

COLLISIONS OF THE INTERNATIONAL AND THE NATIONAL SPORTS LAW AND THE PROBLEM OF PROTECTING THE RIGHTS OF ATHLETES*

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Abstract. *The article is devoted to the existing conflicts norms in international and national sports law, including those related to different understanding of the legal responsibility of athletes on the example of the doping scandal in Russia. In this regard, the author critically assesses the legal actions of the Russian authorities, as well as international sports organizations. The article notes that the application of the strict liability rule of the WADA Code is unacceptable as the using of collective mass sanctions against innocent athletes. The article also critically evaluates sanctions related to deprivation of the right of athletes to represent their states and use national symbols at international sports competitions. In the author's opinion, such actions are not fair, humiliate athletes, limit their rights and can be challenged by athletes in Russian courts. The article proposes concrete measures to eliminate contradictions in the norms of sports law, to strengthen the role of the UN in the management of international sports, to create a new system of international sports courts, and independent international bodies to investigate corruption and crimes in international sports. The author believes that the new public organization, International Athlete Rights Association (IARA), created by the International Sports Law Association and the International Union of Lawyers, will contribute to improving the institutions of sports law and protecting the rights of athletes in courts, international and national organizations.*

Keywords: CAS, Constitution of Russian Federation, Corpus Delicti, Corruption, FBI, Guilt, IARA, IOC, Immunity, Integrity, Interpol, Moscow City Court, Rodchenkov Act, Strict Liability Rule, Swiss Federal Court, Universal Declaration of Human Rights, United Nations Office for Sports Development and Peace, WADA, World Anti-Doping Code

Why did I choose this topic for my article? There is one main reason. These collisions between norms of the international and national sports law in recent years grow and become serious. There is a good example of this collision. This is a doping scandal in Russia. One side believes that international law was broken, there was government intervention in the manipulation of doping samples and Russia should be punished. The other side denies this, and claims that the state is not guilty and only a small group of criminals committed these crimes. The parties evaluate the evidence differently in accordance with their understanding norms of the international and national law; make conflicting legal and judicial decisions. This confrontation lasts for years and ruins international sport.

The reasons for these collisions are different. There are political, criminal and legal reasons. This article devoted to legal reasons, in particular, conflicts of international and national sports law that violate the rights of athletes.

There are a lot of such conflicts and collisions between norms of international and national sports law. However, there is one very important and fundamental contradiction. There is a different understanding of the concept of an offense in international sports and common international law, national law of many countries.

All lawyers know what *Corpus delicti* is. There are four main signs of any offense: the object, the objective side, the subjective side of the crime and the subject of the crime. If there is no only one this sign of an offense, then there is no offense. Every law student has known this *postulatum* since ancient Rome. This is an axiom.

Subjective side, namely the presence of guilt is the main sign of any offence. If a person is not guilty of a crime, then there is no crime. In Russia, this is written in the article 49 of the Constitution: "Everyone accused of committing a crime is innocent until he or she guilty will not be proven and established by a final court verdict."¹

What do we see in the WADA Code now? There is no concept of guilt at all, and there is the so-called *strict liability rule*. Guilt under the WADA Code does not matter. In particular, the article 2.1 of the new edition of the 2021 Anti-Doping Code informs us. "Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples.... An Anti-Doping rule violation is committed under this Article without regard to an Athlete's Fault".² According to the WADA Code, an athlete's fault can only matter for the size of the punishment.

What does this mean? Any athlete will be guilty if a prohibited substance is found in his urine and blood. It doesn't matter how the forbidden substance got into its body. Any athlete will always be punished under the WADA Code, even if the prohibited substance was added to food and water secretly by other person or persons, even if he or she took a prohibited substance as prescribed by a sports doctor, even if he or she ate chicken in a restaurant containing a prohibited substance, or used a biological supplement where the prohibited substance is not has been officially announced. Any athlete will always be punished if he or she is not guilty. Is this fair? How can this comply with the principles of national law of many countries and article 11 of the Universal Declaration of Human Rights³?

1. "The Constitution of the Russian Federation" (adopted by voting on 12.12.1993 with amendments approved during the all-Russian vote on 01.07.2020) //The official Internet portal of legal information. Access mode: <http://www.pravo.gov.ru> (date of reference 04.07.2020).

2. World Anti-Doping Code 2021 // World Anti-Doping Agency. Access mode: <https://www.wada-ama.org/en/resources/the-code/2021-world-anti-doping-code> (date of reference 07/11/2020)

3. Universal Declaration of Human Rights // United Nations. Access mode: <http://www.un.org/>

Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Guilt is not only a sign of a crime; it is also a sign of any wrongdoing. Any legal relationship in the field of civil law or administrative law or other branches of law is associated with the concept of guilt, since legal sanctions are applied only to guilty legal entities and individuals.

It was very difficult understand why an innocent person is responsible for committing an offense in sports law, while the guilty persons don't punish. For example, it was such a head of the Anti-Doping laboratory in Sochi Gregory Rodchenkov. Now he is declared a hero in some countries, because, in accordance with his testimony, a criminal scheme for the substitution of biological samples with the participation of Russian state officials was revealed. However, he was also an ordinary criminal, organizer of this fraudulent scheme who himself prepared doping cocktails for athletes. Athletes could not know about these manipulations. At least their guilt was not established by WADA and the Russian investigation. However, they were punished and will be punished. Because the fault of athletes does not matter in international sports, there is only a *strict liability rule* in WADA Code. According to this rule the presence of salt and scratches on some samples, made others persons in Anti-Doping Laboratories are the legal basis for their punishment. Their personal guilt in committing an offense does not matter. The main thing is the fact of sample swapping. It doesn't matter who made them: an athlete, head of a laboratory, laboratory assistant, secret service agent, Lucifer or a representative of an extraterrestrial civilization. In any case, the athlete will be punished.

In connection with Rodchenkov's testimony, the International Olympic Committee has disqualified 43 Russian athletes for life, whose guilt has not been proven. As a result, Russian athletes were deprived of 13 Olympic medals won in Sochi in 2014. Subsequently, the Court of Arbitration for Sport in Lausanne changed the punishment 28 Russian athletes for lack of sufficient evidence.⁴ However, this did not solve the problem of punishing innocent Russian athletes.

en/documents/decl_conv/declarations/declhr (date of reference 12.09.2020)

4. Media release. Anti-Doping – Sochi 2014// The Court of Arbitration for Sport (CAS) Access mode: <http://www.tas-cas.org/en/index.html> (date of reference 10.02.2018).

In particular, according to the WADA Department of Investigation, sanctions can be applied also against more than 150 Russian athletes.⁵ At the same time, many guilty people as Rodchenkov, some Russian sports and other officials have not yet been punished. Is this fair?

Of course, it is not fair. Ministry of Sports of Russia admitted own guilt in official letters in May and September 2018 sent to WADA. Paradoxically, after that no official has been punished in Russia for this doping scandal. Some officials have been fired for various reasons, and others have even received promotions and government awards for their "fruitful" activities in Russian sports.

It is not surprising that Russia received a strong image of a country where corrupt officials and doping lovers are not punished. Moreover, many people sincerely believe that Russia encourages the use of doping by its athletes. Overcoming this bad reputation is very difficult, especially after the decision by WADA that the Russian Anti-Doping Agency does not comply with the requirements of the WADA Code.

There are many such stories when the Russian authorities, like ostriches, hide their heads in the sand and pretend that they know nothing about what is happening in Russian sports. It seems to me also that some Russian officials are silent, because they hope that the doping scandal will resolve itself and all people will soon forget about their sins, which disgraced Russian sports. From my point of view, they are deeply mistaken. No one will forget this story until Russia cleans itself of all this dirt and criminal behavior of its officials that stuck to the image of Russian sports. Only an honest attitude towards all these events will allow Russia to get out of this doping scandal with dignity.

I hope that the time has come for the Russian authorities to open this purulent wound of the doping scandal with a scalpel and cleanse the healthy body of Russian sports from all these suppurations, corrupt and criminal officials, for whom gold medals, awards and money are more important than the rules of Fair Play, the reputation of Russian sports and Russia. I hope much that all persons guilty of the doping scandal will sooner or later be punished in accordance with the legislation of the Russian Federation.

However, we should return to the problem of prosecuting innocent Russian athletes and find out why a large number of innocent athletes were punished, whose guilt has not been proven and maybe will punish in the nearest future.

As I see it, we do not find a reasonable explanation of the legal practice of punishment of innocent persons. It seems this legal practice is very similar to the legal practice of some totalitarian states in the past. History knows many such

5. Shitikhin A. New sanctions await Russian athletes. WADA has confirmed one and a half hundred violations // Championship. Access mode: https://www.championat.com/other/article-4029991-vada-dokazalo-vinu-153-rossijskih-sportsmenov-i-budet-trebovat-dlja-nih-nakazani-ja.html?utm_source=copypaste (date of reference 10.05.2020).

examples. There was such the Prosecutor General Vishinski in the USSR during the time of Stalin, and he was the main ideologist of the so-called concept of objective guilt. What was that concept? Guilt didn't matter according to this concept. For example, if an Anti-Soviet leaflet is found in your house, then you were declared «Enemy of the People». It didn't matter how this Anti-Soviet leaflet ended up in your house. Maybe bad neighbor threw it up. Maybe the secret service agent threw it up. You were to blame anyway.

We see the same situation established by the WADA Code and the WADA International Standard for Code Compliance. Russian athletes disqualified and will be disqualified, despite the fact that they could not know anything about Rodchenkov's manipulations with their samples. However, they may be punished severely. They may not be allowed to attend the Summer Olympics in Japan, and the Winter Olympics to China. They may be prohibited to say that they are citizens of the Russian Federation. They will be forbidden to respect their flag and their anthem. They are allowed to walk only in neutral clothes, like in a fascist concentration camp. And no one will care about the fact that Article 15 of the UN Declaration of Human Rights will be violated.⁶ Is this fair?

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Russian athletes were deprived of the universal and natural right to belong to the Motherland, where their parents and families live, where their relatives are buried, where great victories took place, where they were simply loved and raised. There are not such sanctions as depriving athletes of their national flag and anthem, sportswear with national symbols or compulsory payment of any fine or compensation in the Olympic Charter. In accordance with the norms of international law, no one can force athletes and members of the sports delegation to go during the Olympic Games under neutral flags or neutral clothes or listen to a neutral anthem. Unfortunately, the International Olympic Committee exceeded its mandate and applied penalties not provided by the Olympic Charter.

In the history of the Olympic Games, there were earlier cases when athletes performed under a neutral flag. But all these cases were dictated by objective circumstances associated with a change status of states, their unification or separation. There were cases of athletes performing under a neutral flag in connection with their voluntary expression of will (Moscow, 1980), support for refugees (Rio de Janeiro, 2016), a short-term suspension of membership of national

6. Universal Declaration of Human Rights // United Nations. Access mode: http://www.un.org/en/documents/decl_conv/declarations/declhr (date of reference 12.12.2019)

Olympic committees (India and Kuwait) due to violation regulatory standards. However, never in the entire history of the Olympic Movement, collective sanctions were imposed on athletes on such a large scale, humiliating athletes and the state they represent.

I would not like to politicize the problem of guilt in international sports law. In my opinion, this is still more of a general legal problem. We see this problem in different sports and in different countries. This applies not only to the Russian doping scandal and the WADA Code. It applies to other rules of sports law, in particular, the rules of FIFA and UEFA. For example, a small group of hooligans and extremists are deploying extremist slogans in the stadium and staging riots. Who will be punished? The sport club and most spectators are not guilty, but they will be punished. Football authorities will hold the next match without spectators. The club will not receive income from ticket sales. Spectators will not be able to enjoy the game of their favorite football teams. The perpetrators likely have not been identified and punished. On the contrary, innocent persons are limited in their rights and punished. Is that fair justice?

Once again remember the Stalinist times in the USSR. There was also collective responsibility. The father was declared «Enemy of the People», so the wife and children of him were also declared «Relatives of an Enemy of the People». The whole family was repressed. The wife and children sentenced to imprisonment for communication with «the Enemy of the People» or they were exiled to Siberia. All family members were recognized as criminals. Their guilt didn't matter. The main thing was the fact that their father was recognized as «Enemy of the People».

In my opinion, in the modern period of humanity development, collective responsibility and mass punishment of innocent athletes and spectators as in Stalin's times is not acceptable. It looks like an anachronism and a movement back to a barbaric and uncivilized society. Moreover, such a caveman, totalitarian and repressive norms, it seems to me, should be excluded from international sports law. International sports law should not punish innocent people. International sports law should protect the rights of clean athletes and law-abiding spectators.

This is a different understanding of what is an offense and what is not, gives for rising conflicts not only between international and national norms, but between decisions of international and national courts. In this regard, the court case of the famous Russian athlete Zubkov is of particular interest.

Zubkov, the former president of the Russian bobsled and skeleton federation was deprived of two gold medals of the Sochi 2014 Olympic Games and was disqualified for life in the Olympic Games in accordance to the testimony of Rodchenkov. In February 2018, life suspension was canceled by the Court of Arbitration for Sport in Lausanne (CAS). However, Zubkov did not agree with this soft decision of CAS, and appealed to the Moscow City Court. He wanted to be found completely innocent. In January 2019, the Moscow City Court re-

peatedly agreed with Zubkov's appeal because there was no direct evidence of his guilt in falsifying the samples (only scratches and salt in the samples, made unknown persons). The Moscow City Court did not recognize the decision of Court of Arbitration for Sport in Lausanne as contrary to the public order of Russia. Moreover, Zubkov said that he is not guilty, this was confirmed by a Russian court and he will never return gold medals to the International Olympic Committee⁷.

We should not exclude that other Russian athletes will follow the path of Zubkov and begin to challenge the decisions of the International Sports Court in Lausanne, WADA and International Olympic Committee. Really, many these decisions of international sport organizations and courts cannot be recognized by Russian courts. Moreover, such decisions of the Russian courts, it seems to me, will be supported by the Russian legal community. According to Russian laws it is impossible to punish innocent people and even guilty people without sufficient evidence of their guilt. We respect the fundamental principle of Roman law *Quod gratis asseritur, gratis negatur* ("What is asserted without proof can be discarded without proof")

In addition, this will be also facilitated by the latest changes in the Constitution of the Russian Federation, adopted in accordance with federal law No. 1-FKZ dated March 14, 2020 and approved by the all-Russian vote of July 1, 2020. In accordance with the new provisions of the Constitution, the norms of international law and international treaties, as well as decisions of international bodies can operate on the territory of Russia only when they do not restrict human and civil rights and freedoms and do not contradict the Constitution of Russia. This means that Russia has established the priority of national law over international law in the main legal spheres of the Russian state. The Constitutional Court of Russia in accordance with part two of Article 79 and clause 5.1. "B" of Article 125 Constitution of Russia can always cancel any decision of the International Olympic Committee, the World Anti-Doping Agency and the Court of Arbitration for Sport in Lausanne, if these decisions violate the rights and freedoms of a Russian citizen and contradict the Constitution of the Russian Federation⁸

7. Moscow City Court allows Zubkov not to return gold medals of the Olympic Games// RBC. Access mode:

<https://www.rbc.ru/society/21/11/2018/5bf589c19a79471bb83cbde6> Access mode: http://www.un.org/en/documents/decl_conv/declarations/declhr (date of reference 12.01.2020)

8. "The Constitution of the Russian Federation" (adopted by voting on 12.12.1993 with amendments approved during the all-Russian vote on 01.07.2020) //The official Internet portal of legal information. Access mode: <http://www.pravo.gov.ru> (date of reference 04.07.2020).

Article 79

Decisions of interstate bodies adopted on the basis of international treaties of the Russian Federation that are contrary to the Constitution of the Russian Federation are not subject to execution in the Russian Federation.

Article 125

5.1. Constitutional Court of the Russian Federation:

b) in the manner established by federal constitutional law, resolves the issue of the possibility of executing decisions of interstate bodies, adopted international treaties of the Russian Federation in their interpretation that contradicts the Constitution of the Russian Federation; as well as on the possibility of executing a decision of a foreign or international (interstate) court, a foreign or international arbitration court (arbitration) imposing obligations on the Russian Federation, if this decision contradicts the foundations of the public order of the Russian Federation;

As you can see, the concept of the superiority of international sports law has recently been shaken in Russia. However, Russia is not the only country where the priority of national law over international law is established. Unfortunately, the United States is still heavily involved in this process. The United States declares openly that its national interests are above the interests of other countries. The “the first and the great” US is trying to dominate everywhere, including in world sports. This country openly violates the norms of international sports law and is absolutely not afraid of any sanctions from international sports bodies and courts. For example, in 2005 the United States signed the international doping Convention and pledged to extend it to its national sports federations. However, the United States has not fulfilled this obligation. All the popular sports in the leagues of North America are outside the control of WADA. It is more than 150 teams of major sports leagues, including football, baseball, hockey and the National Basketball Association. The late, highly respected Republican Senator McCain (died in 2018) tried to eliminate this abnormal situation and submitted a bill to Congress in 2015, the so-called “Clean Sport Act,” according to which all of these leagues must be covered by rules of WADA. However, the bill was not approved.⁹

It also seems that the so-called “Rodchenkov Act” recently adopted by the US Senate also contradicts international law. In accordance with this act, the United States will punish athletes, leaders of international and national federa-

9. S. 1114 (109th): Clean Sports Act of 2005 // The US Senate/ Access mode: <https://www.govtrack.us/congress/bills/109/s1114/text> (date of reference 24/11/2020)

tions from different countries, guided solely by their own national interests and its own national laws. The bill provides for 10 years in prison and a fine of up to one million US dollars for “international fraud” against American athletes. This act applies to international competitions that are held with the assistance of American companies and sponsors. This is almost all international competitions. Surprisingly, this Rodchenkov Act does not extend to US sports leagues. US athletes National Football League, National Basketball Association and National Hockey League are not subject to the Rodchenkov Act. It seems to me, this creates the conditions for a policy of dominance, political pressure on the leaders of international sports and individual countries. The International Olympic Committee and WADA strongly opposed the adoption of this bill.

Why did the USA and Russia, other countries violate the norms of international sports law quite often in the recent time? It seems to me that the main reason is the unleashing of a new Cold war today and the imbalance in this regard of all international legal relations. Today we are witnessing a widespread weakening of the work of international law institutions, the role of the United Nations and ignoring international treaties. Confrontation and the growth of nationalist positions we observe everywhere. Singapore did not accept the Israeli sports delegation. Egyptian and Iranian athletes do not want to give a hand to Jewish athletes. Ukrainian athletes do not want to go to Russia. Armenian athletes do not want to compete with Turkish athletes.

How to answer all these political challenges of the modern world? What should we, sports lawyers, do? It seems to improve and reform the entire system of international sports law and justice applied to this challenge.¹⁰

The first, the fundamental norms of international sports law must be brought in line with the Universal Declaration of Human Rights, other fundamental international documents and agreements that protect the rights of citizens and individuals. They must comply with the Constitutions and constitutional laws of most countries, be adopted by authorized representatives of most countries. Their legitimacy must be confirmed by the UN, the Council of Europe, the parliaments of the unions of countries and individual countries. In this regard, the codes, statutes, charters, regulations and other documents of international sports and anti-doping organizations that grossly violate the rights of athletes, coaches, referees, spectators and other subjects of sports law should be reviewed and changed. In particular, we should abandon the application of massive collective sanctions against athletes of international and national federations and individual states. Innocent athletes and spectators should not be punished

10. For more information, see the article: Alekseev S.V., Kamenkov V.S., Peskov A.N. Problems of Improving International Sports Law of the Context of the Latest Decisions of WADA and the IOC Taken in Relation to Athletes of Russian Federation/// International Sports Law Review Pandektis. – 2018. - Athens: IASL, Vol. 12, Issues 3-4. – P. 287- 300

by international sports organizations and international sport courts. The WADA Code should exclude provisions, covering the punishment of innocent persons.

All of us should also think about how to strengthen the role of the UN in the fight against conflict situations in international sports. Now the UN does not have a full-fledged body dealing with the development of international sports. The existing United Nations Office on Sport for Development and Peace is only the secretariat under the Special Adviser on Sport for Development and Peace. The UN resolutions on international sports are mainly declarative in nature, duplicated from year to year and, in our opinion, do not have any significant impact on the development of world sports.

It seems to us that instead of the UN Office on Sport for Development and Peace, it is advisable to create standing UN Committee on Sport Management with broader functions and powers, to adopt a UN resolution on countering the influence of politics on sport and to carry out many other important initiatives supporting international sports.

We also think how to improve and reform the entire system of international sports justice. Some important decisions of international sports organizations cannot be challenged at all in any international court. For example, no one can challenge the decision of the IOC Executive Board on the non-participation of any national Olympic committee in the Olympic Games. In accordance with Articles 60 and 61 of the Olympic Charter, decisions of the International Olympic Committee are final and any challenge may be resolved exclusively by the IOC Executive Board and only in some cases by the Court of Arbitration for Sport in Lausanne.

Suppose we were able to find such suddenly "some cases" and appealed to the Court of Arbitration for Sport in Lausanne in order to challenge any unlawful decision by the IOC. What will be our chances of a successful outcome of the case?

It seems that they are not very good, because the IOC is the main founder and sponsor of this court. In particular, in accordance with the Paris Agreement of June 22, 1994, the founders and financial sponsors of this court are the International Olympic Committee, as well as the IOC-dependent Association of Winter Sports, the Association of Summer Sports and the Association of National Olympic Committees.¹¹ Moreover, it is also almost impossible to challenge the decision of Court of Arbitration for Sport in Lausanne at all. Because, in accordance with the Code of International Sports Arbitration, the decision is final and there is no appeal (Article R46).¹²

11. History of the CAS // Tribunal Arbitral du Sport // Court of Arbitration for Sport. Access mode: <http://www.tas-cas.org/en/general-information/history-of-the-cas.html> (date of reference 21.06.2019).

12. Code of Sports-related Arbitration In force as from 1 January 2017// Court of Arbitration

Theoretically, an appeal is possible only in the Federal Court of Switzerland. In particular, in accordance with article 191 of the Swiss Federal Law on Private International Law, the Swiss Federal Court is the only instance where the decision of the Court of Arbitration for Sport in Lausanne can be revoked. Some Swiss lawyers consider Swiss courts even as priority in relation to the courts of other states, and Swiss law, as a kind of international law.¹³

However, even the Federal Swiss Court does not guarantee a full consideration of the appeal in substance, since this court is mainly oriented toward the resolution of procedural, procedural and constitutional disputes. This situation seems to us very paradoxical, when the decisions of the international court are appealed in the national court. In our opinion, this violates the principle of the priority of international law over national law and cannot be considered normal in international legal relations.

That's why, in our opinion, there is a need to create a new judicial system of international sports justice that allows making independent and objective verdicts, challenging decisions of international sports organizations and Anti-Doping organizations, as well as appeals against decisions of international arbitration courts. Undoubtedly, the new judicial system should have independent sources of funding and should be free from the influence of its founders. Therefore, in our opinion, there is a need to create a new, absolutely independent from sports organizations, an International Sport Court under the auspices of the UN, where it would be possible to challenge the decisions of international sports and anti-doping organizations and Court of Arbitration for Sport in Lausanne. If, for example, we had an international independent sports court of appeal at the UN, and we could successfully resolve many issues in such a court. We would not have to appeal to the Swiss Federal Court, or the Moscow City Court or other national courts.

We should also create independent international bodies to investigate crimes committed in the field of international sports to prevent conflict norms of international and national law. It seems that we should exclude cases when such crimes are investigated by individual countries and groups of independent experts, whose powers are not defined by international treaties. For example, we still do not understand on what legal grounds the commission of Professor McLaren (the independent investigator on doping scandal, appointed WADA) presented the charge to the state Russia and conduct investigations of the highest officials and secret services of this state? Who gave such pow-

for Sport. Access mode: <http://www.tas-cas.org/en/general-information/history-of-the-cas.html> (date of reference 21.06.2020).

13. Widmer M. The Swiss Federal Court saves the arbitration clause // Switzerland Business. Access mode: <https://business-swiss.ch/2013/06/zwischen-fifa-uefa/#> (date of reference 07.05.2020)

ers to McLaren's "investigative-operational group" (the name was invented by McLaren), consisting only of several WADA employees, McLaren's personal lawyer, an interpreter, and two law students? The World Anti-Doping Code regulates the responsibility of athletes, personnel, sports organizations, but not states. Therefore, in my opinion, any investigations conducted by WADA against individual states and officials of these states are illegal and contrary to the rules of international public and private law. Such investigations exceed the powers established by the international community for WADA.

We also would like to dwell on the problem of investigations carried out unilaterally by law enforcement agencies of some countries against athletes and the heads of international sports federations in connection with their official duties. First of all, this applies to the USA. It is known, for example, that the FBI and Swiss police on May 27, 2015, arrested seven high-ranking FIFA functionaries. In total, the US FBI charged 42 sports functionaries for bribery amounting to 150 million US dollars. Many of them were sentenced to long prison terms in the United States.¹⁴ Following the scandal, two world football leaders Sepp Blatter and Michel Platini were fined and dismissed by the Ethics Committee of the International Football Federation (FIFA).

The question arises, why did the US not take measures to combat corruption by FIFA and the IOC only in 2015, despite these facts were known to the sports community for many years ago? The answer is obvious. Criminal prosecution of international sports officials this country began after FIFA decision to host the Football World Cup in Russia in 2018.

We are concerned this tendency of using criminal law repressions to punish unwanted international sports officials in the political interests of some countries. I would not be surprised if the FBI agents begin to detain and arrest Russian athletes in the near future in accordance with the Rodchenkov Act. I would also not be surprised if Russia will pass a similar law and start arresting American athletes. The consequences, in my opinion, will be sad. World sport will begin to split into pieces. It seems to me that we must now stop this frightening and destructive trend in world sports. We are sure, that the investigation of crimes committed by such officials should not be carried out by individual countries, but by *special international jurisdictional bodies in accordance with international agreements*. It is possible also to involve in such investigations Interpol, Europol and other similar existing international police organizations.

In this connection we should emphasize that Interpol is the preferred organization to coordinate such investigations. One of the most important tasks of the Interpol is to preserve the "integrity of sport", which means the fight against

14. The US asked Switzerland to speed up the extradition procedure of Julio Rocha, a former high-ranking FIFA functionary // Swiss-Rus. Access mode: <http://swiss-rus.ru/> (date of reference 15.11.2016).

match-fixing, illegal bets and doping, and other crimes in the field of sports. Interpol has already coordinated its activities with the International Olympic Committee, FIFA and police units at all levels. I am convinced that Interpol can naturally carry out coordination functions in the fight against crime and corruption in international sports better than individual countries.¹⁵

We can recommend also the introduction of the *institution of immunity from criminal prosecution of separate countries for the leaders of international sports organizations*. However, this should not mean that corrupt sports officials will not be responsible for their criminal acts committed in the field of international sports. It seems to us, on the contrary, their responsibility for corruptive actions should be strengthened, but within the framework of international criminal law and international treaties.¹⁶

Another point of considerable interest is creating public organization in order to protect the rights of athletes in all countries of the world. This is especially important now when humanity is faced with a pandemic, mass unemployment, economic and political crises in different countries. The main purpose of the Organization should be the protection international sport from:

- illegal actions, including any forms of discrimination on the grounds of race, color, gender, language, religion, political and other beliefs, national or social origin, property, estate and other position of athletes;
- political pressure, blocking or restricting the participation of athletes in international sports competitions for political reasons, including those related to the citizenship of athletes, the various political, legal and international status of their states;
- unjustified exploitation of labor, especially underage athletes labor, absence or unsatisfactory social assistance, including after the end of a sports career, in case of disability, injuries and illnesses associated with professional activities.

It seems to us also that this organization could carry out the following activities to harmonize international law and eliminate all kinds of conflicts in the field of international sports:

- to promote the development of international sport as the main instrument for international peacekeeping on the planet;
- to make proposals on strengthening the independence and autonomy of sports, improving the international sports law norms;
- to contribute to the transparency and democratic procedures for the election of bodies of international and national sports organizations;
- to promote the nomination of persons with a good reputation in leadership

15. Integrity in sport // Interpol. Access mode: <https://www.interpol.int/Crime-areas/Crimes-in-sport/Integrity-in-sport> (date of reference 07.11.2018)

16. Advocate Peskov: scandal with FIFA officials - US political order // RIA Novosti. 05/28/2015. Access mode: <https://ria.ru/sport/20150528/1067024333.html> (date of reference 25.08. 2017)

positions in international and national sports organizations capable of effectively protecting the rights of athletes;

- to ensure the protection of athletes from unlawful and excessive sanctions, including those that may be regarded as humiliation or insult of national, gender or religious feelings;

- to assist international and national organizations in the fight against anti-doping rule violations, including with the criminal participation of officials of states and sports organizations, sports doctors, trainers and other interested parties;

- to develop programs for the legal education of athletes, in particular, their acquisition of legal knowledge and skills to protect their own rights in professional sports;

- to conduct a comparative analysis of the application of different national legislations, innovative legal technologies and practices to protect the rights of athletes in different countries of the world and to prepare relevant recommendations for international and national sports federations.

The International Sports Law Association and the International Union of Lawyers have already established such organization called the *International Athlete Rights Association (IARA)* in September 2020, which already brings together prominent lawyers and athletes from 12 countries. We hope that this organization will help protect the rights of athletes in various courts, international and national organizations. We really want to eliminate collisions, conflicts and contradictions in international and national sports law. create a comfortable and calm environment for athletes at international competitions, to protect sports from discrimination, corruption, crime and attacks from politicians, to make international sport again an instrument of peace and friendship between the peoples of our planet.