



Athleten
Deutschland e.V.

After Peng Shuai Case

Nailing Colors to the Mast: IOC Must Make Protection of Athletes and Compliance with Human Rights Responsibilities Its First Priority

December 2021

Summary

The case of Chinese tennis player Peng Shuai and the IOC's subsequent actions have caused great concern and dismay to Athleten Deutschland. The questionable handling of this case has renewed our doubts about the IOC's motives guiding its actions. The seemingly intentional omission of Peng Shuai's three-week disappearance and of the allegations of abuse raised by her in both of its statements ([here](#) and [here](#)) gives rise to concerns that the IOC attaches greater importance to its political and economic interests than to the protection of athletes.

The case of Peng Shuai confirms a recurring pattern in dealing with athletes whose fundamental rights are violated and who suffer violence, discrimination, persecution, or repression: The IOC is evasive, hesitant or rejects responsibility. For Athleten Deutschland, such incidents have raised questions that go far beyond the Peng Shuai case.

Maximilian Klein, responsible for international sport policy, demands: "The world's most powerful organization in sport must make it unequivocally clear that the protection of athletes, and not the protection of economic and political interests is its top priority. The IOC must now nail its colors to the mast, live up to its human rights responsibilities and finally act in accordance with its ideals."

Ahead of [this week's](#) IOC Executive Board meeting and the Olympic Summit, the following statement takes Peng Shuai's case as a starting point and addresses the protection of athletes at the upcoming Winter Games, the IOC's human rights due diligence obligations in general and with regard to Beijing 2022. The IOC must take, amongst others, the following actions to break its silence and to restore its credibility in line with its ideals:

- Provide evidence of Peng Shuai's safety and insist on an independent investigation,
- Make protection of athletes the guiding principle,
- Ensure safety and protection at the Winter Games,
- Commit to human rights and implement a human rights strategy,
- Publish a human rights risk assessment and disclose China's written assurances on human rights at the Winter Games; and
- Provide clarity on untapped room for manoeuvre on human rights standards at the Winter Games.

As major funders of sport, states and sponsors should also hold the IOC and the federations accountable and insist on compliance with their human rights due diligence obligations. Compliance with these must be a basic prerequisite for the support of sponsors or the state. We are hopeful that the forthcoming German government will make a substantial contribution, both nationally and internationally, to strengthening human rights elements in sport and thus to the fulfilment of human rights.

1. Provide Evidence of Peng Shuai's Safety and Insist on an Independent Investigation.

The IOC must live up to its human rights due diligence obligations and use its undeniable influence on the Chinese government to advocate for Peng Shuai's safety. The November 21 video conference call with Peng Shuai can only have been a starting point. The subsequent [IOC statement](#) does not give her a chance to speak directly, nor does it mention her allegations of abuse against a high-ranking politician and her disappearance for three weeks after this statement.¹ The phone call and the statement provide no evidence as to whether Peng Shuai is actually safe, whether she can make free decisions and whether she can express herself free of coercion and censorship. The IOC's second [statement](#), dated December 2, 2021, also leaves these questions unanswered.

Due to her courageous decision to make her abuse experiences public, she has exposed herself to great dangers. It must therefore be ensured that Peng Shuai is and remains unharmed. She must be provided with independent support. The WTA [has resolutely stood up](#) for the athlete and for the investigation of the allegations. We thank the WTA for its [steadfast action](#) and suspension of its tournaments in China. The IOC should follow this example and put the protection of the survivor above political and economic considerations. It must insist on an independent investigation of the allegations and otherwise reserve the right to appropriate consequences. Peng Shuai has courageously made her painful experiences public and is thus a role model for so many who experience or have experienced violence and abuse both inside and outside of sport.

2. Make Protection of Athletes the Guiding Principle.

The IOC must live up to its function as a role model in global sport. In such a situation, there cannot be any doubts about its motives. As recently as March 2020, the IOC Executive Board [agreed](#) to “*continue to strengthen human rights due diligence, the use of leverage [...] in existing areas of work, including the IOC's efforts on the prevention of harassment and abuse in sport [...].*”

This is not the first time that serious doubts have arisen as to whether the IOC is willing and able to effectively protect athletes within its sphere of influence and to take action against violations of athletes' rights. As recently illustrated by the examples of [Iran](#) and [Belarus](#), athletes from different parts of the world are exposed to discrimination, persecution and reprisals, especially in authoritarian states. Often, the IOC has been evasive, too hesitant in its response, or dismissive of any responsibility. Once again, this pattern is now evident in the treatment of Peng Shuai.

The behaviour of the IOC risks to legitimize the systematic reprisals against undesirable individuals in China and thus becoming a collaborator with the Chinese state leadership. Instead, it must be made

¹ The former Chinese badminton player [Li Lingwei](#) is said to have also taken part in the conference call. Not only is she an IOC member, but as a Chinese sports and former political official, she is likely to be loyal to the Chinese regime and thus not free of conflicts of interest. The accused Zhang Gaoli [is said](#) to have met the IOC president at least once and to have been closely involved in preparations for the Winter Games before his career ended. In our view, the conditions under which the conversation took place must be transparently clarified.

unmistakably clear that the protection of athletes, and not the protection of economic and political interests, is the first priority of the world's most powerful sport organization.

3. Ensure Safety and Protection at the Winter Games.

With regard to the upcoming Winter Games, the IOC must therefore prove that it can ensure the protection and safety of athletes and proactively address the human rights risks affecting them. How will they be protected from surveillance and espionage? Can their physical integrity be ensured? How will their [freedom of expression and speech](#) be guaranteed, especially if they wish to express themselves critically? The organizers should be prepared for all scenarios.

4. Commit to Human Rights and Implement a Human Rights Strategy.

In light of the Peng Shuai case and the IOC's repeated neglect of human rights due diligence obligations, we reiterate [our calls for a coherent commitment by the Olympic Movement](#) to internationally recognized human rights and insist on the long overdue implementation of an IOC human rights strategy. The Olympic Movement must systematically examine and proactively address human rights risks in the world of sport.

Earlier, [in spring 2019](#), the IOC commissioned recommendations for a human rights strategy. These third-party expert [recommendations for an IOC human rights strategy](#) are based on the [UN Guiding Principles on Business and Human Rights](#) (UNGPR) and would have far-reaching implications - also for the protection of athletes. They have been available to the IOC [since February 2020](#) and, as far as we know, have not yet been implemented. Implementing the strategy only after the Winter Games would mark a new all-time low in the already severely damaged credibility of the IOC.

The [recommendations](#) highlight the Beijing Winter Games as a priority area for action (p. 41) to identify and mitigate acute human rights risks: *"In the case of the Olympic Winter Games in Beijing in 2022, in our view, the human rights impacts that could be connected to the Games are severe [...]"* (p. 8)

5. Present a Human Rights Risk Assessment and Disclose China's Written Assurances on Human Rights at the Winter Games.²

In 2015, the IOC Evaluation Commission [wrote](#)³ for the award of the 2022 Winter Games with regard to the Beijing bid: *"Written assurances were provided regarding the following matters: Human rights, the right to demonstrate, media freedom to report on the Games with no restrictions on the Internet, labour rights, displacement and environmental protection."*

To date, however, the IOC has remained silent on the [disastrous human rights situation in China](#) in general, and on the human rights risks associated with the Games in particular. This affects all groups of people who are touched by the preparation and staging of the Games, including athletes and

² For a detailed compilation of the following proceedings, we refer appreciatively to [this report by Human Rights Watch](#).

³ These assurances were again [confirmed in writing](#) by IOC Communications Director Mark Adams to the International Tibet Network in 2015.

journalists. The IOC urgently needs to present a human rights risk assessment for the Games - as already demanded several times by human rights groups and civil society organizations ([here](#) and [here](#)). It must credibly and comprehensibly explain how these risks will be addressed and mitigated.

The IOC must immediately disclose the written assurances given by the Chinese side regarding the respect of human rights during the preparation and staging of the Games.⁴ It must also explain how the implementation of these assurances will be monitored. Apparently, auditing companies are increasingly ceasing their business activities in the Xinjiang region ([here](#) and [here](#)). The IOC must be able to credibly assure and verify that, for example, apparel, merchandise, or other products and business activities for the Winter Games are not linked to forced labour in Xinjiang or other human rights violations.⁵

6. Provide Clarity on Untapped Room for Manoeuvre on Human Rights Standards at the Winter Games.

The IOC must clarify, apart from written assurances from the Chinese side, whether and how it attempted to insist on compliance with human rights standards in connection with the preparation and staging of the Winter Games in Beijing. We believe that compliance with human rights standards could have been part of the *HCC - Operational Requirements* for hosting the Games.

Human rights standards [are](#) part of the [Host City Contract \(HCC Paris\)](#) for the first time as of the Summer Games in Paris 2024. The [2018 version of the HCC - Operational Requirements apply](#), incorporating the human rights due diligence obligations of the contracting parties for the first time (Chapter 17, p. 127 f.). By contrast, the [2016 version of the HCC - Operational Requirements apply](#) to hosting the 2022 Winter Games.

The latest version of the *Operational Requirements* will apply by default at the time of entering into the Host City Contract. However, these may be subject to updates.⁶ Whether and how the updates affect

⁴ This demand [had already been made](#) by several civil society organizations to Juan Antonio Samaranch, President of the IOC Coordination Committee for the Winter Games, at a meeting in October 2020. Mr. Samaranch and his colleagues apparently agreed to share these written assurances but failed to fulfil their promise as of December 2020. Detailed claims to the IOC, sponsors and National Olympic Committees (NOCs) from the [Coalition to End Forced Labor in the Uyghur Region](#), a coalition of civil society organizations, can be found [here](#).

⁵ Chinese Heng Yuan Xiang Group (HYX) [was contracted](#) by the IOC to manufacture official IOC apparel. HYX also apparently maintains a textile factory in Xinjiang and, [according to media reports](#), advertises on popular online shopping platforms that the cotton for its products comes from Xinjiang. An IOC spokesperson [reportedly confirmed](#) that HYX had provided the IOC with a certificate of origin stating that the cotton used did not come from China. The IOC had neither published such a certificate nor the name of the certificate issuer. We cannot assess how reliable this information is and how verifiable such certificates are.

⁶ [2016 version of the HCC - Operational Requirements](#) (p. 14): "The *HCC - Operational Requirements* lists key requirements applicable to the planning, organising, financing and staging of the Games, as they are known by the Parties at the time of execution of the HCC. However, these requirements may be amended or completed as a result of policy, technological and other changes, in accordance with the procedures and subject to the conditions described in the *HCC - Principles*."

[2018 version of the HCC - Operational Requirements](#) (p. 16): „The *HCC - Operational Requirements* document lists key requirements applicable to the planning, organising, financing and staging of the Games, as they are known by the Parties at the time of publication. However, the Olympic Games delivery model is always developing to improve its efficiency and adapt to a fast-evolving world, which requires the IOC and IPC to periodically review and update the *HCC - Operational Requirements*."

already concluded Host City Contracts is specified in the corresponding change management mechanism of the respective Host City Contract.⁷ According to these provisions, the IOC reserves the right to adjust to such Operational Requirements in both the [Paris Host City Contract](#) (§ 30 of the [HCC - Principles](#))⁸ and the [Beijing Host City Contract](#) (§ 6 of the [HCC](#))⁹. The contracting parties can take action against such subsequent amendments; exceptions have been made repeatedly.

Updating the Operational Requirements after the conclusion of host city contracts seems to be common practice¹⁰ and within the realm of feasibility. Thus, the IOC apparently had the option to propose the application of the 2018 Operational Requirements, including the human rights standards contained therein, to the Chinese contract parties. If the IOC did not pursue this option at its disposal, it made a conscious decision against exercising its human rights responsibilities at the Winter Games. The IOC must therefore urgently disclose whether it demanded the application of the 2018 Terms and Conditions from the contracting parties and why this attempt apparently failed.

7. Nail Colors to the Mast and Restore Credibility.

The IOC has repeatedly violated its human rights due diligence obligations in the past. Its widely criticized course of action in the Peng Shuai case is symptomatic of a much broader problem: economic and political considerations seem to take precedence over its human rights responsibilities. The IOC must now face up to this responsibility and thus convince all stakeholder groups, not least the athletes, of its credibility. It must break its silence, finally nail its colors to the mast and act in accordance with

⁷ [2016 version of the HCC - Operational Requirements](#) (p. 16): „The requirements defined in this document have been drafted primarily in view of their application to the 2024 Games and the 2028 Games, as an integral part of the HCC. However, the IOC may decide, in coordination with existing OCOGs, that the requirements contained in this document are, in whole or in part, also applicable to earlier editions of the Games of the Olympiad or Olympic Winter Games and/or, in accordance with the provisions of the agreements entered into between the IOC and existing OCOGs.”

[2018 version of the HCC - Operational Requirements](#) (p. 13): „For each specific edition of the Games, the latest version published by the IOC at the time of the Host City election applies and is thereafter updated with any subsequent version of the HCC - Operational Requirements, as agreed between the IOC, the Host City, the NOC and the OCOG pursuant to the change management mechanism described in the HCC - Principles.”

[2018 version of the HCC - Operational Requirements](#) (p. 13): „The application of any update of the HCC - Operational Requirements issued after a Host City election will be agreed between the IOC and the concerned parties in accordance with the change management mechanism defined in the HCC - Principles.”

⁸ [HCC - Principles for Paris](#) (p. 27): “The Host City, the Host NOC and the OCOG recognise that, while the contents of the HCC - Operational Requirements represent the current position of the IOC on such matters, such material may evolve as a result of policy, technological and other experience-based changes (some of which may be beyond the control of the parties to the HCC). The IOC therefore reserves the right to amend or supplement such HCC - Operational Requirements.”

⁹ [Beijing Host City Contract](#) (p. 13): “The City, the NOC and the OCOG recognise that, while the contents of the Host City Contract Detailed Obligations which are contained in this Contract, or incorporated by reference, represent the current position of the IOC on such matters, such material may evolve as a result of, policy, technological and other changes (some of which may be beyond the control of the parties to this Contract). The IOC reserves the right to amend such Host City Contract Detailed Obligations, and to issue new Host City Contract Detailed Obligations, subject to Section 7 below.”

¹⁰ For both the Beijing and Paris Games, the initial Operational Requirements were updated. The [initial HCC-Detailed Obligations](#) for Beijing 2022 were replaced with the updated [2016 HCC - Operational Requirements](#) per [addendum agreement](#). A similar practice was followed for the Paris 2024 Summer Games, for which the initial 2016 [HCC - Operational Requirements](#) were replaced with the [2018 version](#) per [addendum agreement](#).

its ideals - to protect the athletes and to fulfil its human rights due diligence obligations. This is the only way to restore the lost credibility of the umbrella organization of the Olympic movement.

8. Make Compliance with Human Rights Standards a Prerequisite for Public and Sponsorship Support.

Respect for human rights should be a fundamental value of sport and [should](#) lay the foundation for the canon of values in sport. Thus, the fulfilment of human rights due diligence obligations by sports federations must be a foundation of the integrity of sport and thus a basis for a responsible approach to the autonomy of sport.

Consequently, value-based sport with integrity presupposes that all stakeholder groups recognize their human rights responsibilities. In addition to sports federations and their sponsors, they also include states and their governments. Based on the UN Guiding Principles on Business and Human Rights (UNGP), they are obliged to respect or protect the human rights of all groups impacted by the activities of sport. As the major funders of sport, states and sponsors should hold the IOC and the federations accountable and insist on compliance with their human rights due diligence obligations. Complying with these must be a basic prerequisite for sponsor support or public funding.

With the [exception of the Chinese company Alibaba](#), the 14 TOP sponsors of the IOC have committed to the UNGP.¹¹ Companies that have committed to these standards should reconsider their sponsorship decisions for an organization like the IOC that has so far inadequately fulfilled its human rights responsibilities. They should insist on immediate action by the IOC with regard to the imminent human rights risks associated with the Beijing Winter Games and make their continued sponsorship conditional on the comprehensive implementation of an IOC human rights strategy.

States and governments must work nationally and internationally to ensure that sports organizations comply with their human rights due diligence obligations¹² and tie their decisions on public funding for sports to compliance with these. In terms of hosting major international sporting events, we support the [German government's expectation](#) that international sports organizations "comply with their human rights due diligence obligations in accordance with the UN Guiding Principles on Business and Human Rights when selecting hosts of major sporting events." We strongly welcome that the new government coalition expects in its [coalition agreement](#) that awarding and hosting major international sporting events "should be strictly linked to compliance with the UN Guiding Principles on Business and Human Rights and Sustainability" (p. 114) and wants to strengthen international sport policy (p. 126).

¹¹ Individual references to the respective human rights policies of the TOP sponsors with the exception of Alibaba: [Visa](#), [Allianz](#), [Coca-Cola](#), [Intel](#), [Panasonic](#), [Samsung](#), [Airbnb](#), [Atos](#), [Bridgestone](#), [Toyota](#), [Dow](#), [Omega](#), [P&G](#).

¹² We strongly welcome that several state and supranational actors from the U.S. and the EU, including Germany, have taken clear positions on human rights abuses in sports in recent times (e.g., [here](#), [here](#), [here](#), [here](#), and [here](#)).

We are hopeful that the forthcoming German government will make a substantial contribution, both nationally and internationally, to strengthening human rights elements in sport and thus to the fulfilment of human rights.

About Athleten Deutschland e.V.

Athleten Deutschland e. V. was founded in 2017 to give athletes competing for Germany a real say for the first time in history. The association is committed to fundamental changes in the German and international sport system. The athletes' protection, the perspective and the effective co-determination of the athletes are always in the centre of our attention.

Together with our members, we fight for world-class conditions that give them the opportunity to develop their sporting and personal potential. We stand up for fair and clean sports, free of abuse and violence, manipulation, and mismanagement. To fulfil our mission, we collaborate with various actors from politics, business, science, and civil society, as well as with like-minded partners in Europe and the world.

Athleten Deutschland e.V. is financially supported by the Federal Ministry of the Interior, Building and Homeland on the basis of a resolution of the German Bundestag.

Contact

Athleten Deutschland e.V.
Johannes Herber, Managing Director
Maximilian Klein, Representative for International Sport Policy
Friedbergstraße 19
14057 Berlin
E-mail: info@athleten-deutschland.org
www.athleten-deutschland.org



aufgrund eines Beschlusses
des Deutschen Bundestages