra* Part II.C.

The International Olympic Committee is a non-governmental organization (“NGO”) that spearheads the Olympic movement, which in turn dominates the framework of international sports law.⁴¹ The movement is also comprised of International Sports Federations, “National Olympic Committees (“NOCs”), the Organizing Committees of the Olympic Games (“OCOGs”) and ‘other organizations and institutions as recognized by the IOC,’” such as the “Special Olympics, the International Paralympic Committee and WADA.”⁴² The Olympic Charter is considered “a normative foundation of international sports law” as it “codifies general principles, custom, and authoritative decisions applicable to international sports competition.”⁴³ The Charter has become a custom because of “the repetition, duration, and universality of practices” to the point that its principles are “legally regarded as binding under the principle of *opinio juris*.”⁴⁴ Countries, such as the United States, have recognized the Charter as governing “international sports competition and behavior” and CAS has stated that sporting disputes should be resolved with the Charter’s principles and rules in mind.⁴⁵

B. *Introduction to WADA and Doping*

Doping is a recurring issue in international sports.⁴⁶ History is filled with incidents of athletes testing out stimulants prior to competition, dating back to Ancient Greece.⁴⁷ Midway through the 20th Century, the death of a Danish cyclist during a road race at the Rome Olympics in 1960, who was later revealed to have ingested a substance prior to racing, is seen as an instrumental event in paving the way towards drug testing.⁴⁸ The 1968 Olympics were the first Olympics with drug testing, with the testing focusing on in-competition drugs, or “‘race-day’ drugs.”⁴⁹ In the 1980s, doping reached new heights,⁵⁰ likely linked

⁴¹ Nafziger, *supra* note 29, at 6–7.

⁴² *Id.*

⁴³ *Id.* at 7.

⁴⁴ *Id.*

⁴⁵ Nafziger, *supra* note 29, at 8.

⁴⁶ *Id.* at 11.

⁴⁷ Richard I.G. Holt, Ioulietta Erotokritou-Mulligan & Peter H. Sönksen, *The History of Doping and Growth Hormone Abuse in Sport*, 19 GROWTH HORMONE & IGF RSCH. 320, 320–21 (2009).

⁴⁸ Knud Enemark Jensen, INT’L OLYMPICS COMM., <https://olympics.com/en/athletes/knud-enemark-jensen> [<https://perma.cc/554T-GQDH>] (last visited Feb. 12, 2026, at 14:22 CT) (noting that the cause of death listed was a brain injury due to fracturing his skull, but a trainer later admitted having “given the riders Roniacol, an amphetamine-like substance that acts as a peripheral vasodilator” and a “toxicology screen contained multiple drugs, including various amphetamines” which may have contributed to his death).

⁴⁹ Richard W. Pound & Jonathan M. Jenkins, *Doping and the World Anti-Doping Agency*, in HANDBOOK ON INTERNATIONAL SPORTS LAW 35, 36 (James A.R. Nafziger & Ryan Gauthier eds., 2d ed. 2022).

⁵⁰ Nafziger, *supra* note 29, at 11.

to the rise of “anabolic steroids, blood doping and hormone compounds.”⁵¹ A major cycling scandal took place during the 1998 Tour de France, when performance-enhancing drugs belonging to the Festina cycling team revealed an organized doping scheme.⁵² To address the situation, WADA, founded in 1999, implemented a new doping system to replace the IOC’s system.⁵³

WADA is an “independent international anti-doping agency” whose role is to “coordinate and lead the fight against doping in sport.”⁵⁴ WADA is headquartered in Montreal, Canada.⁵⁵ WADA’s governance is made up of members from the Olympic movement and national governments.⁵⁶ WADA develops, analyzes, and coordinates anti-doping rules to create one body of rules applicable across the board through the World Anti-Doping Code.⁵⁷ Only the “International Olympic Committee, International Federations, the International Paralympic Committee, National Olympic Committees, National Paralympic Committees, Major Event Organizations, National Anti-Doping Organizations and other organizations having significant relevance in sport” can be Signatories to the Code.⁵⁸ The Code further sets out requirements that Signatories must follow for anti-doping implementation, monitoring, enforcement, and compliance.⁵⁹ The Code alone is not enough to force compliance unless an IF, or another sports organization, has established steps to ensure compliance and respect for the rules.⁶⁰ However, the Code’s impact increased once Article 40 of Olympic Charter required compliance and respect with the Code to participate in the Olympics.⁶¹ While States cannot be direct Signatories to the Code, States party to the UNESCO International Convention Against

⁵¹ Pound & Jenkins, *supra* note 49.

⁵² April Henning & Jasper Andreasson, *‘There’s a New Sheriff in Town’: The Rodchenkov Act, Anti-Doping, and the Hegemony of WADA in International Sport*, 25 *SPORT IN SOC’Y* 1160, 1162 (2022); Kyle Facibene, *WADA: Wasting Efforts on the Wrong Dopes*, 51 *HOFSTRA L. REV.* 271, 275–76 (2022).

⁵³ Henning & Andreasson, *supra* note 52; Facibene, *supra* note 52, at 275.

⁵⁴ Pound & Jenkins, *supra* note 49, at 39; *see also Who We Are*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/who-we-are> [<https://perma.cc/9BLW-J9J9>] (last visited Feb. 12, 2026, at 14:25 CT) [hereinafter *WADA: Who We Are*] (describing WADA’s role).

⁵⁵ *Headquarters*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/who-we-are/offices/headquarters> [<https://perma.cc/2U3B-8MJE>] (last visited Apr. 27, 2026, at 21:15 CT).

⁵⁶ Pound & Jenkins, *supra* note 49, at 39.

⁵⁷ *WADA: Who We Are*, *supra* note 54; Pound & Jenkins, *supra* note 49, at 39.

⁵⁸ WADA Code, *supra* note 7, art. 23.1.1; Facibene, *supra* note 52, at 280; Pound & Jenkins, *supra* note 49, at 42–43 (explaining the rules, conditions, and best practices signatories are expected to abide by).

⁵⁹ WADA Code, *supra* note 7, arts. 23–24; Facibene, *supra* note 52, at 280.

⁶⁰ Pound & Jenkins, *supra* note 49, at 42.

⁶¹ INT’L OLYMPIC COMM., OLYMPIC CHARTER, art. 40 (2026), <https://stillmed.olympics.com/media/Documents/International-Olympic-Committee/IOC-Publications/EN-Olympic-Charter.pdf> [<https://perma.cc/SJ7Q-YDBY>]; Pound & Jenkins, *supra* note 49, at 42; Christoph Vedder, *Olympic Law Today*, 28 *SW. J. INT’L L.* 768, 779 (2022).

Doping in Sport agree to comply with and enforce WADA's Code.⁶² Additionally, NADOs are a key part of WADA's organization.⁶³

To harmonize the testing as well as the operational and technical aspects of anti-doping, WADA has developed International Standards with their own distinct set of rules.⁶⁴ The eight International Standards include: Code Compliance by Signatories, Education, Prohibited Lists, Therapeutic Use Exemptions (TUEs), Testing and Investigations, Laboratories, Results Management, and Protection of Privacy and Personal Information.⁶⁵ The International Standards are "developed in consultation with the Signatories and governments and [are] approved by WADA."⁶⁶ These standards can be revised by the WADA Executive Committee following consultation with "Signatories, governments, and other relevant stakeholders" and updates are published on the WADA website.⁶⁷ For Signatories, "[a]dherence to the International Standards is mandatory for compliance with the Code."⁶⁸ WADA is currently evaluating changes to its testing and compliance standards.⁶⁹

⁶² Henning & Andreasson, *supra* note 52, at 1164; International Convention against Doping in Sport, *opened for signature* Oct. 19, 2005, 2419 U.N.T.S. 201 (entered into force Feb. 1, 2007) (framing definitions to be understood within the WADA Code framework under art. 2 of the Convention).

⁶³ *See infra* Part III.

⁶⁴ WADA Code, *supra* note 7, at 10.

⁶⁵ *Id.* For examples, *see supra* notes 13–18 and accompanying text (discussing the International Standard for Testing and Investigations).

⁶⁶ *Id.*; *International Standards*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/what-we-do/international-standards> [<https://perma.cc/3SBR-7K3X>].

⁶⁷ WADA Code, *supra* note 7, at 10; *see infra* note 69 (discussing updates to specific international standards).

⁶⁸ WADA Code, *supra* note 7, at 10; *see also* WORLD ANTI-DOPING AGENCY, WORLD ANTI-DOPING CODE: INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES 2024, at 50 (2024), https://www.wada-ama.org/sites/default/files/2024-05/final_draft_of_isccs_-_approved_exco_16_nov_2023_-_annex_b4_approved_11_mar_2024_clean_version.pdf [<https://perma.cc/Z4ZY-UGBY>] [hereinafter WADA CODE COMPLIANCE BY SIGNATORIES].

⁶⁹ *ADAMS Testing Working Group Discusses ADAMS Development Roadmap*, WORLD ANTI-DOPING AGENCY (Jan. 21, 2026), <https://www.wada-ama.org/en/news/adams-testing-working-group-discusses-adams-development-roadmap-0> [<https://perma.cc/Z8GX-8RUJ>]. The WADA Executive Committee have also approved changes to the World Anti-Doping Code International Standard for Testing and the World Anti-Doping Code International Standard for Code Compliance by Signatories set to enter into force on January 1, 2027. *See* WORLD ANTI-DOPING AGENCY, WORLD ANTI-DOPING CODE: INTERNATIONAL STANDARD FOR TESTING 2027, at 2 (2025), https://www.wada-ama.org/sites/default/files/2025-12/2027_international_standard_for_testing_ist.pdf [<https://perma.cc/N3QX-QX93>]; WORLD ANTI-DOPING AGENCY, World Anti-Doping Code: International Standard for Code Compliance by Signatories 2027, at 2 (2025), https://www.wada-ama.org/sites/default/files/2025-12/2027_international_standard_for_code_compliance_by_signatories_isccs_0.pdf [<https://perma.cc/KK4G-3NS7>]. These changes are not discussed by this Note, as the bulk of this Note was written in the Fall of 2024 and early 2025. *See also* Tariq Panja, *Countries Have Long Tested Their Own Athletes for Doping. That Could Soon Change*, N.Y. TIMES (Feb. 3, 2026), <https://www.nytimes.com/2026/02/02/world/europe/doping-neutral-testing-olympics-.html> [<https://perma.cc/M42N-M6CE>].

Under the current structure, athletes can be tested by their NADOs, IFs, or at any Major Event Organization.⁷⁰ For example, USADA is responsible for managing and adjudicating cases relating to doping for the U.S. Olympic and Paralympic Sports, and ensuring that the doping processes and rules followed comply with WADA's rules.⁷¹ In complying with the Code and WADA's International Standards, USADA collects and then sends biological samples to a WADA laboratory, where a positive test (technically referred to as an Adverse Analytical Finding) will trigger a notice to the athlete, their national governing body, and their IF, and give the athlete the option to supply a second sample.⁷² Another type of potential anti-doping rule violation arises from a non-analytical case, which is a case that is not triggered by a positive doping test but is instead generated by evidence that substantiates a doping or rules violation.⁷³ Following a positive test or allegation of an anti-doping rule violation, a "provisional suspension is imposed" on the athlete, meaning they cannot compete until the case is resolved.⁷⁴ An anti-doping violation charge can result in a four-year ban or a two-year ban.⁷⁵ Once an athlete is charged, they can accept the sanction, challenge the decision before an independent arbitral body, or can appeal the case to the Court of Arbitration for Sport.⁷⁶

The doping framework is premised on different justifications and is based on a theory of strict liability for athletes. Generally, the main arguments against doping are presented as: being a danger to athletes' health; creating an unfair competitive advantage; being unethical; and going against the rules of sport.⁷⁷ Because doping is primarily a covert activity where intent is shown with great difficulty, over time a rule has emerged that doping is a strict liability offense for athletes—meaning it is unnecessary to demonstrate "any intent, fault, negligence, or knowing use on the part of the athlete."⁷⁸ Anti-Doping Organizations ("ADOs"), which include NADOs, have the burden of proof in

⁷⁰ *Anti-Doping Process*, *supra* note 14. The steps discussed below mirror the International Standard steps discussed above. *See supra* notes 13–18.

⁷¹ *Anti-Doping Alphabet Soup: Results Management*, U.S. ANTI-DOPING AGENCY, <https://www.usada.org/spirit-of-sport/education/alphabet-soup-results-management> [<https://perma.cc/HCD8-GB3J>] (last visited Feb. 13, 2026, at 13:15 CT); *Code Signatories*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/what-we-do/world-anti-doping-code/code-signatories> [<https://perma.cc/67YK-CMYC>] (last visited Feb. 13, 2026, at 13:22 CT).

⁷² *Anti-Doping Alphabet Soup: Results Management*, *supra* note 71 (noting that an Adverse Analytical Finding, or AFF, "is a report from a WADA-accredited laboratory that identifies the presence of a prohibited substance and/or its metabolites or markers in a sample. This is commonly referred to as a positive test")

⁷³ These types of cases "may stem from an investigation based on a confidential tip to a hotline" and "have led to the discovery of large performance-enhancing drug (PED) trafficking operations" or the discovery of new drugs and doping methods not currently detected through doping measures. *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* This mirrors the Sanctions periods established in Article 10 of the Code. *See, e.g.*, WADA Code, *supra* note 7, art. 10.2.

⁷⁶ *Anti-Doping Alphabet Soup: Results Management*, *supra* note 71.

⁷⁷ JANWILLEM SOEK, THE STRICT LIABILITY PRINCIPLE AND THE HUMAN RIGHTS OF THE ATHLETE IN DOPING CASES 22 (2006).

⁷⁸ Pound & Jenkins, *supra* note 49, at 74.

doping matters, and they are required to show the doping occurred with “comfortable satisfaction” which “lies somewhere between a balance of probabilities on the low side and proof beyond a reasonable doubt on the high side.”⁷⁹ To rebut a doping presumption, the burden of proof is on athletes seeking to rebut the doping charge.⁸⁰ The standard of proof for athletes is a balance of probability,⁸¹ with two exceptions to this standard. First, if there is a departure from the International Standards for Laboratories (“ISL”), the standard of proof applied is the lower, “could have reasonably caused” standard.⁸² Second, if there is a departure from International Standards for Testing and Investigations (“ISTI”), or International Standard for Results Management, the “could have reasonably caused” standard will apply “when establishing that the departure was the reason for the adverse analytical finding or whereabouts failure.”⁸³

C. *The Court of Arbitration for Sport*

Established in 1983, CAS began operating in 1984⁸⁴ to fulfill the need for a “flexible, quick, and inexpensive procedure for the world of sport to resolve its disputes.”⁸⁵ The IOC discerned the need for a single, international structure “independent from international sports federations and capable of resolving international sports-related disputes,” that could harmonize decisions in the sporting world without having to rely on a nation’s individual legal system.⁸⁶ Today, CAS is perceived as *the* body for resolving sporting disputes, due to its jurisdiction being recognized by “[a]ll Olympic international federations and national Olympic Committees.”⁸⁷ With the adoption of the Code, CAS has become the body that deals with doping disputes,⁸⁸ but it can resolve any dispute “related or connected to Sport.”⁸⁹ CAS decisions “are final and binding on the parties” and enforceable under the New York Convention (on the Recognition and Enforcement of Foreign Arbitral Awards).⁹⁰ The concept of *stare decisis* does

⁷⁹ *Id.* at 74–75.

⁸⁰ *Id.* at 75.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Pound & Jenkins, *supra* note 49, at 75.

⁸⁴ Richard H. McLaren, *The Court of Arbitration for Sport*, in HANDBOOK ON INTERNATIONAL SPORTS LAW 163, 163 (James A.R. Nafziger & Ryan Gauthier eds., 2d ed. 2022).

⁸⁵ *Id.* at 163.

⁸⁶ *Id.*

⁸⁷ *Id.* at 164; *see also* INT’L OLYMPIC COMM., *supra* note 61, By-Law to Rule 44(6) (“All participants in the Olympic Games in whatever capacity must comply with the entry process as prescribed by the IOC Executive Board, including the signing of the entry form, which includes an obligation to (i) comply with the Olympic Charter, the World Anti-Doping Code and the Olympic Movement Code on the Prevention of the Manipulation of Competitions and (ii) submit disputes to CAS jurisdiction.”).

⁸⁸ McLaren, *supra* note 84 at 165.

⁸⁹ McLaren, *supra* note 84, at 166 (citing CAS Code art. R27).

⁹⁰ James AR Nafziger, *International Sports Law*, in MAX PLANCK ENCYCLOPEDIAS OF INTERNATIONAL LAW ¶ 61 (Rüdiger Wolfrum & Anne Peters eds., Oxford Univ. Press, 2021),

not apply to CAS awards, but CAS panels try to adhere to the same conclusion as prior panels on matters of law for consistency.⁹¹ Disputes can be brought by “individual athletes as well as IFs and national governing bodies.”⁹²

Over time, a unique CAS jurisprudence has emerged. *Lex sportiva* is the term used to characterize CAS’s jurisprudence.⁹³ *Lex sportiva* is built to “ensure predictability of outcomes, equal treatment of similarly-situated persons, and the efficiency of the legal process” and must “promote and preserve the fairness, safety, and the competitive spirit of sport.”⁹⁴ This jurisprudence focuses on having fair processes and rules for doping offenses, “solving jurisdictional disputes, and rules governing CAS’s power to review.”⁹⁵ The WADA Code reflects this CAS jurisprudence.⁹⁶

CAS, WADA, and the world of International Sports Law have faced criticism for being Eurocentric. This argument is furthered by the fact that the CAS seat is in Lausanne, Switzerland.⁹⁷ Its location in Lausanne means that CAS “must comply with the legislation governing international or (less often) domestic arbitration.”⁹⁸ In turn, the CAS awards are final, but parties may, in some situations, motion the Swiss Federal Tribunal (“SFT”) to set aside an award.⁹⁹ Further, being located in Switzerland, CAS must “abide by the ECtHR [European Court of Human Rights] decisions” and “any athlete can bring a CAS case to the ECtHR,” even if the athlete implicated is not from a country that is party to the convention.¹⁰⁰ This possibility is only available “after a motion to set aside a CAS award filed before the SFT.”¹⁰¹ Prominent cases have made their way to the European Court of Human Rights (“ECtHR”), where the judgments pronounced have impacted or reformed CAS (and other IF tribunals).¹⁰² An

<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1431?print=pdf> [<https://perma.cc/TM86-4FQ3>].

⁹¹ *Id.* ¶ 60.

⁹² *Id.* ¶ 63.

⁹³ McLaren, *supra* note 84, at 194.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* (discussing how the *lex sportiva* that emerges from CAS jurisprudence can be categorized into specific categories, such as rules pertaining to doping offenses, which are subsequently reflected in the WADA Code).

⁹⁷ Despina Mavromati, *CAS Through the Lens of the European Court of Human Rights and Other Tribunals*, in HANDBOOK ON INTERNATIONAL SPORTS LAW 196, 196 (James A.R. Nafziger & Ryan Gauthier eds., 2d ed. 2022).

⁹⁸ *Id.* at 197.

⁹⁹ *Id.* (“Such a challenge is only possible for an exhaustively enumerated number of grounds, namely, in case of an irregular constitution of the arbitral tribunal, an erroneous judgment on jurisdiction, violation of the principles of *ne ultra petita* – and *ne infra petita*, violation of due process and violation of public policy.”).

¹⁰⁰ *Id.* at 202.

¹⁰¹ *Id.* at 203.

¹⁰² Mavromati, *supra* note 97, at 204–25 (describing multiple cases where ECtHR judgments have influenced CAS jurisprudence).

increasing number of CAS decisions mention human rights within their analysis in reference to the European Convention on Human Rights (“ECHR”) without referencing “other [international] human right instruments,”¹⁰³ nor regional ones.¹⁰⁴ Other elements, such as the nationality of the arbitrators, have been utilized to demonstrate a Eurocentric bias.¹⁰⁵ Additionally, Eurocentricity is observed through the seats of the IFs, which are primarily located in Europe.¹⁰⁶

III. INTERPLAY BETWEEN WADA AND NADOS

A. Overview of the Interplay Between WADA and NADOS

The National Anti-Doping Organizations (“NADOS”) are responsible for implementing and carrying out WADA’s policies¹⁰⁷ through testing and education by working with “national and international sport organizations.”¹⁰⁸ NADOS, as Signatories of the Code, are responsible for implementing it.¹⁰⁹ Depending on their country of origin, NADOS have different legal statuses, compliance levels, funding and expenditures, leading to differences in implementation.¹¹⁰ These differences have pushed WADA to implement International Standards to harmonize testing and results management between countries.¹¹¹ NADOS respond to the WADA foundation board (one of WADA’s governing bodies) and WADA management.¹¹²

As signatories, NADOS’ participation in WADA and the system depends on their compliance as they have little independent power. NADOS that are signatories to the Code must implement applicable Code provisions, some with

¹⁰³ Ariel Dulitzky, *Redressing the Eurocentric Approach of the Court of Arbitration for Sports to Human Rights Law*, 34 MARQ. SPORTS L. REV. 467, 480 (2024).

¹⁰⁴ *Id.* at 479–80.

¹⁰⁵ *Id.* at 473.

¹⁰⁶ See, e.g., *Structure: HQ*, WORLD ATHLETICS, <https://worldathletics.org/organisation/our-organisation/structure/headquarters> [https://perma.cc/YB7Y-84N5] (last visited Feb. 12, 2026, at 18:11 CT) (headquartered in Monaco); *Contact FIFA*, INSIDE FIFA, <https://inside.fifa.com/about-fifa/organisation/contact-fifa> [https://perma.cc/BZ3J-MTCJ] (last visited Feb. 12, 2026, at 18:15 CT) (headquartered in Zürich); Fed’n Internationale de Gymnastique, *About Us*, WORLD GYMNASTICS, <https://www.gymnastics.sport/site/about.php#:~:text=The%20FIG%20has%20more%20than,Capital%20of%20Lausanne%20> [https://perma.cc/B5LT-ERMW] (last visited Feb. 12, 2026, at 18:18 CT) (headquartered in Lausanne).

¹⁰⁷ WADA Code, *supra* note 7, art. 20.5.

¹⁰⁸ Henning & Andreasson, *supra* note 52, at 1162.

¹⁰⁹ WADA Code, *supra* note 7, art. 23.1.1; Vedder, *supra* note 61, at 802.

¹¹⁰ Henning & Andreasson, *supra* note 52, at 1162.

¹¹¹ See *supra* Introduction and Part II (discussion on international standards); Henning & Andreasson, *supra* note 52, at 1162 (for example, through the International Standards Testing and Investigations and International Standards for Laboratories).

¹¹² WORLD ANTI-DOPING AGENCY, WADA GOVERNANCE STRUCTURE 1 (2023), https://www.wada-ama.org/sites/default/files/2023-03/governance_structure_v4_final_clickable_filled_in_updated_23_march.pdf [https://perma.cc/ZAK2-UB98] (last visited Apr. 28, 2026, at 11:27 CT).

no substantial change, through their policies and practices.¹¹³ Article 24 lays out the requirements NADOs have (as Signatories) for monitoring and complying with the Code, and states that failure to comply will result in a NADO (as a Signatory) being publicly declared as non-compliant and being forced to go through a reinstatement procedure.¹¹⁴ Article 24.1.12 lays out additional consequences on Code Signatories, including excluding athletes from participating in international competitions such as the Olympics or the World Championships, and stopping a Signatory NADO's country from being able to host "an International Event."¹¹⁵ In fact, most of WADA's power comes from "its ability to determine compliance and find countries or NADOs non-compliant."¹¹⁶ Furthermore, the World Anti-Doping Code International Standard¹¹⁷ of Code Compliance by Signatories "set[s] out the relevant framework and procedures for ensuring Code Compliance by Signatories."¹¹⁸ This International Standard lays out "roles, responsibilities, and procedures of the different bodies involved in WADA's compliance monitoring functions"; "the support and assistance that WADA will offer to Signatories in their efforts to comply with the *Code and International Standards*" and to correct Non-Conformities¹¹⁹ prior to formal action; how WADA will monitor compliance; the process that will be followed if Non-Conformities are not corrected; what principles will be applied with determining consequences; procedures for reinstatement following a finding of non-compliance; and other provisions.¹²⁰

While NADOs are part of the WADA hierarchy, NADOs may feel unheard and excluded by WADA from the policymaking process, shifting their focus to simply being found compliant, rather than working to address deeper issues that may have contributed to doping violations.¹²¹ Compliance is the foundation of WADA's strategy "to reinforce its hegemonic position."¹²² This creates a strained relationship further complicated by the influence of States on NADOs' policymaking strategies, which can stray from WADA's goals.¹²³

¹¹³ WADA Code, *supra* note 7, art. 23.2; *see supra* Part II.B (discussing USADA example).

¹¹⁴ WADA Code, *supra* note 7, arts. 24.1.4–5.

¹¹⁵ WADA Code, *supra* note 7, art. 24.1.12 (including sub articles).

¹¹⁶ Henning & Andreasson, *supra* note 52, at 1165.

¹¹⁷ *See supra* Introduction & Part II (discussion of International Standards).

¹¹⁸ WADA CODE COMPLIANCE BY SIGNATORIES, *supra* note 68, art. 1.0.

¹¹⁹ *Id.* (defined as "[w]here a Signatory is not complying with the Code and/or one or more International Standards and/or any requirements imposed by the WADA Executive Committee, but the opportunities provided in the International Standard for Code Compliance by Signatories to correct the Non-Conformity/Non-Conformities have not yet expired and so WADA has not yet formally alleged that the Signatory is non-compliant" at art. 3.1).

¹²⁰ *Id.*, art. 1.0. Article 7.0 provides more information on how WADA should monitor Signatories' Code Compliance efforts, including reviewing rules, regulations, and legislation through which Anti-Doping programs are effectuated. *See id.*, art. 7.1.

¹²¹ Henning & Andreasson, *supra* note 52, at 1162–63.

¹²² *Id.*

¹²³ *Id.*

NADO challenges to WADA, such as USADA's current critiques of WADA, are not new. In 2016, the 2016 Copenhagen Declaration further tested the relationship between WADA and NADOs. Following the revelations of a Russian state-sanctioned doping program,¹²⁴ a group of NADOs, largely made up of “the most influential and well-resourced NADOs” met to “discuss necessary reforms to strengthen global anti-doping.”¹²⁵ NADOs came from the United States, Canada, France, Japan, as well as the United Kingdom, representing some of the biggest sporting countries in the world.¹²⁶ The Declaration proposed reforms “to strengthen WADA” by focusing on the governance structure and “independence of WADA with both political and sport influences,” with some reforms being accepted in 2018.¹²⁷ The Declaration represented an “important challenge to WADA by a key group of stakeholders” that are below WADA “in the global anti-doping hierarchy accountable to both WADA and to their respective countries.”¹²⁸ It also highlights the interdependence and cooperation needed between NADOs and WADA to carry out the anti-doping apparatus.¹²⁹ For example, USADA (the U.S.'s NADO) was part of the Copenhagen Declaration and is part of this complicated dynamic notably “as the U.S. [is] a key funding source for WADA,”¹³⁰ and that funding is currently being withheld.¹³¹ Today, the relationship between the two is further strained, by USADA's critical stance over WADA's handling of the aforementioned swimmers case.¹³² Further complications arise from WADA's alleged ongoing compliance review of USADA.¹³³

Should USADA be found non-compliant and as such, undermining the WADA hegemony, there could be severe consequences, including the revocation

¹²⁴ See *infra* Part III.C (discussion).

¹²⁵ Henning & Andreasson, *supra* note 52, at 1167.

¹²⁶ *Id.*; NATIONAL ANTI-DOPING ORGANISATIONS (NADOs), SPECIAL NADO SUMMIT 3 (Aug. 30, 2016), https://www.usada.org/wp-content/uploads/Special_NADO_Summit_Reform_Proposals.pdf [<https://perma.cc/88LM-K57U>]; CCES Supports Renewed Call for Global Anti-Doping Reforms, SPORT INTEGRITY CANADA (Mar. 12, 2017), <https://cces.ca/news/cces-supports-renewed-call-global-anti-doping-reforms> [<https://perma.cc/F3FC-RQD4>]; *International Anti-Doping Leaders Stand with Athlete Community In Calling on WADA to Go Further and Faster with Meaningful Anti-Doping reform*, U.K. ANTI-DOPING (Mar. 9, 2020), <https://www.ukad.org.uk/news/international-anti-doping-leaders-stand-athlete-community-calling-wada-go-further-and-faster> [<https://perma.cc/RK84-7LS2>].

¹²⁷ Henning & Andreasson, *supra* note 52, at 1167.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ T.J. Quinn & Michael Rothstein, *Trump Signs Law that Withholds United States' Dues to WADA*, ESPN (Feb. 5, 2026, at 20:45 ET), https://www.espn.com/olympics/story/_/id/47838933/trump-signs-law-withholds-united-states-dues-wada [<https://perma.cc/SCC7-Y67U>]; see also Ken Maguire, *At Olympics, Anti-Doping Watchdog WADA Rejects Audit Demand and Calls on US to Pay its Overdue Fees*, AP (Feb. 5, 2026, at 11:58 CT), <https://apnews.com/article/winter-olympics-doping-us-trump-6975ee567c9c820d5ff9851262bc5613> [<https://perma.cc/LQW6-HDMP>].

¹³² Schmidt & Panja, *supra* note 2; Schmidt & Panja, *supra* note 4.

¹³³ Keating, *supra* note 23; WADA's *Statement on USADA Scheme*, *supra* note 23; Draper, *supra* note 23; WADA *Investigator Helped With USADA Scheme*, *supra* note 23; Boshier, *supra* note 23.

of Salt Lake City's right to host the 2034 Olympic Games and preventing U.S. athletes from competing in international competitions. Historical examples show how WADA has exercised its influence to ensure NADOs remain compliant, such as in the case of finding Kenya's NADO non-compliant and requiring improvements, and Russia, and their continued non-compliance.

B. *WADA and Kenya's Compliance Review*

WADA has used the threat of stopping Kenyan athletes from attending the Olympics to force compliance with the Code in multiple instances over the last decade. Kenya dominates the world of distance running, but over 250 athletes have tested positive for banned substances since 2015, casting a shadow over athletes and their performances.¹³⁴ Kenya has previously been found non-compliant by WADA. In May of 2016, WADA declared Kenya as non-compliant for failing to implement the Code in their national legal system.¹³⁵ The timing meant that there were concerns that Kenyan athletes would not be permitted to compete in the 2016 Rio Olympics.¹³⁶ Prior to being named non-compliant, WADA had placed Kenya on probation, requiring them "to provide WADA with more details about the formation of its own national anti-doping agency and to show its intent to get to grips with cheating in the country."¹³⁷ When Kenya failed to do so, WADA declared them as non-compliant.¹³⁸ As a result, the Kenyan parliament passed new legislation around anti-doping, but WADA

¹³⁴ Jeré Longman, *Kenyan Runners Set the World's Pace, Chased by a Doping Crisis*, N.Y. TIMES (Nov. 2, 2023), <https://www.nytimes.com/2023/11/02/world/africa/kenya-new-york-city-marathon-doping.html> [<https://perma.cc/UMN8-7XQF>] (discussing the reaction to Kelvin Kiptum breaking the world record in the marathon in Chicago in 2023, and having to address doping conspiracies).

¹³⁵ *Signatories Previously Declared Non-Compliant and Subsequently Reinstated (As of Today)*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/signatories-previously-declared-non-compliant-and-subsequently-reinstated-today> [<https://perma.cc/P9DS-HKJR>] [hereinafter *Signatories Subsequently Reinstated*]; WADA Code, *supra* note 7, art 22 (imposing requirements on governments, noting that "government's commitment to the Code will be evidenced by its signing the Copenhagen Declaration on Anti-Doping in Sport of 3 March 2003, and by ratifying, accepting, approving or acceding to the UNESCO Convention," and that while governments "are bound only by the requirements of the relevant international intergovernmental treaties," Article 22 sets out expectations of support). Kenya ratified the International Convention Against Doping on August 24, 2009. *International Convention Against Doping in Sport: States Parties*, UNESCO, <https://www.unesco.org/en/legal-affairs/international-convention-against-doping-sport#item-2> [<https://perma.cc/L8NL-VJAZ>] (last visited Feb. 12, 2026, at 19:06 CT). Kenya is also a Signatory for the Copenhagen Declaration. *Copenhagen Declaration List of Signatories*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/copenhagen-declaration-list-signatories> [<https://perma.cc/84A5-HP86>] (last visited Apr. 28, 2026, at 12:18 CT).

¹³⁶ Steve Keating, *WADA Declares Kenya Non-Compliant, Rio at Stake*, REUTERS (May 13, 2016, at 02:37 CT), <https://www.reuters.com/article/sports/wada-declares-kenya-non-compliant-rio-at-stake-idUSKCN0Y40LD> [<https://perma.cc/S5VM-KTHA>].

¹³⁷ Sean Ingle, *Kenya Placed on Probation by WADA After Missing Anti-Doping Deadline*, THE GUARDIAN (Feb. 11, 2016, at 15:24 ET), <https://www.theguardian.com/sport/2016/feb/11/kenya-probation-wada-anti-doping-deadline> [<https://perma.cc/7YW4-ZVJR>].

¹³⁸ *Id.*

found that this legislation did not meet international standards, requiring more efforts to bring Kenya into compliance with the Code's standards.¹³⁹

As part of WADA's monitoring of Signatories' Code Compliance efforts, the rules, regulations, and legislation that a particular country has implemented are reviewed for compliance with the Code.¹⁴⁰ While the IOC would have had to step in to ban Kenyan athletes from attending the Rio 2016 Olympics, the possibility was on the table.¹⁴¹ Eventually, the Kenyan parliament passed anti-doping legislation that WADA considered in line with the Code, leading to WADA reinstating Kenya on August 4, 2016.¹⁴² While Kenya continues to revamp its NADO, the Anti-Doping Agency of Kenya ("ADAK"), which has caught dopers and contributed to the high number of positive tests, WADA's compliance monitoring has been ongoing.¹⁴³ In October 2024, WADA expressed concerns about the Kenyan government's proposed budget cuts,¹⁴⁴ reflecting that WADA is constantly reviewing and ensuring compliance with the system.

In 2025, a series of events drew WADA's attention to re-evaluate Kenya's compliance. As of October 2025, twenty Kenyan athletes faced doping bans from the Athletics Integrity Unit¹⁴⁵ in 2025.¹⁴⁶ Of these athletes, Ruth Chepngetich's ban drew significant media attention. A 2019 World Champion, Chepngetich ran the women's marathon world-record in October 2024 at the Chicago Marathon,

¹³⁹ *Kenya Changes Anti-Doping Laws in Bid to Avoid Olympic Ban*, BBC (May 27, 2016), <https://www.bbc.com/news/world-africa-36394813> [<https://perma.cc/8RTS-7H67>] (requiring Kenya to transform its anti-doping legislation to remove inconsistencies and create compliance with WADA's standards).

¹⁴⁰ WADA CODE COMPLIANCE BY SIGNATORIES, *supra* note 68, art. 7.1.

¹⁴¹ Ingle, *supra* note 137.

¹⁴² *Rio 2016: Kenya Removed from World Anti-Doping Agency's 'Non-Compliant' List*, BBC (Aug. 5, 2016), <https://www.bbc.com/sport/olympics/36991060> [<https://perma.cc/T33W-SYF4>]; *Signatories Subsequently Reinstated*, *supra* note 135.

¹⁴³ Tariq Panja, *Why Kenya Stopped Running From Its Doping Past*, N.Y. TIMES (Aug. 8, 2024), <https://www.nytimes.com/2024/08/08/world/olympics/kenya-olympics-doping.html> [<https://perma.cc/JND9-7LP5>]; *WADA Optimistic that Kenyan Government Will Reconsider Budget Cuts to Anti-Doping Program*, WORLD ANTI-DOPING AGENCY (Oct. 2, 2024), <https://www.wada-ama.org/en/news/wada-optimistic-kenyan-government-will-reconsider-budget-cuts-anti-doping-program> [<https://perma.cc/K8AV-Q6EG>].

¹⁴⁴ *WADA Optimistic that Kenyan Government Will Reconsider Budget Cuts to Anti-Doping Program*, *supra* note 143.

¹⁴⁵ The Athletics Integrity Unit was established by World Athletics, the IF for athletics (or track & field), which is a Signatory to the Code, to oversee its anti-doping testing and rules implementation. See WORLD ATHLETICS, *Art. 1.2: The Athletics Integrity Unit*, in WORLD ATHLETICS ANTI-DOPING RULES 4, 4–5 (2026), https://www.athleticsintegrity.org/downloads/pdfs/know-the-rules/en/D3.1-Anti-Doping-Rules_260112_173332.pdf [<https://perma.cc/292T-AJHP>]; *International Federations*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/anti-doping-partners/international-federations> [<https://perma.cc/X7BK-L84R>] (last visited Feb. 12, 2026, at 06:16 CT). For more information on the Athletics Integrity Unit's structure, see *Know Us*, ATHLETICS INTEGRITY UNIT, <https://www.athleticsintegrity.org/know-us> [<https://perma.cc/HRJ2-F6L7>] (last visited Feb. 12, 2026, at 06:20 CT).

¹⁴⁶ Alan Baldwin, *WADA Sees Kenya Progress, Puts ADAK on Watch List After Non-Compliance*, REUTERS (Oct. 30, 2025, at 13:55 CT), <https://www.reuters.com/sports/wada-sees-kenya-progress-puts-adak-watch-list-after-non-compliance-2025-10-30> [<https://perma.cc/ZX92-E9VH>].

after she had previously won it three separate times.¹⁴⁷ Her positive tests occurred in March 2025, but additional evidence collected during the investigation included WhatsApp messages with photos of testosterone vials asking how testosterone works, photos of other banned steroids, and messages “related to unidentified third parties working on ‘programs’ possibly related to doping.”¹⁴⁸

In September 2025, WADA’s Executive Committee recommended that the Kenyan NADO, ADAK, be found “non-compliant with the World Anti-Doping Code (Code) as it [had] still not addressed several critical requirements following an audit carried out by WADA in May 2024.”¹⁴⁹ Kenya’s NADO had twenty-one days following the notice to dispute the allegation of non-compliance, as well as the proposed consequences and reinstatement conditions, pursuant to Article 9.3.1, of the International Standard for Code Compliance By Signatories.¹⁵⁰ ADAK responded to the allegation prior to the October 2nd deadline.¹⁵¹ WADA found that the response demonstrated progress, “including the development of a corrective action plan outlining how it intends to address, . . . the outstanding

¹⁴⁷ See ATHLETICS INTEGRITY UNIT, DECISION OF THE ATHLETICS INTEGRITY UNIT IN THE CASE OF MS. RUTH CHEPNGETICH 1, (Oct. 21, 2025), https://www.athleticsintegrity.org/downloads/pdfs/disciplinary-process/en/AIU-25-059-Ruth-Chepngetich-Decision_FINAL_secured.pdf [https://perma.cc/7BKE-MUF5] [hereinafter *AIU Chepngetich Decision*]; Chris Chavez, *Marathon World Record Holder Ruth Chepngetich Banned Three Years After Positive Test for Banned Diuretic*, CITIUSMAG (Oct. 23, 2025), <https://citiushmag.com/articles/ruth-chepngetich-banned-three-years-doping-athletics-integrity-unit-admission> [https://perma.cc/9VJX-CG4H]; Ruth Chepngetich tested positive for a prohibited substance, Hydrochlorothiazide (HCTZ), after a test revealed 3800ng/ml in her urine, over the 20ng/ml minimum reporting limit. ATHLETICS INTEGRITY UNIT, HOWMAN: ‘NOBODY ABOVE THE RULES’ – AIU BANS CHEPNGETICH FOR 3 YEARS, ATHLETICS INTEGRITY UNIT 1 (Oct. 23, 2025), https://www.athleticsintegrity.org/downloads/pdfs/other/Press-Release_Howman-Nobody-Above-the-Rules-%E2%80%93-AIU-Bans-Chepngetich-for-3-Years.pdf [https://perma.cc/3VDQ-D5XE]. HCTZ is “a diuretic used clinically to treat fluid retention and hypertension . . . which can be used to flush previously taken prohibited substances out of an athlete’s system,” resulting in a three-year ban. George Ramsay, *Marathon Record Holder Ruth Chepngetich Given Three-Year Ban for Doping Violation*, CNN: SPORTS (Oct. 24, 2025, at 07:07 ET), <https://www.cnn.com/2025/10/24/sport/athletics-ruth-chepngetich-marathon-doping-ban-intl> [https://perma.cc/AKH7-TPTY].

¹⁴⁸ *AIU Chepngetich Decision*, *supra* note 147, at 6; *see also* Chavez, *supra* note 147.

¹⁴⁹ WADA Executive Committee Approves 2026 Prohibited List and Alleges Non-Compliance on Kenyan National Anti-Doping Organization, WORLD ANTI-DOPING AGENCY (Sep. 11, 2025), <https://www.wada-ama.org/en/news/wada-executive-committee-approves-2026-prohibited-list-and-alleges-non-compliance-kenyan> [https://perma.cc/M69T-FT2L].

¹⁵⁰ *Id.*; WADA CODE COMPLIANCE BY SIGNATORIES, *supra* note 68, at art. 9.3.1. While the proposed consequences and reinstatement conditions on Kenya’s NADO are no longer available on the WADA website, they appear to have included ADAK losing “all Wada privileges including funding and participation in agency programmes and Kenyan representatives will be barred from holding positions on Wada boards or committees. Kenya would also be barred from being awarded the rights to host regional, continental or world championships and other international events during any period of non-compliance.” WADA Says Kenya Non-Compliant with Anti-Doping Code, BBC (Sep. 12, 2025), <https://www.bbc.com/sport/athletics/articles/cp98y25330eo> [https://perma.cc/JKG9-3YFZ].

¹⁵¹ WADA Provides Update on Compliance Status of the National Anti-Doping Organization of Kenya, World Anti-Doping Agency (Oct. 3, 2025), <https://www.wada-ama.org/en/news/wada-provides-update-compliance-status-national-anti-doping-organization-kenya> [https://perma.cc/6F6U-HGHY].

critical requirements identified through the audit”¹⁵² within a four-month period, as permitted by Article 9.3.1.2 of the International Standard for Code Compliance By Signatories.¹⁵³ Pursuant to Article 9.3.1.2, WADA’s Executive Committee recommended that ADAK be added to the “watchlist” and gave ADAK four months, until March 2, 2026, to correct non-conformities,¹⁵⁴ or a “new formal notice alleging non-compliance with the Code” will be sent.¹⁵⁵ As of April 2026, it appears that Kenya has been removed from the watchlist.¹⁵⁶

C. WADA and the Russian State Sponsored Doping Program

Russia and the consequences of its state-sponsored doping program are an example of possible consequences for continued non-compliance with and violations of the Code. In 2016, the McLaren Report revealed details behind Russia’s State-run doping scheme:¹⁵⁷ Working alongside lab workers and members of the Russian government, Dr. Rodchenkov, the “director of the anti-doping laboratory based in the Olympic Village in Sochi, Russia during the 2014 Winter Games,” tampered with the testing structure by substituting urine samples they knew would trigger a positive test, with clean samples.¹⁵⁸ Russia’s NADO (“RUSADA”) had already been declared noncompliant on November 18, 2015.¹⁵⁹ A large number of Russian athletes were not permitted to compete in Rio following the revelations of the McLaren Report.¹⁶⁰ The IOC issued this decision after considering WADA’s McLaren Report, the International Association of Athletics Federations’ (“IAAF”) (now World Athletics) decision to ban athletes whose national federation is suspended from competing, and CAS’s arbitral decision—which confirmed the validity of the IAAF decision to ban

¹⁵² *Id.*

¹⁵³ WADA CODE COMPLIANCE BY SIGNATORIES, *supra* note 68, art. 9.3.1.2.

¹⁵⁴ *Id.*

¹⁵⁵ WADA Adds the National Anti-Doping Organization of Kenya to the Compliance ‘Watchlist’, WORLD ANTI-DOPING AGENCY (Oct. 31, 2025), <https://www.wada-ama.org/en/news/wada-adds-national-anti-doping-organization-kenya-compliance-watchlist> [<https://perma.cc/85HR-CRAT>].

¹⁵⁶ Javier Carro, *Kenya Removed WADA Watchlist*, INSIDE THE GAMES (Mar. 9, 2026), <https://www.insidethegames.biz/articles/kenya-comes-off-wada-watchlist> [<https://perma.cc/K53P-DAK9>]; Purity Wangui, *Kenya Removed from WADA Compliance Watchlist After Reforms, Says CS Mvurya*, THE STAR (Mar. 5, 2026, at 07:19 ET), <https://www.the-star.co.ke/news/2026-03-05-kenya-off-wada-watchlist-after-anti-doping-reforms> [<https://perma.cc/7TDF-2ZAG>].

¹⁵⁷ Genevieve F.E. Birren, *The Rodchenkov Anti-Doping Act: The United States’ Response to the Russian Doping Scandal*, 32 MARQ. SPORTS L. REV. 241, 243 (2021).

¹⁵⁸ Abigail Page, Note, *The Rodchenkov Anti-Doping Act: Concerns and Benefits of Criminalizing Doping in International Sports Competitions*, 10 BELMONT L. REV. 439, 445–46 (2023).

¹⁵⁹ *Signatories Subsequently Reinstated*, *supra* note 135.

¹⁶⁰ Greg Myre & Tom Goldman, *Dubious Olympic Record: More Than 110 Russian Athletes Barred From Rio*, NPR WAMU 88.5 AM. UNIV. RADIO (Aug. 2, 2016, at 10:13 ET), <https://www.npr.org/sections/thetorch/2016/08/02/487642811/the-russian-tally-more-than-110-athletes-barred-from-the-olympics> [<https://perma.cc/3QHJ-86F3>].

athletes.¹⁶¹ WADA reinstated the Russian NADO's compliance status on September 20, 2018, subject to strict requirements, including Russian anti-doping authorities publicly accepting the McLaren Report and providing access to stored specimen samples.¹⁶² RUSADA was also reinstated, under conditions of being subjected to a regular audit as part of WADA's compliance monitoring program.¹⁶³ WADA's compliance monitoring continued, and in 2020, they found that the reinstatement conditions were not fulfilled.¹⁶⁴ WADA recommended that RUSADA be declared non-compliant for four years, be subject to consequences (including limiting Russia's ability to host Olympic Games), and that

Russian Government officials/representatives may not participate in or attend any of the following events held in the Four-Year Period: (a) the Youth Olympic Games (summer and winter); (b) the Olympic Games and Paralympic Games (summer and winter); (c) any other event organized by a Major Event Organisation; and (d) any World Championships organized or sanctioned by any Signatory (together, the Major Events).¹⁶⁵

CAS confirmed WADA's recommendations by finding RUSADA "non-compliant with the [Code] for a period of two years and [by imposing] significant consequences."¹⁶⁶ While Russia, as a country, could not "officially send any athlete to an international sports competition until December 2022," WADA and the IOC arranged for certain athletes to compete under a "neutral" flag, provided that they could prove they were clean.¹⁶⁷ In 2023, WADA's

¹⁶¹ *Decision of the IOC Executive Board Concerning the Participation of Russian Athletes in the Olympic Games Rio 2016*, INT'L OLYMPIC COMM. (July 24, 2016), <https://olympics.com/ioc/news/decision-of-the-ioc-executive-board-concerning-the-participation-of-russian-athletes-in-the-olympic-games-rio-2016> [<https://perma.cc/RM67-PFVR>]; *Court Upholds Ban of Russia Track & Field Team*, ESPN (July 21, 2016, at 05:17 ET), https://www.espn.com/olympics/story/_/id/17117626/russia-loses-appeal-ban-track-field-athletes [<https://perma.cc/SQ8D-6FZ2>]; *About World Athletics*, WORLD ATHLETICS, <https://worldathletics.org/organisation> [<https://perma.cc/33B3-2N5P>] (last visited May 10, 2026 15:54 PM CT) (indicating that World Athletics was formerly known as the IAAF).

¹⁶² *WADA Executive Committee Decides to Reinstate RUSADA Subject to Strict Conditions*, WORLD ANTI-DOPING AGENCY (Sep. 20, 2018), <https://www.wada-ama.org/en/news/wada-executive-committee-decides-reinstate-rusada-subject-strict-conditions> [<https://perma.cc/6TQX-2GNT>].

¹⁶³ *Id.*

¹⁶⁴ *WADA Executive Committee Unanimously Endorses Four-Year Period of Non-Compliance for the Russian Anti-Doping Agency*, WORLD ANTI-DOPING AGENCY (Dec. 9, 2019), <https://www.wada-ama.org/en/news/wada-executive-committee-unanimously-endorses-four-year-period-non-compliance-russian-anti> [<https://perma.cc/U5SL-K3LB>].

¹⁶⁵ *Id.*

¹⁶⁶ *WADA Statement on Court of Arbitration Decision to Declare Russian Anti-Doping Agency as Non-Compliant*, WADA (Dec. 17, 2020), <https://www.wada-ama.org/en/news/wada-statement-court-arbitration-decision-declare-russian-anti-doping-agency-non-compliant> [<https://perma.cc/HXC5-PWYU>].

¹⁶⁷ Ivan Pereira, *Why Russian Athletes are Competing Under the ROC at Olympics*, ABC NEWS (Feb. 1, 2022, at 04:05 CT), <https://abcnews.go.com/Sports/russian-athletes-competing-roc-olympics/story?id=79069924> [<https://perma.cc/LZY9-E865>].

“independent Compliance Review Committee (CRC) . . . allege[d] new consequences and reinstatement conditions against the Russian Anti-Doping Agency (RUSADA), which [was] already non-compliant with the World Anti-Doping Code,” confirming that Russia had not met the reinstatement conditions required of them since 2020, and would not be reinstated until those conditions are met.¹⁶⁸ As of March 2026, there are two non-compliant Code Signatories: RUSADA and “the International Fitness and Bodybuilding Federation (IFBB).”¹⁶⁹

Regarding Russian athlete attendance at the Paris Olympics, in 2023, the IOC suspended the Russian Olympic Committee “until further notice” for having “include[d], as its members, the regional sports organisations which are under the authority of the National Olympic Committee (NOC) of Ukraine (namely Donetsk, Kherson, Luhansk and Zaporizhzhia),” which are part of the territories annexed in Ukraine.¹⁷⁰ The IOC found that Russia’s actions “constitute[d] a breach of the Olympic Charter because it violates the territorial integrity of the NOC of Ukraine, as recognised by the International Olympic Committee (IOC) in accordance with the Olympic Charter.”¹⁷¹ The IOC imposed strict restrictions for athletes looking to compete under the neutrality flag, including compliance with anti-doping laws.¹⁷²

The Kenyan and Russian examples demonstrate the consequences that countries face from being found non-compliant within WADA’s framework. “The consequences of non-compliance” result in “clear penalty for perpetrators such as ineligibility to participate in major competitions or indeed to bid to host such an event.”¹⁷³ Beginning in 2018, a new compliance framework outlines “[1] [h]ow WADA monitors Code compliance[;] [2] [h]ow WADA supports signatories in achieving and maintaining Code compliance[;] [3] [t]he consequences of non-compliance[;] [4] [a] process whereby the consequences can [be] imposed by an independent tribunal[;] [and] [5] [t]he procedures involved in reinstatement.”¹⁷⁴ This is used along with WADA’s new Compliance Monitoring Program to

¹⁶⁸ *WADA Update on the Compliance Status of the Russian Anti-Doping Agency*, WORLD ANTI-DOPING AGENCY (Oct. 13, 2023), <https://www.wada-ama.org/en/news/wada-update-compliance-status-russian-anti-doping-agency> [https://perma.cc/NW65-JXCY].

¹⁶⁹ *Global List of Non-Compliant Signatories and Applicable Consequences*, WORLD ANTI-DOPING AGENCY, <https://www.wada-ama.org/en/global-list-non-compliant-signatories-and-applicable-consequences> [https://perma.cc/TM9W-7NDP] (last visited Apr. 4, 2026, at 17:44 CT).

¹⁷⁰ *IOC Executive Board Suspends Russian Olympic Committee with Immediate Effect*, INT’L OLYMPIC COMM. (Oct. 12, 2023), <https://olympics.com/ioc/news/ioc-executive-board-suspends-russian-olympic-committee-with-immediate-effect> [https://perma.cc/34NR-FKP2].

¹⁷¹ *Id.*

¹⁷² *Strict Eligibility Conditions in Place as IOC EB Approves Individual Neutral Athletes (AINs) for the Olympic Games Paris 2024*, INT’L OLYMPIC COMM. (Dec. 8, 2023), <https://olympics.com/ioc/news/strict-eligibility-conditions-in-place-as-ioc-eb-approves-individual-neutral-athletes-ains-for-the-olympic-games-paris-2024> [https://perma.cc/VD75-QKMM].

¹⁷³ Neil Chester & Nick Wojek, *Regulation of Anti-Doping in Sport – International and National Operational Frameworks*, in *DRUGS IN SPORT* 72, 84 (David Mottram & Neil Chester eds., 8th ed. 2022).

¹⁷⁴ *Id.*

“scrutinise signatories’ enforcement of the Code” through NADO audits.¹⁷⁵ The examples discussed above and the resulting compliance structure reveal that WADA is in the power position in their relationship with NADOs, and the IOC affirms this power dynamic. NADOs are part of the WADA hierarchy as signatories of the Code, but their role in the system depends on them being compliant.

IV. COMPARING THE RODCHENKOV ACT TO GERMANY AND FRANCE’S ANTI-DOPING LAWS

A. *The Rodchenkov Act*

The Rodchenkov Act seeks “to impose criminal sanctions on certain persons involved in international doping fraud conspiracies, to provide restitution for victims of such conspiracies, and to require sharing of information with the United States Anti-Doping Agency to assist its fight against doping.”¹⁷⁶ The criminal penalties imposed by the Act include prison sentences, fines, “property forfeiture[,] and restitution.”¹⁷⁷ The Act exempts athletes, but provides “extraterritorial Federal jurisdiction” to find 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.”¹⁷⁸ Commentators have noted that the law seeks to attack “organized doping conspiracies rather than simple violations,”¹⁷⁹ as “person” means any individual, partnership, corporation, association, or other entity.¹⁸⁰ The legislation was inspired by and proposed in response to the State-sponsored doping scandal in Russia.¹⁸¹ The Act is not applicable to “American college sports and most of the professional leagues and associations that are based in North America, including the N.F.L., N.B.A., Major League Baseball and the N.H.L., except when athletes from those sports are participating in international competitions,” as these American leagues are not signatories to the Code.¹⁸² The drafter’s justification for criminal sanctions on doping within the Rodchenkov Act pointed to other countries, such as Germany and France, that have “laws that criminalize the use of doping and related activities such as prescribing, purchasing, administration, and trafficking.”¹⁸³

¹⁷⁵ *Id.*

¹⁷⁶ The Rodchenkov Anti-Doping Act, Pub. L. No. 116–206, 134 Stat. 998 (2020) (codified as U.S.C. §§2401–2404); *see also* Birren, *supra* note 157, at 246 (discussing what the Rodchenkov Act does).

¹⁷⁷ Birren, *supra* note 157, at 247; *see* The Rodchenkov Anti-Doping Act, 21 U.S.C. §2403 (2020).

¹⁷⁸ The Rodchenkov Anti-Doping Act, 21 U.S.C. §2402 (2020).

¹⁷⁹ Futterman, *supra* note 21.

¹⁸⁰ The Rodchenkov Anti-Doping Act, 21 U.S.C. §2401 (2020); *see also* Birren, *supra* note 157, at 246 (discussing what the Rodchenkov Act does).

¹⁸¹ Ruiz, *supra* note 19; *see supra* Section III.C (discussing Dr. Rodchenkov’s role in the Russian State Sponsored doping program).

¹⁸² Futterman, *supra* note 21.

¹⁸³ H.R. REP. NO. 116-251, pt. 1, at 8 (2019).

B. Germany's Anti-Doping Structure

Germany's Anti-Doping legislation is distinct from the Rodchenkov Act for its lack of extraterritoriality and direct criminalization of athletes. Germany's Anti-Doping Act ("AntiDopG") was passed in December of 2015, with the goals of "protect[ing] the health of athletes, ensur[ing] fairness and equal chances in sport competitions[,] and thereby preserv[ing] the integrity of sport."¹⁸⁴ It prohibits the "manufactur[ing]; traffic in; [sale], dispens[ation,] or otherwise plac[ement] on the market without trafficking, or; prescri[ption]" of a doping substance named under the International Convention Against Doping in Sport.¹⁸⁵ AntiDopG prohibits the administration or application of "a doping substance" or a "doping method" listed under the aforementioned convention, in addition to prohibiting the "purchase, posses[sion] or carry" of a doping substance "listed in the annex to this act, for the purpose of doping in sport."¹⁸⁶

The law also targets self-doping of athletes as well as participation in an organized sports competition while doping.¹⁸⁷ Those who supply or assist athletes with substances can face sentences of up to ten years in jail.¹⁸⁸ Section 3 targets self-doping and section 4 includes penal provisions, which provide that "athletes who test positive for performance-enhancing drugs or are found guilty of possession of PEDs can face prison terms of up to three years."¹⁸⁹ Section 4, paragraph 7 specifies that the athletes targeted are elite professional athletes (i.e., not amateurs), using state funds and being "subject to out-of-competition testing as a member of a testing pool in the framework of the doping control system."¹⁹⁰ In turn, this provision excludes hobby athletes from criminal provisions.¹⁹¹ Germany reconfirmed through the "explanatory statement to the German Federal Anti-Doping Statute . . . that Germany is bound to implement the UNESCO Convention by public international law," reflecting their commitment to the international doping structure and WADA.¹⁹² Regarding

¹⁸⁴ Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, Bundesgesetzblatt Teil I [BGBL I] at 2110, § 1 (Ger.), https://www.gesetze-im-internet.de/englisch_antidopg/englisch_antidopg.html [<https://perma.cc/X5GU-THEF>].

¹⁸⁵ *Id.* § 2.1.

¹⁸⁶ *Id.* §§ 2–3.

¹⁸⁷ *Id.* § 3.

¹⁸⁸ *Id.* § 3–4; Chuck Penfold, *Germany's Anti-Doping Law Comes into Force*, DEUTSCHE WELLE (Dec. 18, 2015), <https://www.dw.com/en/germanys-anti-doping-law-comes-into-force/a-18928499> [<https://perma.cc/9MMF-QHBM>].

¹⁸⁹ Penfold, *supra* note 188; Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, BGBL I at 2110, §§ 3–4 (Ger.).

¹⁹⁰ Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, BGBL I at 2110, § 4(7) (Ger.); *see also Germany Approves New Doping Law With Tougher Sanctions*, REUTERS (Nov. 13, 2015, at 8:54 CT), <https://www.reuters.com/article/sports/germany-approves-new-doping-law-with-tougher-sanctions-idUSKCN0T21OU/#:~:text=The%20law%20only%20targets%20top,drugs%20without%20a%20positive%20test> [<https://perma.cc/RU2X-T2JG>].

¹⁹¹ Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, BGBL I at 2110, §4(7) (Ger.); *Germany Approves New Doping Law With Tougher Sanctions*, *supra* note 190.

¹⁹² Vedder, *supra* note 61, at 809; *see generally* Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, BGBL I at 2110 (Ger.) (referencing WADA throughout the Anti-Doping Act).

extraterritoriality, AntiDopG primarily targets German athletes but “foreign athletes caught doping in Germany also risk prison.”¹⁹³ AntiDopG itself does not contain any reference to the Act applying to actions outside of Germany.

Germany’s Anti-Doping Act has resulted in criminal sanctions for doctors and other actors involved in supplying doping materials to athletes: in 2021, a German doctor involved in an international blood-doping scandal was sentenced to four years and ten months in prison.¹⁹⁴ This was the first trial since AntiDopG was passed.¹⁹⁵ An investigation beginning in 2019 uncovered that the doctor had a client list of twenty-one athletes from different countries suspected of blood-doping.¹⁹⁶ At the time of the investigation, multiple athletes, including Austrian Nordic skiers and cyclists, were arrested and confessed to blood-doping.¹⁹⁷ Blood-doping presents primarily an advantage in endurance events, as it involves extracting red blood cells and then “re-inject[ing] them shortly before competition,” therefore giving the athlete an “abnormally high quantity of (clean) blood” which is generally not discoverable through a urine test¹⁹⁸ for banned substances.¹⁹⁹ The doctor was accused of doping activities starting back in 2011.²⁰⁰ In addition to finding the doctor guilty, the court found his assistants guilty, with some getting sentenced to jail and others fines.²⁰¹ Officials hope that the outcome of the case and the sentencing will deter future violators.²⁰²

C. *France’s Anti-Doping Framework*

¹⁹³ Associated Press, *Germany Drafts Anti-Doping Law*, ESPN (Nov. 11, 2014, at 07:54 ET), https://www.espn.com/olympics/story/_/id/11857475/germany-drafts-anti-doping-law-result-3-years-imprisonment [<https://perma.cc/28ZS-3MQH>].

¹⁹⁴ LG München II [Munich Regional Court II] Jan. 15, 2021, 2 KLS 380 Js 108323/19 (2015) (Ger.) <https://openjur.de/u/2349627.html> [<https://perma.cc/SSG6-Z8YR>]; *German Blood Doping Doctor Sentenced to Jail*, DEUTSCHE WELLE (Jan. 15, 2021), <https://www.dw.com/en/german-blood-doping-doctor-sentenced-to-jail/a-56235280> [<https://perma.cc/9NTD-CC3Y>]; see also *Erfurt Sports Physician Released Early From Prison*, SPIEGEL SPORT (June 25, 2022, at 16:18 CT), <https://www.spiegel.de/sport/doping-erfurter-sportmediziner-mark-schmidt-vorzeitig-aus-haft-entlassen-a-97389134-19eb-42d1-9cdb-514fcc83845c> [<https://perma.cc/ST2H-9U5M>] (noting that Mark Schmidt has been released from Prison earlier than provided by his sentence).

¹⁹⁵ *German Blood Doping Doctor Sentenced to Jail*, *supra* note 194.

¹⁹⁶ *International German Blood-Doping Case Widens*, DEUTSCHE WELLE (Mar. 20, 2019), <https://www.dw.com/en/doping-probe-of-german-doctor-leads-to-21-athletes-from-8-countries/a-47993421> [<https://perma.cc/Z5EU-AYWR>].

¹⁹⁷ *Id.*

¹⁹⁸ See *Anti-Doping Alphabet Soup: Results Management*, *supra* note 71 (urine and blood testing are common drug testing methods).

¹⁹⁹ *International German Blood-Doping Case Widens*, *supra* note 196.

²⁰⁰ 2 KLS 380 Js 108323/19 (Ger.).

²⁰¹ *German Blood Doping Doctor Sentenced to Jail*, *supra* note 194.

²⁰² *Id.*

France's anti-doping framework was one of the first European frameworks created to "coordinate and fight efficiently against doping in sport."²⁰³ France's anti-doping legislation, concerning the health of athletes and the fight against doping, can be found in Articles L.230-1 through L.232-31 of Title III of the Sports Code.²⁰⁴ A version of this legislation has existed since 2006.²⁰⁵ Doping legislation has existed in France in some form since 1965, with penalties for knowingly taking a drug or knowingly permitting the use of a drug, including fines and sentences of up to a year.²⁰⁶ Today, Articles L232-25 through L232-31 "cover penal dispositions relative to the fight against doping," by targeting the possession, fabrication, prescription, and administration of illegal substances.²⁰⁷ Punishment can range from fines to imprisonment, according to Article L232-26.²⁰⁸ France's legislation considers an athlete ("a sportsman") to be someone participating in competitions organized by IFs, participating in a competition that provides financial awards, or participating "either [in] an international sporting event or falling within the scope of an anti-doping organization signatory to" the Code, and can include national-level, international-level, and recreational athletes, as defined by the French NADO.²⁰⁹ France's legislation permits it to "limit directly or indirectly the availability of doping methods and substances present on its territory."²¹⁰ There is no extraterritoriality component in the legislation.²¹¹ Notably, while the Code and UNESCO Convention (ratified

²⁰³ COUNCIL OF EUROPE, (STE N° 135) RAPPORT D'EVALUATION DU GROUPE DE SUIVI (T-DO) : VISITE D'EVALUATION EN FRANCE 27–30 MARS 2023 [(STE NO. 135), MONITORING GROUP EVALUATION REPORT (T-DO): EVALUATION VISIT TO FRANCE, MARCH 27–30, 2023], at 9, ¶1.12 (2024), <https://rm.coe.int/t-do-2024-12-rapport-d-evaluation-france-mars-2023-adopte/1680b08dc6> [<https://perma.cc/FRG2-B6ZY>].

²⁰⁴ Code du Sport [C. sport] [Sport Code] arts. L230–1 to L232–31 (Fr.). The legislation provides for France's compliance with the Code, with references to WADA and its structure throughout the legislation. *See, e.g.*, Code du Sport [C. sport] [Sport Code], art. L.230-4.

²⁰⁵ Code du Sport [C. sport] [Sport Code] arts. L230–1 to L232–31 (when looking at the prior versions available).

²⁰⁶ COUNCIL OF EUROPE, T-DO 27, PROJECT ON THE COMPLIANCE WITH COMMITMENTS: COMPLIANCE BY FRANCE WITH THE ANTI-DOPING CONVENTION 5 (2004), <https://rm.coe.int/project-on-compliance-with-commitments-respect-by-france-of-the-anti-d/168073ac52> [<https://perma.cc/J5EJ-L6UW>].

²⁰⁷ Code du Sport [C. sport] [Sport Code], arts. L.232–25 to L232–31 (Fr.); COUNCIL OF EUROPE, *supra* note 203, at 22, ¶ 5.2.

²⁰⁸ Code du Sport [C. sport] [Sport Code], arts. L.232–26 (Fr.) (referencing 131–38 and 131–39 of the Penal Code) (stating that "[I.]The possession, without duly justified medical reason, of one or more prohibited substances or methods set out by order of the minister in charge of sports is punishable by one year of imprisonment and a fine of €3,750. This decree lists the unspecified substances and methods identified on the list of prohibitions mentioned in Art. L. 232-9. [II.] The following are punishable by five years' imprisonment and a fine of €75,000: [1°] The prescription, administration, application, transfer or offering to athletes, without duly justified medical reason, of the substances or methods mentioned in Art. L. 232-9, or the facilitation of their use or the incitement to their use; [2°] The production, manufacture, import, export, transport, possession or acquisition, for the purpose of use by an athlete, without duly justified medical reason, of one or more substances or methods appearing on the list mentioned in the last paragraph of Art. L. 232-9; [3°] The falsification, destruction or degradation of any element relating to the control, the sample or the analysis").

²⁰⁹ Code du Sport [C. sport] [Sport Code], arts. L.230–3 (Fr.).

²¹⁰ COUNCIL OF EUROPE, *supra* note 203, at ¶ 5.10.

²¹¹ Code du Sport [C. sport] [Sport Code], arts. L.230–1 to L232–31 (Fr.).

by France in 2007)²¹², “allow countries to adopt measures applicable to fully put in place an efficient fight against doping,”²¹³ it does not exempt them from compliance reviews. In fact, France had not “implement[ed] in its legislation the World Anti-Doping Code (the Code) itself.”²¹⁴ The approach of the Olympics and the pressures around compliance and abiding by the Code prompted changes to legislation that led to compliance with the Code.²¹⁵ Additional changes occurred through a Ministerial Order in June 2024, which repealed and replaced certain provisions of the Sports Civil Code, in the lead-up to the Olympics.²¹⁶

France’s legislation has led to athletes and doctors paying fines and facing prison sentences. In January 2025, a former French cyclist, Marion Sicot, was sentenced to ten “months in prison with a suspended sentence” and a 5,000 euro fine.²¹⁷ The sentence imposed was for doping that occurred in 2016 through 2019, for which she was serving a four-year ban following a decision by the Conseil D’État.²¹⁸ An acquaintance who helped administer the products and a doctor suspected of aiding with prescriptions were both also sentenced to a suspended sentence of ten months imprisonment and fines.²¹⁹ The doctor is also facing a

²¹² *International Convention Against Doping in Sport: States Parties*, *supra* note 135.

²¹³ COUNCIL OF EUROPE, *supra* note 203, at 9.

²¹⁴ François Berbinau & Mathilde Dulize, *A Revolution in French Doping Legislation*, 30 NYSBA ENT. ARTS & SPORTS L. J. 35, 35 (2019); *see also* Code du Sport [C. sport] [Sport Code], arts. L.230–1 to L.232–31 (Fr.) (indicating a modification by ordinance in 2021 to the legislation that governs doping in France); *see also* David Owen, *France Acts to Bring Anti-Doping Rules Into Line With New Code*, INSIDE THE GAMES (Apr. 27, 2021), <https://www.insidethegames.biz/articles/france-world-anti-doping-code> [https://perma.cc/47QR-DSVV].

²¹⁵ Berbinau & Dulize, *supra* note 214, at 35.

²¹⁶ Arrêté du 18 Juin 2024 Fixant La Liste des Substances et Méthodes Dont la Détention est Interdite en Application de L’Article L. 232-26 du Code du Sport, [Order of 18 June 2024 Establishing the List of Substances and Methods Whose Possession is Prohibited Pursuant to L. 232–26 of the Sports Code], JOURNAL OFFICIEL DE LA REPUBLIQUE FRANÇAISE [OFFICIAL GAZETTE OF FRANCE], June 26, 2024, No. 0149, Text 44, <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000049780515> [https://perma.cc/GM4K-N7F8] (last visited Apr. 28, 2026, at 18:01 CT) (outlining an updated list of prohibited substances, stimulants, and prohibited methods to replace the existing list at Art. 44).

²¹⁷ *Cyclisme. Marion Sicot condamnée à 10 mois de prison avec sursis pour le dopage à l'EPO* [Cycling. Marion Sicot Sentenced to 10 Months' Suspended Imprisonment for EPO Doping], OUEST-FRANCE (Jan. 22, 2025, at 16:02 CT), <https://www.ouest-france.fr/sport/cyclisme/cyclisme-marion-sicot-condamnee-a-10-mois-de-prison-avec-sursis-pour-dopage-a-lepo-9a124b86-d8d0-11ef-8f51-eac5203dc552> [https://perma.cc/B9DV-WM2K]; Xavier Louvel, *Dopage: L'ancienne Cycliste Marion Sicot Condamnée à 10 Mois de Prison avec Sursis par le Tribunal de Montargis* [Doping: Former Cyclist Marion Sicot Sentenced to 10 Months Suspended Prison Sentence by the Montargis Court], FRANCE BLEU ICI (Jan. 22, 2025, at 14:05 CT), <https://www.francebleu.fr/infos/faits-divers-justice/dopage-l-ancienne-cycliste-marion-sicot-condamnee-a-10-mois-de-prison-avec-sursis-par-le-tribunal-de-montargis-2215853> [https://perma.cc/DF6M-GCT3].

²¹⁸ *Cyclisme. Marion Sicot condamnée à 10 mois de prison avec sursis pour le dopage à l'EPO*, *supra* note 217; Agence Française de Lutte Contre le Dopage, Conseil d’État, Mar. 22, 2022, Arrêt 450363, Décision relative à Mme Marion Sicot, at 6, <https://www.aflld.fr/wp-content/uploads/2022/03/Publication-arret-450363.pdf> [https://perma.cc/FS7R-TJNN] (last visited Apr. 28, 2026, at 20:51 CT) (Fr.).

²¹⁹ *Cyclisme. Marion Sicot condamnée à 10 mois de prison avec sursis pour le dopage à l'EPO*, *supra* note 217.

license suspension for six months.²²⁰ Also in January of 2025, a mid-distance runner was sentenced to a ten to twelve-month suspended sentence following a four-year suspension from the sport, and is also prohibited from any activity linked to the sport for eighteen months.²²¹ The doctor and pharmacists who supplied the products also faced penalties: the doctor (who is now retired) was sentenced to a twelve-month suspended sentence and a 3,000 euro fine, and a symbolic three-year suspension from practicing medicine, while the pharmacist was fined 3,000 euros.²²² Similarly, a doctor known in the cycling world for providing doping assistance was sentenced in 2014 to two years in prison (twenty months of suspended-sentence), and then was sentenced in 2022 to a year of house arrest with an ankle monitor for doping activities.²²³ Because of the consequences doctors can face, the French National Council of the Order of Doctors has published a guide for doctors concerning doping.²²⁴

D. *Differences Between France and Germany's Legislation and the Rodchenkov Act*

²²⁰ *Id.*

²²¹ Jean Saint-Marc, *Dopage: de la prison avec sursis pour l'ancien athlète Hamza Belmer, le médecin et les pharmaciens condamnés eux aussi* [Doping: Suspended Prison Sentence for Former Athlete Hamza Belmer; Doctor and Pharmacists Also Convicted], LE TELEGRAMME (Jan. 30, 2025, at 21:25 CT), <https://www.letelegramme.fr/sports/athletisme/dopage-de-la-prison-avec-sursis-pour-hamza-belmer-le-medecin-et-les-pharmaciens-condamnes-eux-aussi-6751677.php> [https://perma.cc/C6WM-VWPW]; Rédaction Val de Marne [Val de Marne Editorial Staff], *Le "médecin des pauvres" qui avait fourni des produits dopants à un sportif piqué par la justice* [Val-de-Marne. The 'Doctor of the Poor' Who Supplied Doping Products to an Athlete Caught by the Authorities], ACTUPARIS (Feb. 1, 2025, at 08:14 CT), https://actu.fr/ile-de-france/maisons-alfort_94046/val-de-marne-le-medecin-des-pauvres-qui-avait-fourni-des-produits-dopants-a-un-sportif-pique-par-la-justice_62197561.html [https://perma.cc/CX3Q-BUET]; Anaïs Denet, *'Je N'étais Pas Bien Dans ma Tête': un Ancien Coureur de Demi-Fond Nantais Condamné Pour Dopage* ['I Wasn't in a Good Place Mentally': A Former Middle-Distance Runner from Nantes Convicted of Doping], OUEST FRANCE (Jan. 30, 2025, at 21:40 CT), <https://www.ouest-france.fr/societe/justice/je-netais-pas-bien-dans-ma-tete-un-ancien-coureur-de-demi-fond-nantais-condamne-pour-dopage-c470362e-df31-11ef-8532-707f28b1e8eb> [https://perma.cc/Q9NZ-FH8Q].

²²² Rédaction Val de Marne, *supra* note 221.

²²³ Éric Michel, *'Son nom était connu dans le peloton': au procès du docteur Mabuse, les drôles de pratique du dopage d'avant* [His Name was Well-Known in the Peloton': At the Trial of Dr. Mabuse, the Strange Doping Practices of the Past], LE PARISIEN (Nov. 23, 2021, at 09:38 CT), <https://www.leparisien.fr/sports/cyclisme/son-nom-etait-connu-dans-le-peloton-au-proces-du-docteur-mabuse-les-droles-de-pratique-du-dopage-davant-23-11-2021-SJ7GBA7EJJJC53EHXF6GFD2BBVL.php> [https://perma.cc/4NPE-72LC]; *Cyclisme et dopage: le sulfureux "Docteur Mabuse" condamné à un an ferme sous bracelet* [Cycling and Doping: The Infamous 'Doctor Mabuse' Sentenced to One Year in Prison Under House Arrest with an Electronic Tag], LE PARISIEN (Jan. 17, 2022, at 16:36 CT), <https://www.leparisien.fr/sports/cyclisme/cyclisme-le-sulfureux-docteur-mabuse-condamne-a-un-an-ferme-sous-bracelet-17-01-2022-RRVLXCPMVZBI5JOGI56RMVA5AA.php> [https://perma.cc/6SR7-XMZF].

²²⁴ *Le médecin face au dopage* [The Doctor's Perspective on Doping], CONSEIL NATIONAL DE L'ORDRE DES MÉDECINS [NATIONAL COUNCIL OF THE ORDER OF PHYSICIANS] (July 8, 2024), <https://www.conseil-national.medecin.fr/medecin/exercice/medecin-face-dopage> [https://perma.cc/TDD8-4LXC] (the guide informs doctors on good practices to follow to play in part in preventing doping, information about banned substances and medical treatments banned and permitted, how to advertise against doping in their medical offices, and reminds doctors that as a medical professional, they have a role to play to prevent doping and that they can face consequences for prescriptions).

France and Germany's anti-doping legislation present notable differences to the United States' Rodchenkov Act. To begin, neither of them have the extraterritoriality application present in the Rodchenkov Act. Rodchenkov's extraterritoriality provision provides that the Act 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."²²⁵ The Act itself has been used in domestic cases, but questions remain about how the Act would be able to assert jurisdiction to events occurring outside the country.²²⁶ WADA has expressed concern over the Act's potential "unintended consequences" that "will disrupt the global anti-doping framework."²²⁷ Further, unlike France and Germany's acts which criminalize athletes for doping in addition to those who manufacture, disseminate, and prescribe doping substances, Rodchenkov exempts athletes and targets other actors involved in doping.²²⁸ Despite looking to France and Germany's anti-doping legislation prior to drafting the Rodchenkov Act²²⁹, the Act appears to target a broader range of actors and not athletes. WADA has expressed concerns that differences in legislation and rules compromises their "efforts to maintain one set of rules for sports everywhere."²³⁰

The anti-doping structure is premised on a strict liability concept—where athletes are responsible for what they input into their body.²³¹ The rationale behind strict liability is that it takes away from having to prove that "the athlete was negligent in allowing that substance to enter his or her body";²³² however, the Code allows athletes "the opportunity to reduce their sanctions if they can prove no significant fault."²³³ WADA's underlying rationales for this "are maintaining the integrity of competition and protecting the health of the athletes."²³⁴ France and Germany's anti-doping legislation uphold this premise through legislation that criminalizes athletes, unlike Rodchenkov.²³⁵ In fact, in France's case, the Council of Europe evaluated France's legislation and found

²²⁵ Page, *supra* note 158, at 452.

²²⁶ *Id.* at 452–53 (2023); *see also* United States v. Lira, No. 22 Cr. 151 (LGS), 2022 WL 17417129 *1 (S.D.N.Y. Dec. 5, 2022); United States v. Barrett, Case No. 1:23-cr-00623 (JLR), 2025 WL 371084 (S.D.N.Y. Feb. 3, 2025) *1–2 (both cases addressing events that took place in the US).

²²⁷ WADA Statement on Rodchenkov, *supra* note 22.

²²⁸ The Rodchenkov Anti-Doping Act, 21 U.S.C. §§ 2401–2404 (2020); Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, Bundesgesetzblatt Teil I [BGBL I] at 2110 (Ger.), https://www.gesetze-im-internet.de/englisch_antidopg/englisch_antidopg.html [<https://perma.cc/X5GU-THEF>]; Code du Sport [C. sport] [Sport Code] arts. L230–1 to L232–31 (Fr.).

²²⁹ H. R. Rep. 116-251, *supra* note 183, at 8.

²³⁰ Futterman, *supra* note 21.

²³¹ *See supra* Part I; Pound & Jenkins, *supra* note 49, at 74.

²³² Thomas Wyatt Cox, *The International War Against Doping: Limiting the Collateral Damage from Strict Liability*, 47 VAND. J. TRANSNAT'L L. 295, 308 (2014).

²³³ *Id.* at 309.

²³⁴ *Id.*

²³⁵ The Rodchenkov Anti-Doping Act, §§ 2401–2404; Anti-Doping-Gesetz [Anti-Doping Act], Dec. 5, 2015, BGBL I at 2110 (Ger.), Code du Sport [C. sport] [Sport Code] arts. L230–1 to L232–31 (Fr.).

that they allowed their legislation to evolve to meet “the demands of the Code” in addition to the Council of Europe’s Anti-Doping Convention.²³⁶

WADA’s statement regarding the Rodchenkov Act indicates the organization’s larger concerns relating to the United States’ compliance with the Code potentially undermining the fight against doping, and stating that “[n]o nation has ever before asserted criminal jurisdiction over doping offences that occurred outside its national borders.”²³⁷ WADA’s concern is that this may “lead to overlapping laws in different jurisdictions that will compromise having a single set of anti-doping rules for all sports and all Anti-Doping Organizations under the World Anti-Doping Code,” which “will have negative consequences as harmonization of the rules is at the very core of the global anti-doping system.”²³⁸ WADA does not appear to have raised similar concerns about France’s Sports Code and Germany’s AntiDopG.

So far, the Act has been applied against Eric Lira²³⁹, a “Texas-based naturopathic.”²⁴⁰ Text-messages between Lira and Nigerian sprinter Blessing Okagbare, who tested positive “for human growth hormone,” implicated Lira’s role in the doping.²⁴¹ Lira was charged with “conspiring with others to effect a scheme” of providing performance-enhancing drugs to others and ultimately providing those drugs to the Nigerian athlete, and a Swiss athlete.²⁴² There also appears to have been discussion of evading detection, by blaming a positive test on beef consumption.²⁴³ Lira is based in the U.S. and is alleged to have engaged in the doping conspiracy in New York, therefore making the extraterritoriality aspect of the act insignificant.²⁴⁴ Lira was sentenced to three months in prison, “one year of supervised release and [was] ordered to forfeit \$16,410.”²⁴⁵ In December of 2023, two former sprinters were indicted for “participating in an

²³⁶ COUNCIL OF EUROPE, *supra* note 203, at 2–3 (the additional protocol to the Council of Europe’s Anti-Doping Convention creates a monitoring group responsible for the supervision of the application and implementation of the convention through the evaluation team’s examination of national reports and site visits and will submit conclusions and recommendations to the Monitoring Group through a public evaluation report); *see also* Additional Protocol to the Anti-Doping Convention, arts. 1–2, *opened for signature* Sep. 12, 2002, ETS No. 188, at 2 (entered into force Apr. 1, 2004) (this report was prepared for France following one of these visits); Anti-Doping Convention, *opened for signature* Nov. 16, 1989, CETS No. 135 (entered into force Mar. 1, 1990).

²³⁷ WADA *Statement on Rodchenkov*, *supra* note 22.

²³⁸ *Id.*

²³⁹ *See* United States v. Lira, No. 22 Cr. 151 (LGS), 2022 WL 17417129 *1 (S.D.N.Y. Dec. 5, 2022).

²⁴⁰ Thaddeus Cwiklinski, *Catching Conspirators: How Can International Organizations Counter State-Sanctioned Doping After Scandal at the Sochi Olympics?*, 55 CASE W. RES. J. INT’L L. 535, 566 (2023).

²⁴¹ *Id.*

²⁴² *Lira*, 2022 WL 17417129, at *1.

²⁴³ *Id.*

²⁴⁴ *See generally* *Lira*, 2022 WL 17417129, at *1 (discussing “overt acts in furtherance of the alleged conspiracies” that occurred in New York City as the basis for the Indictment).

²⁴⁵ *First Defendant Ever Charged With Violating Anti-Doping Act Sentenced To Prison*, U.S. ATTORNEY’S OFF. S.D. N.Y. (Feb. 21, 2024), <https://www.justice.gov/usao-sdny/pr/first-defendant-ever-charged-violating-anti-doping-act-sentenced-prison> [<https://perma.cc/HK8W-FR84>].

international doping fraud conspiracy in violation of the Rodchenkov Anti-Doping Act.”²⁴⁶ The two defendants were charged to have engaged in a conspiracy to obtain and distribute performance enhancing drugs ahead of the Tokyo Olympic Games in the U.S.²⁴⁷ Both of the defendants were based in the United States as coaches, but previously competed as sprinters for, Liberia and Jamaica, respectively.²⁴⁸ All defendants were living and operating in the United States, and thus did not implicate extraterritoriality concerns.

V. MOVING FORWARD: RECOMMENDATIONS AND CONCLUSION

This Note demonstrated how compliance is the cornerstone of the WADA structure and that a NADO's ability to function depends on their compliance with the structure. Both WADA and the IOC are in the driver's seat when it comes to providing consequences for non-compliance, which can ultimately result in nations' Olympic games participation being jeopardized. The second part of this Note discussed the Rodchenkov Act and how it differs from France and Germany's anti-doping acts; and raises questions of whether Rodchenkov complies with the Code, concerns that have been directly raised by WADA.

The fear that the Rodchenkov Act could contribute to finding that the United States has been noncompliant is a concern stemming from recent events. WADA has allegedly placed USADA under a compliance review.²⁴⁹ Additionally, the 2034 Olympic Games contract awarded to Salt Lake City contained a clause giving the IOC “the right to ‘terminate Olympic host city contracts in cases where the supreme authority of the World Anti-Doping Agency in the fight against doping is not fully respected or if the application of the world antidoping code is hindered or undermined.’”²⁵⁰ As discussed above, the IOC has already banned Russia from participating in the Olympic games for, among other reasons, non-compliance. To be clear, the United States' compliance review is different than Russia's. The United States has not engaged in state-sponsored doping like Russia has. The Russian example, along with the Kenyan one, show that WADA and the IOC will enact the consequences for non-compliance put forward in the Code should they have reason to. The contract clause in the Salt Lake City games contract confirms that possibility. The Rodchenkov Act, in addition to USADA's actions, could be scrutinized by WADA in a compliance review as the Kenyan example reflects that WADA does review national legislation.

To ensure compliance and to guarantee the Games of 2034 occur in Salt Lake City, this Note proposes the following Amendments to the Rodchenkov Act. To

²⁴⁶ United States v. Barrett, Case No. 1:23-cr-00623 (JLR), 2025 WL 371084, at *1 (S.D.N.Y. Feb. 3, 2025).

²⁴⁷ *Id.* (appearing to indicate that Eric Lira was their co-conspirator at *1–3).

²⁴⁸ *Id.*; Associated Press, *Former Elite Sprinters Charged in Doping Case*, NBC SPORTS (Dec. 15, 2023, at 12:19 CT), <https://www.nbcsports.com/olympics/news/oneil-wright-dwayne-barrett-drugs-doping-track-and-field> [<https://perma.cc/W2YP-X7VX>].

²⁴⁹ Keating, *supra* note 23; WADA's *Statement on USADA Scheme*, *supra* note 23; Draper, *supra* note 23; WADA *Investigator Helped With USADA Scheme*, *supra* note 23; Boshier, *supra* note 23.

²⁵⁰ Longman, Panja & Schmidt, *supra* note 28.

begin, the United States should consider criminalizing athletes directly for doping within the Act. This would mirror legislation in countries like Germany and France which, as established above, have been found compliant with the Code and would reinforce the strict liability framework the anti-doping code is built on. Further, such legislation helps “govern drug use in sport”²⁵¹ in a way that furthers the goals of WADA and the global anti-doping structure.

Second, the United States should consider amending the Act by removing its extraterritoriality component. Removing the extraterritoriality provision would mirror France and Germany’s legislation without hindering the ability of the Act to target athletes and others doping on U.S. soil. After having made some changes to their legislation to ensure compliance, France is a notable parallel for this, as France just hosted the Olympic Games.²⁵²

Removing the extraterritoriality component would continue to allow the Act to criminalize those who participate in doping. As demonstrated through the current application of the Rodchenkov Act to cases and events that occurred in the United States, taking away the extraterritoriality of the Act would likely not limit the United States from charging these defendants. Recent case examples have only been applied to defendants whose actions occurred within the United States.²⁵³ These cases resembled those in Germany and France described in Part IV. Thus, removing the extraterritoriality component would allow the United States to continue targeting non-athlete actors involved in doping in the country, similarly to Germany and France, and would reinforce finding the United States compliant with the World Anti-Doping System.

Finally, removing extraterritoriality from the Act would benefit the United States more generally in addition to being found compliant within the WADA framework. IOC and global sport leaders are expressing concern about traveling to the United States, to the point that “WADA moved a conference it had planned after the Olympics from New York to Montreal.”²⁵⁴ This could also have direct consequences on athletes and U.S. sporting competitions: athletes and their teams may be afraid to travel to the United States for American based competitions. While this does not affect the NFL, the NCAA, and other American-based organizations, this can have serious effects on athletes who compete under an IF. These sports may struggle to create established and lasting structures of competition in the United States, hindering both the growth of certain sports in the United States and the opportunities for athletes to compete in the United States in front of a home crowd. Instead, they may always

²⁵¹ Chester & Wojek, *supra* note 173, at 76.

²⁵² Berbinau & Dulize, *supra* note 214, at 35; Arrêté du 18 Juin 2024 Fixant La Liste des Substances et Méthodes Dont la Détention est Interdite en Application de L’Article L. 232-26 du Code du Sport, *supra* note 216.

²⁵³ United States v. Lira, No. 22 Cr. 151 (LGS), 2022 WL 17417129 (S.D.N.Y. Dec. 5, 2022); United States v. Barrett, Case No. 1:23-cr-00623 (JLR), 2025 WL 371084 (S.D.N.Y. Feb. 3, 2025).

²⁵⁴ *An Anti-Doping Feud Between WADA and the USA Causes Tension Ahead of the Paris Olympic Opening Ceremony*, ABC NEWS AUSTL. (July 26, 2024, at 00:30 CT) <https://www.abc.net.au/news/2024-07-26/paris-olympics-anti-doping-feud-erupts-between-wada-and-usa/104145436> [https://perma.cc/SB3H-BETL].

be forced to travel to compete. The United States should consider these proposed amendments to protect athletes and ensure that international athletic opportunities may continue to be offered in the United States.