



Open letter to

Athletes of Olympic Games 2018

Dear Olympians,

I'm a German lawyer and legal scientist, specialized in sports law and international arbitration since 1997 and one of the lawyers who represented Russian athletes at Court of Arbitration for Sport in Lausanne in connection with the allegations of Dr Rodchenkov regarding Olympic Games Sochi 2014.

The Olympic Games PyeongChang 2018 are just finished and I hope you enjoyed your attendance. I hope you were successful and you were happy about your medal. However, if so, I'm sorry for you that the triumph will be never complete. I wish for you that you won against the best athletes from Russia. But now you will never know if you would have achieved the medal against Viktor Ahn, Anton Shipulin, Sergey Ustiugov or Alexander Legkov for example.

You will have to live with the fact that the Olympic Games 2018 were irregular.

You have been cheated of the pure and complete victory and you are a victim of the unprecedented attack on the integrity of the Olympic Games.

You may believe that the attack came from Russian Athletes in the past and your Russian opponents were absent to protect you as a clean athlete. That's what the International Olympic Committee and WADA want to make you believe.

The truth is different.

IOC and WADA don't care about clean athletes, they even don't care about the interests of athletes. They care about themselves and the greatest attack on the integrity of the Olympic Games came from inside, from IOC itself and WADA

Primarily both organizations are fighting for leadership in the Olympic Movement and in fight against doping and the athletes are in between. Athletes. Not only Russian Athletes.

As someone who has been involved with every detail of the case for a year it is hard to accept to read every day statements from different individuals and stakeholders who all appear to live in a kind of virtual reality. Living in their echo caves they are talking day by day about protection of clean athletes, courageous whistleblower, justice, alleged proven facts and fair procedures. None of that is true.

In my youth there was a saying: Once a liar, always a liar. It was an invitation not to lie if you want to remain credible. However, today the speech is wrong. It doesn't matter if you are lying or not. It is merely important whom you serve with your lie.

The implausibility and contradictions in the whole story are evident but no one is willing to notice them because the story serves the purposes of stakeholders and satisfies our own prejudice.

To avoid any misunderstanding, I never had a problem or reason for any concerns with a Russian federation or authority, but it seems important to me to point out that I never represented a Russian Federation or authority but exclusively two individuals, among them Alexander Legkov, gold medalist in 50k cross country race. I am only interested in the rights of individual athletes irrespective what nationality they have.

My clients were acquitted of the charges by award of Court of Arbitration for Sport on 1 February 2018 - but lost two years of their careers and were not allowed to attend to Olympic Games 2018.

Although the reasoning of the CAS award is not yet available I have reason to believe that I know what the acquittal will be based on. I was at the CAS hearing which took place in Genève for almost 70 hours in 6 days and included a cross examination of Dr Rodchenkov and Prof McLaren, the athletes and a lot of experts.

The operative part of the award was heavily criticized in the first place by IOC and WADA because allegedly the arbitrators had disregarded the applicable standards and burdens of proof and the award is considered as scandalous and as reason for "reforms" of CAS.

The truth is different.

After assessing all evidences and statements available it is proven that great and important parts of Dr Rodchenkov's story regarding Olympic Games Sochi 2014 and sample swapping are not true and that he is evidently lying until today. IOC, WADA and Prof McLaren did not conduct their investigations diligently and open minded and not anticipating the result from the beginning. If they had done, this result would shown from the beginning and before some athlete's careers were destroyed.

In fact, IOC is in possession of evidence which - in contrast to the allegations of Dr Rodchenkov and the findings of IOC Oswald Commission - demonstrably and undisputed provide full proof that nightly swapping of all samples from athletes of the so-called "duchess list" never happened and that Dr Rodchenkov is lying.

It is not my attitude, approach or duty to challenge the Independent Commission report and the Independent Person report in general or to claim that no Anti Doping Rule Violation occurred in Russia in 2013 and 2014. However, the athletes were accused exclusively of the events at the Olympic Games Sochi 2014 and these alleged events are the reason for Oswald Commission, Schmid Commission, the decision of the IOC Executive Board on 5 December 2017 and the exclusion of the Russian Olympic Committee. Hence, I deal with that allegations.

The procedure following the first article in New York Times in May 2016 demonstrates that each party involved pursued their own interests and never had any interest in the protection of clean athletes or the Russian athletes involved.

1. The factual basis remains very dubious, but the possible extent is lesser than expected.
2. IOC misinformed the public about the scope of their investigations and the availability of evidence.
3. The disciplinary procedures against individual athletes were conducted under violation of fundamental procedural rights and rule of law.

To say it very clear and to avoid any misunderstanding: This in not exclusively about Russians, it's about athletes.

Basically, the details of the hearings at the Court of Arbitration for Sport are confidential and in disciplinary procedures in which the awards and the reasoning are published it is up to the panel which

details are used for the reasoning and therefore become public. However, the following facts were either known from the Independent Person report, prior procedures or are already published.

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I. The Background | Why IOC and WADA try to cover up their responsibility

To understand the background, we have to go back to the very beginning - not only until to Sochi 2014, even earlier.

Prof McLaren disclosed that Darya Pishchalnikova provided to WADA, IOC and IAAF already by an email from 23 December 2012 detailed information about the doping and doping concealment system initiated and run by Gegory Rodchenkov in Moscow already since 2007. (EDP 1157_T https://www.ipevidencedisclosurepackage.net/documents/EDP1157_T.pdf)

In 2012 Alan Moore run an investigation into sports corruption in Russia and interviewed Dr Rodchenkov, called in Russia „Dr Death“, who provided performance enhancing drugs and demanded and obtained bribe money for "clean tests" <https://www.rt.com/op-ed/374696-rodchenkov-criminal-doping-whistleblower/>

In Mail on Sunday from 6 July 2013 British journalists Martha Kelner and Nick Harris published an

article with further information about the involvement of Dr Rodchenkov in doping and doping concealment. (<http://www.dailymail.co.uk/sport/othersports/article-2357501/World-Athletic-Championships-rocked-Mail-Sunday-special-investigation-doping-Russia.html>)

However, Dr. Gregory Rodchenkov, suspected of being involved in doping and corrupt, was appointed to the director of the Doping laboratory in Sochi for the Olympic Games 2014 under the responsibility of the IOC.

Under Art. 4 IOC ADR Sochi 2014 the IOC Medical Commission is responsible for the whole testing procedure and in addition for the secure storage of the samples.

Art. 5 IOC ADR Sochi 2014 reads as follows

5.1 Storage of Samples and delayed analysis

Samples shall be stored in a secure manner at the laboratory or as otherwise directed by the IOC and may be further analysed.

It was a strong breach of the duties of WADA and IOC that Dr Rodchenkov get access to the Sochi Laboratory and that they kept apparently the samples not in a secure manner and made it possible that third persons could have tampered the athlete's samples.

If the IOC had ever been concerned about protecting clean athletes, Dr Rodchenkov never could have attended the Anti Doping Laboratory in Sochi 2014.

Later IOC and WADA primarily have been concerned to cover up their own responsibility.

II. Credibility of Dr Rodchenkovs allegations

The primary source of all allegations was the former director of the Moscow and Sochi doping control laboratories Dr Gregory Rodchenkov (IP report I page 2) Without his statements nothing would be explained. He makes heavy allegations against respectable athletes or with other words - he discredits respectable athletes. However, no matter how factual an attempt is to deal with the plausibility of his allegations, every attempt is misinterpreted as attempt "of the Russians" to defame the star whistleblower.

1. Basic problem of Dr Rodchenkov as a witness

The basic problem of Dr Rodchenkov's witness statements is that he obviously never distinguishes between his experience-based knowledge, the version of "the plan" he allegedly knows about and his

conclusions from what he believes “the plan” must have been. In his narration everything is similar and indistinctive, and everything sounds like facts. The problem becomes obvious when Jim Walden, his lawyer, complains that one should not constantly ask what has actually happened when Dr Rodchenkov sprawls out explaining what he believes, what the plan is supposed to have been.

What the plan was and what role Dr Rodchenkov actually had in it is still not cleared up. But it is very doubtful that he has been the “mastermind of the Sochi plan”.

In fact, he admittedly and demonstrable

- never had direct access to coaches or athletes,
- has no experienced based knowledge how the “cocktail” was composed, mixed and applied
- has no experienced based knowledge which athlete used the cocktail or provided clean urine
- indeed he does not know if and how allegedly other persons involved were informed about the codes of the sample kits used by athletes in doping control stations
- his statements are admittedly and demonstrable drawn from (double) hearsay and are a mixture of alleged facts and his own conclusions.

Meanwhile he changes his statements very often.

Initially Dr. Rodchenkov’s evidence was **that most** (but not all) **protected athletes were on the doping** programs. However, all the athletes on the “Duchess list” and the medal by day list were protected and their samples would be swapped automatically (Prof McLaren in his Dossier to IOC and affidavit to IOC).

That means no less that neither the IP nor Dr. Rodchenkov themselves initially claimed to have knowledge that all “protected athletes” were doping (and could have potentially benefit from swapping their urine) and/or that all athletes made use from the authorization which they may have most likely - but not certainly - obtained.

In an interview to AP on 16 February Dr Rodchenkov claimed now that “none of the protected athletes are innocent.” <https://www.nytimes.com/aponline/2018/02/16/sports/olympics/ap-oly-russia-doping-rodchenkov.html>, whereas on CBS a 60 minutes interview aired on 11 February where he stated that among the 13 Russian gold medalists (who are discussed as “protected”) merely five were dirty <https://www.cbsnews.com/news/russian-doping-olympic-mastermind-on-the-run/>.

How should we differentiate between what is right and what is wrong? It is important for the distinction whether all or merely some athletes were “guilty” and if he is lying in one of his statements, is it merely because of the number of athletes concerned or in general? Nobody cares.

After he fled to the USA, already in safety, Dr Rodchenkov made a video in his flat in Los Angeles which is available in the web <https://sputniknews.com/russia/201712041059674167-rodchenkov-wada-confession-olympics/>

https://www.youtube.com/watch?v=L_PXzIK-fjU&t=1698s starts at 20:32 , in which he said

“I do not give a fuck about fighting the doping”

And (speaking about his diaries)

“It is just 2 kilos and millions of dollars in my bag. That is what my day by day, hour by hour, diary from 2014 costs.”

In Icarus he said that he feels responsible that Russia intervened in the Ukraine conflict and after he heard about the death of Nikita Kamaev he talked to Brian Fogel saying:

Bryan, we are playing the most dangerous game in the history of sport.

Furthermore, “WADA, (is) ready to pay everything for me and you to disappear.

Two sentences later he claimed that the Deputy Prime Minister could kill everybody.

Does he really want to say that the attitude of WADA could be to kill him, when he mentioned that WADA was ready to pay everything to disappear him?

2. Dr Rodchenkov’s diaries

In order to corroborate his alleged recollections and his allegations, Dr Rodchenkov often refers to his diaries which are partially - primarily the diaries with entries shortly before and during the Sochi games - published in an issue by the New York Times. In his diaries he noted on a daily basis the time he woke up in the morning and when he used to go to bed at night, normally between 11 p.m. and midnight. It is obvious that he did not change his daily rhythm of his home in Moscow after his arrival in Sochi. Although he allegedly never went to bed before 4 a.m. because of his alleged efforts in nighttime swapping, the diaries - with a little exception - make believe that he went to bed at night around midnight the latest. He easygoing explains that with the statement that the entries were wrong - among others - but the story about nighttime swapping alleged should be true. If some entries are false, which entries are true and how is it possible to distinguish false entries from true ones? And why did he false his diaries? Nobody cares.

3. The allegation “all samples from athletes mentioned on so called “Duchess list” were swapped during night time between midnight and 4 a.m.” is demonstrably wrong!

Dr Rodchenkov’s statement until today is that all samples collected during the day were put together in the Olympic Village and transported by an ambulance at night to the Lab where they arrived at 1 a.m. Samples taken from athletes mentioned on so called “Duchess list” were afterwards swapped with “clean urine”. Dr Rodchenkv’s evidence was that this procedure should have lasted between two and four hours each night and was exclusively possible during night time because during day time the lab was observed by international staff.

That’s demonstrably wrong.

The International Olympic Committee is in possession of documents already since 2014, which are not under suspicion that they could be tampered and to which Dr Rodchenkov never had access to tamper them, by which is proven that almost half of the samples from athletes mentioned on so called “Duchess list” arrived at the lab during day time before 4.30 p.m. and were processed within a time period between 45 minutes and 120 minutes. According to Dr Rodchenkov’s own story, it was impossible to swap these samples from which he however claims that they have been swapped during night time.

His allegation regarding night time swapping, at least the scope of tampering athlete’s samples, is demonstrably false. Presumably he is not aware that the contrary documents were found and assessed. It will be up to the panel or an upcoming lawsuit against Dr Rodchenkov to disclose all his contradictions which were discovered in the CAS procedure.

More important is: Why neither IOC nor Prof McLaren verified these documents to assess whether the allegations of Dr Rodchenkov were true or not?

4. Specific recollection on participation of a specific athlete is wrong

In one of his affidavits and in his witness statement Dr Rodchenkov claimed he has specific recollection that he was told about the participation of an individual athlete in providing clean urine as well as in wash out tests, which means that the athlete should have taken the cocktail and provided urine samples to be tested how long the substances are detectable in his body. The time specification of Dr Rodchenkov was very concrete – but not true.

The athlete could prove by the entries in WADA Whereabouts and Visa in his passport that at that time he was indeed not in Moscow for seven weeks when the tests allegedly took place there but in Europe, Australia and Abu Dhabi.

The witness statement of Dr Rodchenkov is demonstrably false – for whatever reason he appears to daily invent new allegations daily. Nobody cares.

5. The agreement with Norwegian Anti Doping

Among others Dr. Rodchenkov wrote in his affidavit to IOC

that before Sochi a decision was made that DCOs of DUSADA would conduct out of competition testing for Norwegian athletes in Switzerland, and Norwegian anti doping authorities would conduct pre-competition testing of Russian athletes. To escape the possibility of being caught "dirty", an anti doping adviser within the Ministry of Sports decided that skiers should travel to Switzerland, where RUSADA would collect the urine samples, deliver the samples to the Sochi Lab and hide the results.

The ratio of this narrative is similar to the idea the IOC Disciplinary Commission headed by Denis Oswald established in its decision that the only reason to protect the Athletes must be, that they were under doping:

328. *This purpose cannot be achieved and the scheme would be senseless if the athletes are not made aware that they are protected. Indeed, if they were not made aware, they could not take advantage of their protection.*
329. *Therefore the athletes must have been aware that they were protected.*
334. *The Disciplinary Commission has tried to imagine whether a course of events where the athletes were not personally implicated and/or aware of the scheme, would have been possible.*
335. *Such a scenario would imply that athletes would have been protected without being informed and this would have occurred also with regard to clean athletes.*
336. *Clean athletes do not need any protection and the swapping of samples of clean athletes would have been completely unreasonable.*
337. *Such a scenario is so improbable that the Disciplinary deems it impossible.*

However, the allegation of Dr Rodchenkov and the inference of Oswald Commission is not true.

First of all, CEO of Anti Doping Norway, confirmed by E-Mail of 22 January 2018 to WIESCHEMANN | Rechtsanwälte that such an agreement existed with RUSADA but in contrast to the allegation of Dr Rodchenkov most of the athletes were tested by ADNO and other Anti Doping Authorities. Their samples were analyzed not in Moscow but in Oslo, Dresden and Cologne Lab, and always came out clean. Merely from one athlete RUSADA collected a sample in Switzerland where he was not sent but he lived there regularly. The sample was taken on 22 January 2014 and analyzed in Moscow, whereas other samples were taken on 23 January 2014 and analyzed in Cologne. Clean. The problem is, IOC was satisfied with the “story” from Dr Rodchenkov and nobody asked ADNO or compared the narrative with the sample collection reports of the athletes in ADAMS.

Anyway, insofar an athlete was indeed tested by Moscow lab in January 2014, (what could be in accordance with the story of Dr Rodchnkov) as a rule the athlete was also tested within one and three days by another anti doping authority and the samples were tested in western Europe – always clean.

Demonstrably, neither were skiers sent to Switzerland to be “protected” by Moscow laboratory and to hide them from being tested by ADNO, nor were any of the athletes “dirty” in January 2014.

If this story about dirty and “protected athletes” is demonstrably a tale, why should anyone trust in the other story about dirty and protected athletes in Sochi? Nobody cares.

6. The detection window of the “cocktail”

It has to be noted that the substances of the “cocktail” are known and part of the standard analyzing routine of all anti-doping laboratories: Oxandrolone (Anavar), methenolone (Primobolan) and trenbolone (Parabolan). Different from “modern” designer performance enhancing drugs for which detection methodologies do not exist and must be established, Dr Rodchenkov never claimed that the cocktail could not be detected in anti-doping laboratories. His allegation was that the special way of combination and ingestion would have shortened the detection period down to three until five days – which would stand in contradiction to all scientific knowledge at that time.

Dr Rodchenkov has no evidence for his allegation and Prof McLaren never sought evidence for this allegation.

The results of the wash out tests with the “cocktail” are disclosed by the IP, but not considered.

Exhibit EDP0019, EDP0020, EDP0021, EDP0022, EDP0023, EDP0024, EDP0025, EDP0026, EDP0027. **London 2012 Washout Lists**. Created 19 July – 01 August 2012.

Further described in Chapter 3.

Exhibit EDP0039. **“Athletes” List Created 04 July 2013**. A list of eight athletes with laboratory results. Six show prohibited substances and 2 show clean.

Exhibit EDP0028, EDP0029, EDP0030, EDP0031, EDP0032, EDP0033, EDP0034, EDP0035, EDP0036, EDP0037, EDP0038. **Moscow Washout Testing 2013**

EDP1225 is a summary of the test protocols above <https://www.ipevidencedisclosurepackage.net/documents/EDP1225.pdf>. Insofar one of the protocols refers to the analysis of one or all substances in the “cocktail”, the detection window was never shorter than 19 days (A0701, A1227), 15 days (A0395) or 12 days (A0499).

If one of the athletes would have taken the cocktail he would have been caught prior to the games in Europe.

We know about athletes which have been tested 19 times clean between November 2013 and the beginning of the Olympic Games. The test were analysed – also for Oxandrolone (Anavar), methenolone (Primobolan) and trenbolone (Parabolan) - in Laboratories in Cologne, Oslo, Lausanne and Dresden. The only reason why an athlete submits himself to the doping control procedure with all the hardship of whereabouts and interference in social life is to provide proof that one is a clean athlete. Error. If a test is positive it provides full prove for doping, but if it is negative, from IOC’s point of view, it demonstrates nothing – no counterevidence against a diffuse suspicion of doping.

Note: If you ever will be under suspicion of doping all the clean tests will be without any value.

The general explanation for all the deficiencies in the procedure against Russian athletes is that alleged all evidence was destroyed by Dr Rodchenkov and his team and this was alleged part of their plan to cover up what they did. Exclusively the allegation of a single man from whom is known that he was the mastermind in Moscow of a system motivated by corruption and bribery in contradiction to any life experience and criminal mind **leads to waiver of any proof to find athletes guilty**.

III. The alleged watertight proof of IOC

IOC tried to make believe that alleged tangible forensic proof would exist for tampering with samples and swapping urine.

That is not true.

The problem is actually recognizable at first glance. Prof McLaren instructed the King's College in London with forensic examination and claimed that it would provide convincing evidence of "marks and scratches" which allegedly demonstrate that the B- bottles were opened with a tool and reclosed.

IOC ordered Prof Champod from the University of Lausanne with a new forensic examination for which he developed a different "tool" and a different methodology for the examination.

Both experts attributed "marks" in some cases to the usage of a "tool" although the tools from London and Lausanne were different and different tools can never provoke the same mark on a surface. In addition to that in some cases both experts came to different results, which means that they either explained marks coming from usage of a tool or coming from regular usage or the production. If both forensic examinations would be held according to the rules they would have had to come to the same conclusion.

In establishing the methodology and conducting the examination of the bottles and caps Prof Champod decided to examine the opening of the bottles with the tool he developed exclusively under the condition that the bottles were closed between 8 and 11 "clicks". Because of the safety device installed in the bottle cap it clicks if the cap is twisted on the bottle to close it. One and a half turns or 15 clicks are required to close the bottle completely whereas the cap must be turned not less than 7 clicks to avoid that the urine leaks.

If the bottle is closed with more than 11 clicks the space between the plastic cap and the glass shoulder of the bottle is so poor that the tool would leave a huge number of scratches and danger to destroy the bottle occurred. As a result the "watertight forensic examination" was exclusively meaningful under the condition that the bottles were closed between 8 and 11 clicks and the athletes must have counted the clicks very carefully when closing the caps. If one of the athletes would have closed the cap more than some degrees to close tampering would have been impossible.

However, by the instruction of the test samples the athletes were ordered to close the caps forcefully to the fullest and turn them upside down to check whether the urine leaks. Doping Control officers were ordered to control this. The approach of Prof Champod would have required that all athletes were instructed to do so in contradiction to the instructions and according the methodology of Prof Champod and that all Doping Control officers at doping control stations would have been involved. It is remarkable that Dr Rodchenkov did not put this claim forward. In contradiction to the repeated statements of IOC Prof Champod's approach was never very realistic.

The most important finding is that Prof Champod diagnosed “multiple T marks” and attributed them to the usage of a tool to samples from it is proven that they arrived and were processed at day time and were not tampered. Hence, it is proven that both forensic examinations came to false results. There is no evidence for inappropriate opening and closing or tampering of the bottles.

Perhaps to cover up that the findings of Prof Champod are indeed disputable, the IOC refused to publish any detail of the forensic reports.

WIESCHEMANN | Rechtsanwälte asked for permission to publish merely one photo from the report to illustrate an article for the German science journal „Doping“, an Anti Doping Journal for Athletes, Clubs and Federations, about the difficulties to provide evidence for “tampering” (which concludes in to the manipulation of the doping control procedure, if no positive test is available). Howard Stupp, the former head of legal of IOC, refused the permission because he was of this opinion.

any such publication would lead to confusion.

He was right.

IOC disclosed not even a single evidence used against Russian Athletes and IOC knows why.

IV. IOC Disregarded exonerating evidence

1. No Retest of blood samples

IOC claimed in its media release of 9 December 2016 that

all the samples of all Russian athletes who participated in Sochi will be re-analyzed. The re-analysis will be to establish whether there was doping involved or whether the samples themselves were manipulated. <https://www.olympic.org/news/statement-of-the-ioc-regarding-the-independent-person-report>

In fact, that would have been very useful and would have provided very early full proof that the athletes concerned never used the “cocktail” and are innocent.

Unfortunately, IOC never executed the retest of blood samples available from the athletes concerned – although the IOC claims until today to have done so.

Richard R. Young wrote as a counsel for Richard McLaren on 13 September 2016 to Richard Budgett, Head of IOC Medical Commission, in an E-Mail

Lausanne laboratory has advised us that they already have a validated method for the detection of anabolic steroids in serum.

We understand that there are between 53 and 58 Sochi Olympic A and B serum samples from Russian athletes currently in storage at the Lausanne laboratory. We would like to have the Lausanne laboratory analyze all of those samples for the "cocktail" of oxandrolone, methenolone, and trenbolone, as well as oral turinabol, nandrolone, and other anabolic steroids which might be detected in the same steroid screen. The Lausanne laboratory advises us that the steroid screen will consume only approximately 0.2 ml from the A sample tube and that the retentant from that analysis will also be saved should further analysis of the samples be required.

WADA will be responsible for the Lausanne laboratory's costs in screening these serum samples and conducting A confirmation analysis as appropriate. Any B sample analysis would be handled by the IOC as the relevant Results Management Authority. The Lausanne laboratory is ready to begin the process of locating and analyzing these samples so, as the owner of these samples, the IOC's authorizing this sample analysis is appreciated.

The E-Mail was leaked and published by a hacker Group "Fancy Bears" and published on the internet on 10 January 2018 <https://fancybear.net/pages/wada-vs-ioc.html>.

WIESCHEMANN | Rechtsanwälte - as defense of athletes concerned - addressed the same questions by letter of 23 January, 23 February, 16 May, 18 May and 19 October 2018 to the IOC Oswald Commission and requested the retest of blood samples of the athletes. WIESCHEMANN | Rechtsanwälte received no answer on this issue during 2017.

IOC informed WIESCHEMANN | Rechtsanwälte for the first time on 24 October 2017, five Days before the hearing that

The blood samples collected on the occasion of the Olympic Games Sochi 2014 were not subject to examination or reanalysis neither within the context of the McLaren Report nor within the additional investigations conducted by the Disciplinary Commission. We confirm that the IOC limited its investigations to the urine samples.

Note: The accusation is that the athlete's samples were tampered in Sochi to cover up the usage of anabolic steroids by the athletes. IOC is aware that retest of blood samples - sometimes taken the same day as the alleged tampered urine samples - would provide full proof either for usage of anabolic steroids or full proof for the absence of anabolic steroids and IOC refused to retest the blood samples available until today - in contradiction to the literally request of WADA as well as the defense.

2. Disregarded exonerating documents

To simplify and safeguard the doping control process WADA developed the Chain of Custody form and published instructions to Doping Control Officers how to handle them and which entries must be made. In section 3 every change in custody of the samples must be recorded from its collection, transportation and storage beginning at the doping control station, handling on transport, arrival at laboratory and the transportation and storage of the samples within the laboratory. Since the samples and the chain of custody form are part of a sample collection session including samples from all athletes tested on a day at a doping control station in Sochi, not only Russian athletes, the Chain of Custody forms could not be tampered and were never suspected to be tampered.

Almost half of the samples from athletes mentioned on the so-called "Duchess list" arrived at the lab during day time before 4.30 p.m. and were processed within a time period between 45 minutes and 120 minutes. According to Dr Rodchenkov's own story, it was impossible to swap these samples from which he however claims that they have been swapped during night time.

The paperwork followed the samples when they have been transported to Lausanne after closing of Olympic Games 2014 and are since then in the possession of IOC. They provide full counterevidence to the allegations of Dr Rodchenkov with exonerating effect in favor of the athletes concerned and were hidden and disregarded by IOC. Prof McLaren, although he appears to be familiar with the doping control procedure, never asked and never assessed the paperwork.

V. Violation of fundamental procedural rights of the athletes

Because of the significance of the consequences for an athlete facing a lifetime ban as the result of an alleged anti-doping rule violation, it is important that procedures are followed correctly and met the standard of rule of law. For this reason IOC frequently claimed that it would conduct careful and complete investigations and intend to decide exclusively based on hard evidence.

None of that was considered. It was just a part of the illusory world.

I don't want to describe in detail how the service of the defense was impeded by WADA, Prof McLaren and mainly by IOC. Just a few remarks:

As mentioned above, during 2017 WIESCHEMANN | Rechtsanwälte requested literally five times to give access to certain evidence and to clarify certain questions to corroborate or to refute the allegations. WIESCHEMANN | Rechtsanwälte received no answer. Evidences were none taken.

WIESCHEMANN | Rechtsanwälte addressed certain questions regarding the existence and meaning of evidence by E-Mail to Prof McLaren who refused to answer and wrote "he does not feel it is appropriate to answer the questions".

WIESCHEMANN | Rechtsanwälte addressed three certain questions via Jim Walden to Dr Rodchenkov with regard to his statements in his affidavits (which turned out to be demonstrably untrue) and explained that the answer was required to provide - if needed - counterevidence for the upcoming hearing. Instead of answering Jim Walden forwarded the E-Mail to IOC counsel (sic!). IOC ordered Mr Walden not to answer!

Dr Rodchenkov provided affidavits to the IOC disciplinary committee three days before the hearing. IOC held them back from the defense until the night before the hearing so that the defense had no possibility to discuss them and provide counterevidence. Although it is a clear violation of the procedural rules and a fair procedure the (wrong) affidavit was used.

Since the middle of October WADA is in possession of Laboratory Information System LIMS from Moscow Laboratory with entries and data for the period between 2013 and 2015. LIMS is later forwarded to IOC and international Federations.

The existence of data with regard to a single athlete may corroborate the suspicion against him and IOC used the LIMS exactly for this purpose. However, IOC and WADA covered up the existence - and more the absence of certain data in LIMS would serve to exonerate individual athletes. Hence WIESCHEMANN | Rechtsanwälte requested literally frequently WADA and IOC to provide personal data of the athletes. Although under Para. 11.1 of International Standard for the Protection of Privacy and Personal Information by which any Anti Doping Organisation and International Federation are obliged to provide the data on request of a person to whom a personal information relates IOC and WADA refused.

Note: IOC and WADA based their assessment about the suspicion or “guilt” of an athlete on data which they are obliged to share but refuse to share with the athlete concerned.

In light of the above, it is not required to discuss the general question, by name if the standard of equality of arms and fair trial is met as well as fundamental standards of rule of law. It is not. In contradiction to their frequent statement Oswald Commission did not investigate the factual bases and did not completely retest all samples, the Commission did not more than to order a new forensic report from Lausanne University which is not reliable.

WIESCHEMANN | Rechtsanwälte is aware of the fact that the procedure is basically not of criminal nature but rather a subject to civil law. However, the disciplinary procedure is very similar.

Initially the Oswald Commission was ordered in September 2016 by the IOC Executive Board to conduct investigations, gathering information and carrying out hearings in order to make recommendations to the IOC EB which would make the final decisions. On 19 October 2017, when the investigations were finished and time was close to the upcoming hearings, IOC EB the mission of the Commission had been extended and was now in charge of issuing a final decisions.

It is as if after the end of the investigation, the prosecutor himself decides instead of the judge whether his investigations are sufficient to convict the criminal.

It is not surprising that the Oswald Commission went far beyond the findings of Prof McLaren and their own experts in finding the athletes guilty of an Anti Doping Rule Violation without any evidence.

Whereas (at that time) Dr Rodchenkov claimed that most of the protected athletes were doping, the commission concluded without any reasoning that all athletes must be doping.

Whereas the forensic expert assessed (with the failure mentioned herein) that the method also has good sensitivity in that a negative result means it is 10 to 100 times more likely that the samples were not manipulated, the commission ruled that a negative finding demonstrates that the samples could be opened without leaving any marks – what an expert would never assume.

Everybody was able to read this inconclusive finding, and nobody found it strange. The findings are part of the well-staged virtual reality of IOC and the bases that from there on everybody claimed that the “guilt of the doped Russians is proven”.

The public would share the opinion of Dr Rodchenkov in his AP interview of 16 February, after CAS acquitted the Athletes :

"The CAS decision for the 39 athletes was unacceptable," Rodchenkov said. "The standard for evidence was too high.

And CAS should have considered all the evidence Russia withheld from the IOC and WADA, which would only further confirm their guilt. This process sends a clear message to clean athletes, who also deserved due process: we don't care about you.

"CAS's disregard for (World Anti-Doping Agency investigator Richard) McLaren, (IOC disciplinary panel chairman Denis) Oswald and (IOC inquiry commission head Samuel) Schmid was a shame and so disrespectful."

Dr Rodchenkov discredits the judgement of the only independent panel which conducted the longest and most intensive hearing (as far as known) in the history of the Court of Arbitration for Sport and praises the biased result of the disciplinary procedure which was led by multiple interests and by his false affidavits.

VI. The role of Brian Fogel and Icarus

Strange enough that we have to deal with a movie in this regard. However, "Icarus" is mentioned as an "evidence" in report of the Schmid Commission and discussed by Oswald Commission as well. The film has good chances to be awarded with the Academy award Oskar.

I don't want to summarise the making of Icarus. However very early Brian Fogel said, "this is going to be a ten times greater movie than I ever imagined." <http://www.latimes.com/entertainment/movies/la-et-mn-sundance-icarus-feature-20170117-story.html>

Watching "Icarus" we all are witnesses how his appearance and his involvement changed the story line. In promoting his film, sold for 5 MIO USD to Netflix, he does not take it exactly with the truth:

In November, I found an article about an interview of Brian Fogel in American podcast <http://jim-rome.com/2017/11/15/bryan-fogel-talks-1984-summer-olympics-boycott-on-the-jim-rome-podcast/> talking about the history of the Russian boycott of Olympic Games Los Angeles 1984:

Fogel recounted (starting at 38:00 min) a story told to him by Rodchenkov from the 1980s. Rodchenkov, who visited America before the 1984 Olympics, realized drug-testing pioneer Don Catlin was ready to crack down on drug-cheats.

"In the movie, you will see this little part of the history. Of Grigory, he goes and visits Don Catlin in his laboratory, essentially to learn from Don Catlin, how drug testing works. This

was actually in late 1983 and Grigory was essentially a spy being sent over by the Russians, to spy on Don Catlin.

“So Grigory, after studying with Don Catlin, realizes the Russians are going to be caught. That Russia do not have the anti-venom to the American test, and that all the Russian athletes who are all on steroids are going to be caught.”

“Russia knew that every single one of their athletes were going to be caught for doping, because the steroid wash-out period was like six or seven months,” Fogel said. “They did not boycott the Olympics because of US-Russia relations. They boycotted the Olympics because Russia wanted to come to those Olympics and dominate America, to show itself as a force over America. Showcase that communism and Russian power.

First, the Soviets alleged intended to put a ship in Long Beach Harbor as a doping lab where soviet Athletes should sleep outside US soil. According to Gregory Reagan gets wind of it and Gorbatshev and no, no, no of being a soviet ship in Long Beach Harbor. The detection period for the steroid was up to seven months so the Soviets decided to boycott the Games to avoid being caught for doping.

Hearing this, I noted that evidently in the story were some flaws.

In Icarus Dr Rodchenkov told that he started to work in the leading laboratories in 1985 and in UCLA laboratory first time in 1989 within an American Soviet joint Doping Program. And I recalled that Gorbatshev was General Secretary of Communist Party of Soviet Union from March 1985, one year after the Olympic Games. 1983/1984 was the period of Tschernenkov and Andropov. Hence, the story can't be true and my impression was, that a citizen of the former Soviet Union, as Dr Rodchenkov, would have recalled, that Gorbatshev was not General Secretary in 1983.

First, I started to research the date of the Soviet American joint doping program and found an article of

Dr. Jörg Krieger from German Sport University Cologne

He told me that the American Soviet joint doping program started in fact in 1989 and advised to an article by Robert Voy and Kirk D. Deeter, *Drugs, Sports and Politics* (Champaign, Ill: Leisure Press, 1991), I got from a student of DSHS later.

In my following correspondence with Don Catlin, on 5 December 2017 he confirmed explicitly the first time he met Dr Rodchenkov within the joint doping program – which means in 1989 and not in 1983.

In addition to that, I found an article from Rebecca Ruiz in the New York Times about Dr. Grigory Vorobiev, former chief medical doctor for Soviet track and field, in Chicago. The photographer of the picture published in the article, Alyssa Schukar, linked me to Dr. Vorobiev's son. I had a long phone call with him and Dr. Vorobiev on 5.12.2017. In 1983 he was in a leading position in preparation for the Olympic Games 1984 and explained that it was impossible that Breschnew, Andropow or Tschernenkow were influenced by Dr Rodchenkov and/or that one of them were concerned about doping issues. He confirmed that he remembers Dr Rodchenko. He respects him and he was sure that this is mutual. His statement is, Dr Rodchenkov in early and the middle of 80's was in a weak position and not able to travel to LA. Moreover, he wrote on 8 December in an E-Mail:

1. Americans first boycotted 80 Moscow Olympics
2. My father was one of top medical professionals for the ministry of sport. As an illustration, he was a head of all medical services for the entire Soviet Team for the 80 Lake Placid Winter Games. It would be impossible for him not to be involved in the decision-making process about boycotting the LA games for medical reasons
3. The decision about the boycott was a surprise for athletes and coaches. Everybody was training for the games full force
4. Rodchenkov was a very low level member of the Soviet sports machine, personally, I learned about him only in 2016 during the New York Times interview. It is unlike Portugalov, who was a topic of conversations starting from the 80s.
5. My father continued to state that there was no government sponsored steroid programs. Steroid use was driven by coaches and athletes themselves

Hence, the story Bryan Fogel told in Jim Rome show is evidently wrong.

There are several other curious statements from Brian Fogel. Being on a promotion tour in London, he told BBC sport <http://www.bbc.com/sport/42723660> that Dr Rodchenkov criticized testing in London 2012:

"I certainly wouldn't want to name names," said Fogel. "But I know in Grigory's mind there were many athletes just purely on the scientific level - not on the urine-swapping level - that he was fairly positive were doping, based on testing irregularities.

"And without getting into names, because that's not my place to do that, there were several British athletes that he brought up to me."

Fogel suggested that Rodchenkov had passed on the identities of those he suspected to governing bodies such as the World Anti-Doping Agency (Wada), the International Olympic Committee (IOC) and Fifa.

In fact, such allegations were neither mentioned in the McLaren report nor – as known so far – subject to any investigation of the Federations addressed. As far as I recall, Dr Rodchenkov claimed that the standard in London was worse but I never heard that British athletes should have benefited from it and that Dr Rodchenkov suspected them for doping.

By E-Mail of 6 February 2018 I asked Jim Walden for clarification whether Dr Rodchenkov's narration to Brian Fogel was wrong or whether Brian Fogel did not tell the truth on the Jim Rome show and the BBC interview about the Olympic Games LA 1984 and London 2012 but he failed to answer.

Just to summarize: Brian Fogel and Dr Gregory Rodchenkov are both in the heart of the story and both are not very accurate with the truth. Nobody cares.

Maybe Brian Fogel has lost the necessary distance to the object of his observation and influenced the plot of the story:

"When he and the lab were under investigation, I was working behind the scenes and interviewing the different people investigating him. Nobody knew that I knew Grigory. Nor did they know that I was doping or working with Grigory. I didn't know where the story was going."

he told to The Hollywood reporter <https://www.hollywoodreporter.com/news/icarus-director-doping-story-1087608>

VII. Prof Richard McLaren

Prof McLaren very often pointed out that the IP has never obtained to establish an Anti-Doping Rule Violation case against individual athletes. He frequently explained for the avoidance of any doubt and to be very clear, the focus of the IP investigation, based upon its mandate, was to review evidence to establish whether "there had been a manipulation of the doping control process during the Sochi Games..." and to "identify the modus operandi and those involved in such manipulation." The limited scope of the mission was often disregarded, and the report is misused until today if it is discussed as full proof for guilt of an individual athlete.

The approach of Prof McLaren is disputable. From the beginning he sought to find evidence to corroborate the allegations of Dr Rodchenkov. His investigations were not open-ended.

It is obvious that the athletes and other persons living in Russia were never interviewed and Prof McLaren never asked about the chain of custody, for what reasons ever he abstained from his planning to retest the blood samples, he never asked about the call detail protocols of the cell phones of Dr Rodchenkov and the staff or the data of the electronic access system of the laboratory, he did not examine the authenticity of the diaries although it was evident that the entries stand in contradiction to the narrative of Dr Rodchenkov. The interviews with Dr Rodchenkov are apparently not written down and he interviewed nameless witnesses, and no one knows what they said, he never suspected the extraordinary and not proven short detection window and he disregarded that the excel sheets about the wash-out test demonstrated the opposite of the story Dr Rodchenkov told and he disregarded the test history of the athletes concerned. He was satisfied too soon, and he closed his eyes towards all hints which demonstrated from the beginning that the scope of story of Dr Rodchenkov regarding Sochi 2014 can't be true. She should have had some doubt from the beginning. Whereas the alleged "disappearing positive methodology" produced several hundred documents, E-Mails and excel sheets, from "Sochi Plan" Dr Rodchenkov presented merely one document, the so called "Duchess list" which origin and meaning is dubious and from which different versions exist. Nevertheless, there is a significant difference from the IOC. Prof McLaren made all documents (or better to say most) available and everyone can make his own assessment. In contrast, the IOC keeps all alleged evidence secret.

VIII. The reasons | Variety of conflicts of interest

The basic problem in international sports organizations is that nearly all persons involved pursue multiple interests at once and hold multiple functions.

Dr Rodchenkov was caught for dealing with performance enhancing drugs and doping concealment in Russia and was initially subject of criminal investigations in Russia as well as in New York until he was advised that US authorities would love conspiracies and cooperating witnesses. To keep the story alive and to continue to decorate it, is what safeguards him the protection of US authorities.

Prof. Richard McLaren is called an "independent person" but apparently he was not "independent" in his mind. He was part of the independent commission and it is evident that he very early pursued the goal to exclude the whole Russian Olympic Committee from Olympic Movement. His goals and the conflict with IOC is known by the email conversation with the IOC on 12 March 2017 which was leaked and published by Fancy Bears.

(IOC to McLaren): *At the same time, I must admit to some surprise that in your letter you state: "As the IP I have always extended to the IOC advanced copies of my reports for your comment and review in advance of any public announcements. I would have appreciated the same courtesy from the IOC."*

I am sorry to inform you that this has simply not been the case. We made multiple requests to be allowed to have advanced view of your documents with the promise of total confidentiality ahead of publication but sadly this was never forthcoming. Indeed, in the case of the first interim report you even told us that "this content does not primarily concern you".

Three weeks ahead of the Olympic Games, knowing all the consequences that such an interim report would bring, we would have appreciated this courtesy which you say "you have always extended." I would only conclude that perhaps there is someone on your side who is not complying with your wish to share - and we would be more than willing to do this. THIS PREVIOUS SENTENCE IS NOT CLEAR TO ME. I also understand from Denis Oswald that when he tried personally to engage you about the second report you rebuffed his approaches. As you will appreciate this makes it hard for us to complete the work that goes beyond your mandate and which involves the whole Olympic Movement, particularly with the expectations raised by public statements on the comprehensive of the information in your report.

In conclusion, let us both agree that cooperation has not always been what it should have been between the IP team and the Olympic Movement. YOU HAVE BROUGHT TO OUR ATTENTION THE LIMITS OF YOUR MANDATE. HOWEVER, PLEASE NOTE THAT, IN VIEW OF THESE LIMITS, THE IOC AND, IN PARTICULAR, THE IFS HAVE ENDED UP BEARING A HUGE AND VERY DIFFICULT BURDEN IN TRYING TO CONVERT THE MATERIAL/INFORMATION REFERRED TO IN YOUR REPORT INTO ANTI-DOPING RULE VIOLATIONS AGAINST INDIVIDUAL ATHLETES. A FURTHER PROBLEM WAS CREATED BY YOUR REPORT (AND THE PREVIOUS REPORT REGARDING THIS SUBJECT) SEEMINGLY BEING USED TO TRY AND JUSTIFY A TOTAL BAN OF THE COMPLETE RUSSIAN OLYMPIC TEAM FROM THE RIO GAMES AND THE PYEONGCHANG GAMES WHEN, IN FACT, THE IOC AND THE IFS ARE/WERE SIMPLY NOT OF THE VIEW THAT A COLLECTIVE PUNISHMENT SHOULD BE, OR SHOULD HAVE BEEN, IMPOSED UPON ALL RUSSIAN ATHLETES. NEVERTHELESS, it is clear that such cooperation is now needed if we are to do our job and to turn your general conclusions about an 'institutional conspiracy' into concrete findings against individuals and organizations and also if we are to successfully prosecute individual cases with at least a chance of success at CAS.

In another E-Mail of 11. March 2017 Christophe de Kepper, General secretary of IOC wrote to Scott Blackmann from USOC, Angela Ruggiero and Richard Budget:

There is however one problematic point and this is a fundamental one. USOC is pleading for wada to have sanctioning powers and we strongly disagree with this. The same organisation cannot be legislator, police and judge at the same time. Recent history has shown where this can lead even more so if it is a political body with only limited cultural and geographical diversity in its boards.

<https://fancybear.net/pages/wada-vs-ioc.html>

That's the point. From the beginning the whole investigations and the disciplinary procedures were afflicted and influenced by multiple interests of different organizations which did never serve the interest of athletes.

Patrick Baumann, member of Oswald Commission, is the General Secretary of FIBA, president of GAISF, council member ASOIF, ICAS board member, IOC member, WADA foundation board member, president of the winter youth Olympics 2020, member of the Oswald Commission. Not eight persons, just one person. Independent. Do you notice the problem?

Merely a few days after the decision of the Disciplinary Commission Thomas Bach and Patrick Bauman signed a memorandum of understanding between IOC and GAISF for a new Era of cooperation. Independent?

Once the decision of CAS Panel was published on 1 February 2018 WIESCHEMANN | Rechtsanwälte told the media that the only decision of an independent panel would have required not only juridical excellence but character by the members of the panel. However, WIESCHEMANN | Rechtsanwälte never expected how true it was.

Alfons Hörmann, president of German Olympic Sports Federation, commented that the decision was extremely disappointing. No matter of the decision he had still the opinion that the athletes "*demonstrably had cheated*" at the Olympic Games.

Facts, conclusions, allegations are apparently equivalent and interchangeable side by side. You just have to believe it.

Thomas Bach claimed that the IOC Executive Board is "not satisfied at all" with either the CAS decision or the way it has been announced.

"The decision is disappointing and surprising and we would never have expected this," Bach said here following the end of a two-day IOC Executive Board meeting.

(...)

"In this respect, the IOC Executive Board is not satisfied at all with the approach by CAS."

Bach highlighted an apparent inconsistency between the decision and a CAS statement saying that they do not dismiss the existence of doping problems in Russia.

"We have some concerns about the quality of this [CAS] decision," he said.

"The press release gives rise to this concern by the way they speak about how they 'do not make any statement on the systemic manipulation of the anti-doping system in Russia'.

"How can you bring this together with an award which has to deal with a result of such a proven systemic manipulation?"

"These and other reasons are raising doubts.

(...)

The Germans revealed the issue had been discussed "at length" during the IOC Executive Board meeting.

"We feel that this decision shows the urgent need for reforms in the internal structure of CAS," Bach added.

"This means in particular that CAS has to change its structure in a way that can ensure and better manage the quality and consistency of its jurisdiction."

"We will continue to be in contact with CAS and have already forwarded this request to the President of CAS, who was very appreciative of this initiative."

CAS is headed by John Coates, President of the Australian Olympic Committee who reached the end of his term as IOC vice-president last year and is considered a close ally of Bach.

"CAS has heard the comments of IOC President, Thomas Bach and acknowledges the concerns raised which CAS will thoroughly examine," Coates said following the IOC comments.

(...)

"CAS will continue to evolve to ensure consistency and quality of jurisprudence."

<https://www.insidethegames.biz/articles/1061029/bach-criticises-cas-and-calls-for-urgent-reforms-after-decision-to-clear-russian-athletes>).

Note: Thomas Bach is indeed worried about growing power of individual rights of athletes (<http://www.dw.com/de/ioc-will-anti-doping-kampf-reformieren/a-42468504>).

What everyone disregards are that the decision of CAS came not surprising. Regarding the Russian skiers the factual base including the McLaren report and the statements of Dr Rodchenkov have been assessed by another CAS panel which ruled on 29 May 2017 / 31 August 2017 in CAS 2017/A/4968 Alexander Legkov v. FIS that the evidence may justify a limited provisional suspension serves as a reason for further investigation, but the panel found no evidence to find an athlete concerned guilty of an Anti Doping Rule Violation. Unfortunately, the reasoning was never published by CAS court office although publishing is the rule in disciplinary procedures and both parties agreed. One can possibly imagine why the decision was not published. The decision is available on the website of WIESCHEMANN | Rechtsanwälte. <http://wieschemann.eu/wp-content/uploads/2017/09/CAS-award-Legkov.pdf>

It is practical that John Coates is considered to be very close to Thomas Bach and not only President of the Legal Committee of IOC but President of ICAS as well. That gave every reason to believe that the wishes of Thomas Bach for reforms at CAS will be heard.

Whereas former CAS arbitrator and actual Chairman of Luge Federation Anti Doping Christian Krähe, who attended the hearing of CAS and the cross examination of Dr Rodchenkov, was right when he assessed that the award was a great achievement for the independence of CAS and the credibility of fight against doping, IOC wants to turn back the CAS to a kind of secretary of IOC which produces the awards which are expected by IOC.

Some days later the world was ok for Thomas Bach again. CAS ruled on 9 February 2018 against the Russian athletes who are just acquitted from the suspicion by another CAS award of 1 February 2018, that „ the Applicants have not demonstrated that the process established by the IOC constituted (to not allow them to attend to the Olympic Games) a sanction, or that the manner in which the IRP or the OAR IG independently evaluated the Applicants was carried out in a discriminatory, arbitrary or unfair manner.

It was clear that just a few days after the members of the panel of the first award were unqualified but hard criticized, no other arbitrator of the second panel would have dared to challenge the decision of IOC

Signally how the reasoning is: A classic circular reasoning “That the individual Applicants failed to meet the criteria suggests that there was some evidence that there were suspicions”. Not that the panel demanded IOC to provide evidence for any suspicion, the panel interviewed merely

Günther Younger who explained that the members of the IRP and OAR IG approached their mandate in good faith. http://www.tas-cas.org/fileadmin/user_upload/Award_OG_18-03.pdf

It is not required to provide legal protection by appeal to a panel if these panel delegates the assessment to the members of the Commission who conducted the procedure whether their procedure is not discriminating and lawful.

As shown above, the reason for the "invitation procedure" is demonstrable drawn from (double) hearsay and are a mixture of alleged facts and false conclusions. IRP and OAR IG refused to disclose any kind of evidence, although they are basically obliged to do so, and used data which are available to the International Federations and are no reason for the federations to open investigations or a disciplinary procedure. It is evident that IOC measured with a different scale and that the procedure was not fair.

However, the IOC knows how to suppress any criticism. Russian speedscater Semen Elistratov after winning a bronze medal dared to dedicate his medal to Russian Athletes with the words: "I dedicate this medal to all guys that have been excluded from these Games in such a hard and unfair way" Per USA Today, the IOC said in a briefing Sunday that it is now investigating those comments for possibly breaching the rules agreed to by the Olympic Athletes from Russia to compete in PyeongChang. <https://sports.yahoo.com/ioc-investigating-russian-speedskater-criticized-doping-ban-winning-medal-151841478.html>

Dubious legal procedures and suppression of criticism suits totalitarian regimes, but not sports federations.

IX. Conclusion | The need of an independent and powerful interest representation for athletes and an independent control and disciplinary system

It's like the tale "The emperor's new clothes".

The tale about two weavers who promise an emperor a new set of clothes that they say is invisible to those who are unfit for their positions, stupid, or incompetent - while in reality, they make no clothes at all, making everyone believe the clothes are invisible to them. When the emperor parades before his subjects in his new "clothes", no one dares to say that they do not see any suit of clothes on him for fear that they will be seen as stupid (https://en.wikipedia.org/wiki/The_Emperor%27s_New_Clothes).

Everybody is able to note that Dr Rodchenkov and the IOC (and partially Prof McLaren as well) are naked but everybody fears to be considered as stupid if they stick to what they see.

Officials and members of IOC are living in an Echo Cave, daily speaking to each other about fairness, protection of clean athletes and hard evidence until they are starting to trust their own words.

Even members of the athlete's commission at WADA and IOC forgot what their duty is. Not to serve IOC or WADA but to serve the interests of athletes no matter which nationality they have. Each athlete deserves to be considered as clean athlete until the opposite is proven in a due procedure governed by law. Also a Russian athlete is primarily an athlete.

For example, IOC and Oswald Commission destroyed the career of a young man, former junior world champion, from whom Dr Rodchenkov has no special recollection, which samples showed no T marks, no adverse salt level or DNA. The only hint is the appearance of his name on the "Duchess list", a document from which different versions with different content exist, which origin and meaning is dubious and "explained" from double hearsay with inconsistent meanings by Dr Rodchenkov.

The athlete lost two years and was banned for lifetime from Olympic Games. He was acquitted by CAS and the world of sports cried out that it is wrong. Remarkably, not the fact that he was found guilty without any evidence should be wrong, the acquittal is wrong.

What IOC did is indeed the unprecedented attack on the integrity of the Olympic Games.

Olympic Games 2018 lead to irregular results no one can enjoy.

Just after the Olympic Games WADA has not failed to point out that Russian Anti Doping Agency is still non-compliant and - among others - at first responsible authorities for Anti Doping in Russia must publically accept the reported outcome of the McLaren investigation. https://www.wada-ama.org/sites/default/files/2017-08-02_rusada_roadmaptocompliance_en.pdf

Institute of National Anti-Doping Organizations goes far beyond <http://www.sportsintegrityinitiative.com/open-letter-ioc-members-olympic-athletes-russia-implementation-group/> and demands that ROC has to acknowledge the findings of the Oswald Commission as well by which 42 Russian athletes were accused of an Anti Doping Rule Violation. 28 of them are acquitted, 3 procedures are still pending. However, WADA and INADO demand to accept the result of a IP-report and Oswald

Commission composed of dependent members sitting in an unlawful procedure and which both are rebutted by a last instance court in Sports Arbitration in 28 of 42 cases. Are they really serious?

One of the greatest achievements in the history of human societies is the rule of law and presumption of innocence. The presumption of innocence and the right to procedure in accordance with the rule of law protects people worldwide from the consequences of arbitrary treatment, whether by a state or by another body.

As a German citizen I am aware that this achievement was often cited with regard to the protection of journalists arrested in Turkey. This also means that no one can be convicted without evidence and that no judgment may be given on the information from hearsay and information of persons who cannot be questioned by the defendant. The IOC believes that it is not necessary to apply these achievements of modern rule of law.

It is the duty of members of legal profession not to help break through the idea of sports federations on the field of law. It is the duty to enlighten the idea of justice and rule of law on the field of sports. Nothing, not even sports, is more important than human rights and rule of law.

The Olympic Movement and the International Olympic Committee should serve the interests of the athletes which are the heart of the Games. Instead of that the athletes seem to be the greatest disruption factor.

The athletes, no matter of which nation they are, are not voluntary subject to a doping control and disciplinary system but they have a right that such system has to be free of interests outside the fight against doping. They should organize themselves independent and negotiate the conditions under which they are furthermore ready to attend to sport events and to subdue themselves to doping control and disciplinary procedure. Does anyone seriously believe that an IOC member serves athletes rights against IOC in an athletes commission if he is head of an organizing committee for Olympic games at the same time even he is a former athlete?

What is required is

- a new approach
- with really independent organization to represent athlete's rights in the world of sports,
- really independent testing authorities,
- really independent disciplinary procedure without any stakeholders of any federation and
- a procedure which met the standard of modern rule of law.

You may believe that you are not concerned because you are not Russian. But the Russian athletes are not primarily Russian. They are athletes just like you.

Sincerely yours

Christof Wieschemann

lawyer