

# The Numbers Indicate The Russian Olympic Ban Is Too Harsh

By **Ronald Katz** December 5, 2017, 10:20 PM EST

The war of words between the World Anti-Doping Agency and Russia over alleged state-sponsored doping of Olympic athletes ended in a victory for WADA on Tuesday. Unprecedented punishments — including no athletes from Russia being able to compete as Russians, no mention of any Russian medal wins in the official record books of the 2018 Winter Olympics and a ban on Russian officials even attending the games — were, based largely on WADA's reports, meted out to Russia by the International Olympic Committee.



Ronald Katz

What the ultimate consequences of such punishment of a sovereign state, one of the most powerful in the world, will be is impossible to predict. That raises the question of whether there is objective evidence that supports a lesser penalty. As detailed below, there is numerical evidence — all of it from WADA — that supports a lesser punishment.

The first set of numbers comes from an April 2017 WADA publication that compiles doping violations (what WADA calls "anti-doping rule violations" or ADRVs) from 2015, the most recent year of tabulated data. According to the publication, the data includes information about 2015 received as recently as Jan. 31, 2017.

Of the 1,649 ADRVs noted, 176 of them are attributed to the Russian Federation. That amounts to approximately 10.6 percent of the total, which means that other nations are responsible for 89.4 percent of doping violations. What these numbers demonstrate is that doping is an international problem, not just the problem of one country. Italy, for example, is the country with the second most violations — 129 — but, despite this large number, there is no outcry for the ban of Italian athletes.

The second significant number is 95/96. That is the fraction of Russian athletes who were, according to WADA, cleared of doping violations in the first group of athletes who were evaluated after they had been banned from the Rio Olympics. Regardless of what subsequent results show, the 95/96 fraction casts considerable doubt on the ban — without a determination of individual guilt — of Russian athletes from competing in Rio.

The third significant number is in rubles: 30,000. This is, according to a WADA Independent Commission report issued in November 2015, the amount received by Dr. Grigory Rodchenkov, the former head of the Moscow Anti-Doping Center, from Russian athletes (Yuliya Stepanova and a Russian athlete the WADA Independent Commission report refers to as Confidential Witness #1) to whom he provided performance-enhancing drugs and other services to help them pass drug tests. The WADA report finding on this subject is “that at the heart of the positive drug test cover-up is Dir. Rodchenkov. He not only accepted, but also requested money in order to execute the concealment ...”

The significance of the 30,000 ruble number is that it relates to the primary source, Dr. Rodchenkov, for the WADA reports that resulted in the ban of Russian athletes from Rio and in the punishment of Russia for the 2018 Winter Olympics. Putting aside questions relating to the credibility of an informer and just looking at the numbers, it is not at all clear why a state-sponsored doping system would require athletes to personally enrich the individual who is helping them to violate the rules.

Such personal enrichment is more consistent with a common criminal enterprise than with a state-sponsored project. Indeed, further evidence supporting the theory of a criminal enterprise is that Dr. Rodchenkov’s sister was convicted in Russia for selling banned substances to Russian athletes. It is a fair question whether she got those substances from her brother, who has admitted to creating performance-enhancing drug cocktails for Russian athletes. According to Confidential Witness #2 in the November 2015 WADA report, “it’s widely believed she took the blame for him.”

Surprisingly, the Dec. 2, 2017, report of the IOC Disciplinary Commission — on which the Dec. 5, 2017, IOC punishment of Russia was based — does not distance itself from this 2015 WADA report. Indeed, the Dec. 2 disciplinary report “strongly recommends a thorough reading of this [2015] Report, which is very comprehensive.”

That recommendation is particularly surprising because the Dec. 2 Disciplinary Commission report cites an additional number — 1,417 — from the 2015 report that casts doubt on Dr. Rodchenkov’s credibility: “Furthermore, [Dr. Rodchenkov] admitted during an interview to have intentionally destroyed 1,417 [urine] samples at the end of 2014 in order to limit the extent of the WADA’s audit ...”

The above numbers indicate the appropriateness of a lesser punishment of Russia because they directly impact the most important pending differences between WADA and Russia, i.e., WADA's demands that Russia 1) turn over old urine samples and 2) admit to state-sponsored doping.

Regarding the old urine samples, Dr. Rodchenkov has already admitted to tampering with/destroying them, so turning them over (if they still exist) would serve no purpose. All agree that they are contaminated.

Regarding the admission of state-sponsored doping, Russia has already admitted to doping violations by Russian athletes, but Russia denies that they are state-sponsored. Dr. Rodchenkov has already admitted to enabling Russian athletes to dope, so, again, this admission just leads back to the question of Dr. Rodchenkov's credibility.

The above numbers are, of course, not dispositive of what the appropriate punishment of Russia by the IOC should have been. The advantage these numbers have, however, over the word of an informant who has admitted serious misconduct, is that they are not subject to question.

---

*Ronald S. Katz, who is chair emeritus of the Institute of Sports Law and Ethics at University of the Pacific, is of counsel at GCA Law Partners LLP in Mountain View, California. He recently co-authored the book "Sport, Ethics and Leadership," which was published by Routledge. In 2016, he was a Distinguished Careers Institute Fellow at Stanford University.*

*The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*