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War of aggression against Ukraine – Participation of Russian and Belarusian athletes in the Paris 2024 Olympics and Paralympics?

Report[1]
Committee on Culture, Science, Education and Media
Rapporteur: Ms Linda Hofstad HELLELAND, Norway, Group of the European People's Party

Summary

All institutions and organisations which sincerely claim to uphold fundamental rights and democratic values, must stand behind Ukraine without reservations, hesitations or doubts. Countries must lead the way, but all actors in the global society should play their part. This applies to the sports community and to the Olympic Movement, the role of which is fundamental and whose decisions have a huge resonance and deep global impact.

For the Committee on Culture, Science, Education and Media, the participation of Russian and Belarusian athletes in the Paris Olympic and Paralympic Games in the current context is unthinkable: this participation would certainly be used as a tool of propaganda, and would *de facto* prevent other athletes, not least Ukrainian athletes, from participating. The endeavour undertaken by the International Olympic Committee (IOC) to establish a set of acceptable criteria allowing for the participation of Russian and Belarusian athletes as neutral, individual competitors cannot provide the necessary guarantees and will not constitute a response worthy of the values of human dignity and peace enshrined by the Olympic Charter.

Above all, the arguments for permitting participation of Russian and Belarusian athletes on the grounds of neutrality, independence of the sports movement, and non-discrimination, do not carry sufficient weight faced with the imperative of condemnation and repudiation of the atrocities being committed, and of demonstrating the international community's complete and unwavering support for Ukraine as the onslaught continues.

Therefore, national IOC representatives and national and international sports federations should express their opposition to the IOC's proposal to allow Russian and Belarusian athletes to participate in the Paris Olympic and Paralympic games. The IOC should maintain the position expressed in 2022 and prohibit the participation of Russian and Belarusian athletes in the Olympic and Paralympic Games and in all other major sporting events, for as long as the war of aggression continues.

1. Reference to committee: Bureau decision, Reference 4743 of 19 June 2023.

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A. Draft resolution[2]

1. The Parliamentary Assembly condemns once more, in the strongest terms, the full-scale war of aggression waged by the Russian Federation against Ukraine, with the complicity of the Belarusian regime. The consequences of this deliberate flouting of international law reverberate far beyond the borders of Ukraine or even of Europe: all regions of the world are affected.

2. No means can be spared to demonstrate our entire repudiation of the Russian and Belarusian leadership and regime. Politicians and public authorities must lead the way, but major organisations and institutions acting in the public and private sphere should also stand up, bringing the weight of their moral authority and renown to the public consciousness.

3. The sporting world is an influential societal actor which, at national, regional and global level, wields immense economic, social, and even political leverage and whose decisions have a huge resonance and deep global impact. At its best, sport brings together countries, societies, people and cultures to a playing field where differences can be put aside and the exchanges are based on values such as mutual respect, diversity, equality and inclusion. And for these same reasons, the Assembly considers that the sporting world must today play its role in responding to a situation in which a major world power has thrown aside its obligations under international law with such devastating consequences.

4. In April 2022, the Assembly's Committee on Culture, Science, Education and Media welcomed the calls by the International Olympic Committee (IOC), which urged all International Sports Federations to relocate or cancel their sports events planned in the Russian Federation or Belarus and recommended to International Sports Federations and sports event organisers not to invite or allow the participation of Russian and Belarusian athletes and officials in international competitions. Moreover, the 17th Council of Europe Conference of Ministers responsible for Sport (Antalya, Türkiye) adopted on 26 October 2022 a Resolution in which the Ministers condemned the Russian Federation's aggression against Ukraine and considered that the Russian Federation and Belarus should not be represented in international sport as long as this aggression continues.

5. Concerned by the ongoing debate within the IOC on the possibility for athletes with a Russian or Belarusian passport to participate in the Paris 2024 Olympic and Paralympic Games as "neutral athletes", the same committee organised a hearing in April 2023 with the participation of invitees active in the ongoing discussions on this question. At this hearing, Assembly members listened to different points of view, including positions on the need to ensure non-discrimination in sport, the wish to keep sport separate and independent from politics and State intervention, as well as further details about the criteria for neutral participation currently under examination by the IOC and how different sports bodies may ultimately take different stances on this matter. The Standing Committee of the Assembly, meeting in Riga on 25 May 2023, held a current affairs debate on this question.

6. While recognising the complexity of the issues at stake, and that views may differ on the best approach, the Assembly holds that the participation of Russian and Belarusian athletes in the Olympic and Paralympic Games in the current context is unthinkable, would certainly be used as a tool of propaganda, and would *de facto* prevent other athletes, not least Ukrainian athletes, from participating.

7. Having taken into account all perspectives and arguments raised, the Assembly is convinced that the endeavour undertaken by the IOC to establish a set of acceptable criteria allowing for the participation of Russian and Belarusian athletes as neutral, individual competitors in the Paris Olympic and Paralympic Games cannot provide the necessary guarantees and will not constitute a response worthy of the values of human dignity and peace enshrined in the Olympic Charter.

8. Past experience at the Beijing and Sochi Olympics has shown that the Russian regime is more than ready to misuse the Olympic truce. Bearing in mind that Russian and Belarusian elite athletes receive State salaries and are often part of military sports teams, it seems impossible that they could demonstrate their neutrality and distance from these regimes, let alone making any declaration against the war. Indeed, athletes wishing to do so would certainly be putting themselves in a dangerous situation. Moreover, the individual decisions of each sports body on whether or not to allow Russian and Belarusian athletes to take part in the relevant competitions as neutral athletes could only lead to confusion and unequal treatment, and in recent weeks it has been shown that the Russian and Belarusian regimes will nonetheless use any victories of such "neutral" athletes in their propaganda.

2. Draft resolution adopted unanimously by the committee on 19 June 2023.

9. Above all, the arguments for permitting participation of Russian and Belarusian athletes on the grounds of neutrality, independence of the sports movement, and non-discrimination, do not carry sufficient weight faced with the imperative of condemning and repudiating the atrocities being committed, and of demonstrating the international community's complete and unwavering support for Ukraine as the onslaught continues. The Ukrainian fight for freedom is our fight; this should not be forgotten or overlooked, and should continue to guide our responses to the Russian war of aggression.

10. The Assembly therefore:

10.1. strongly urges national IOC representatives and national and international sports federations to express their opposition to the IOC's proposal to allow Russian and Belarusian athletes to participate in the upcoming Paris Olympic and Paralympic games;

10.2. calls on the IOC and its constituent sports bodies to maintain the position expressed in 2022, and to prohibit the participation of Russian and Belarusian athletes in the Paris Olympic and Paralympic Games and in all other major sporting events, for as long as the war of aggression continues. Such a ban can only enhance and further promote the worthy objectives of peace and equality embodied by the Olympic Movement and by sport in general. It does not weaken or blur the independence and values of sport.

B. Explanatory memorandum by Ms Linda Hofstad Helleland, rapporteur

1. Introduction

1. On 24 February 2022, following the deadly Russian attack against Ukraine, the International Olympic Committee (IOC) strongly condemned the breach of the Olympic Truce by the Russian Government.[3] On 25 February 2022, its Executive Board (EB) urged all International Sports Federations to relocate or cancel their sports events planned in Russia or Belarus,[4] and it asked that no Russian or Belarusian national flag be displayed, and no Russian or Belarussian anthem be played in international sports events. On 28 February 2022, the IOC EB recommended to International Sports Federations and sports event organisers not to invite or allow the participation of Russian and Belarusian athletes and officials in international competitions.[5]

2. In April 2022, the Committee on Culture, Science, Education and Media supported these IOC calls, noting that the Russian authorities were – as they still are – silencing all forms of opposition and critical thinking, and that no alternative remained other than severe bans which could force the Russian people to confront the horror of this war that Russian propaganda seeks to conceal.

3. Today, the IOC is considering the possibility for athletes with a Russian or Belarusian passport to participate in the Paris 2024 Olympic Games as "neutral athletes", and the Association of Summer Olympic International Federations (ASOIF), as well as many sport federations (though not all) seem to be inclined to go along with this approach. But, what has changed since February 2022? Sixteen months after the beginning of the war of aggression against Ukraine, the situation has certainly not improved. Tragically, recent events show even an escalation in brutality.

4. The consequences of this war of aggression are appalling. Thousands of civilian victims have fallen alongside the tens of thousands of Ukrainian soldiers who have perished in defending their country, and more than 14 million Ukrainians have had to leave their homes. In addition to the massive destruction of civil infrastructure,[6] shameful acts of barbarism and war crimes have been perpetrated by the Russian army, including the deportation of Ukrainian children.

5. Today, there seems to be little reason to hope that this dreadful and unjustifiable aggression will cease. The Russian regime is resolved to bring the Ukrainian people to their knees, and it keeps on threatening to escalate, as the announcements about the deployment of tactical nuclear weapons in Belarusian territory confirm.

6. For many of us, the ongoing debate within the IOC on the possibility for athletes with a Russian or Belarusian passport to participate in the Paris 2024 Olympic Games as "neutral athletes" is thus hard to understand. However, the IOC is not alone in justifying the need to reconsider the ban on Russian and Belarusian athletes. The committee held a public hearing on 25 April 2023[7] with the participation of invitees active in the ongoing discussions on this question. We listened to different points of view, including positions

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3. See here.
4. See here.
5. See here. Wherever this was not possible on short notice for organisational or legal reasons, the IOC EB urged International Sports Federations and organisers of sports events worldwide to do everything in their power to ensure that no athlete or sports official from Russia or Belarus be allowed to take part under the name of Russia or Belarus, and it stated that Russian or Belarusian nationals, be it as individuals or teams, should be accepted only as neutral athletes or neutral teams, and no national symbols, colours, flags or anthems should be displayed. The IOC EB also made an *ad hoc* decision to withdraw the Olympic Order from all persons having an important function in the Government of the Russian Federation or other government-related high-ranking position, including Mr Vladimir Putin, Mr Dmitry Chernyshenko, and Mr Dmitry Kozak.
6. Including, for instance, the recent destruction of the Kakhovka Dam on the Dnipro River, with its devastating consequences for thousands of people, the agricultural economy and the environment of the Kherson region and with the risks for the security of the nuclear power plant of Zaporizhzhia. Indeed, though the absolute certainty is not there on the causes of this event, it is likely to have been provoked by the Russian Army which controls the area, as part of its strategy to hamper the Ukrainian counter-offensive.
7. Public hearing with the participation of Ms Natallia Pinchuk, the wife of jailed Belarusian human rights activist and Václav Havel Prize winner Ales Bialiatski; Ms Amélie Oudéa-Castéra, Minister of Sports and the Olympic and Paralympic Games, France (video message); The Rt Hon Lucy Frazer KC MP, Secretary of State for Culture, Media and Sport, United Kingdom (video message), represented by Mr Adam Conant, Head of Sport – Department for Culture, Media & Sport, United Kingdom; Mr Andriy Chesnokov, Deputy Minister for Youth and Sports of Ukraine for European Integration (online); Ms Alexandra Xanthaki, Special Rapporteur in the field of cultural rights, United Nations (video message); Mr Francesco Ricci Bitti, President of the Association of Summer Olympic International Federations (ASOIF); Mr Gerd Kanter,

on the need to ensure non-discrimination in sport, the wish to keep sport separate and independent from politics and state intervention, as well as further details about the criteria for neutral participation currently under examination by the IOC and how different sports bodies may ultimately take different stances on this matter. Subsequently, the Standing Committee of the Assembly, meeting in Riga on 25 May 2023, held a current affairs debate on this question.

7. The present report, which stems from a request for an urgent debate tabled by the chairpersons of the five political groups of the Assembly, is intended to analyse – and respond to – the key arguments put forward in justifying the removal of the ban and the participation of Russian and Belarusian athletes, though under strict conditions of "neutrality", in the Paris 2024 Olympic Games. Given the complexity of the legal and political issues at stake, and the tight time-frame of an urgent debate report, this analysis does not pretend to be exhaustive; it is however sufficiently detailed to explain the conclusion I have reached on the need to maintain the present ban, which I hope will be followed by the committee, the Assembly and then the IOC.

8. I identified four key questions which can structure this analysis. These are:

– Is the ban on Russian and Belarusian athletes an infringement on their fundamental rights?

– Is this ban coherent with Olympic values?

– Would a call on the IOC from the Assembly to maintain the ban be against the principle of the autonomy of sport?

– Would such a call – and statements by most of the Council of Europe member States, which have expressed reservations against the removal of the ban – be inconsistent or self-centred, knowing that other conflicts have not provoked the same reactions from their side?

9. I will consider one by one these distinct questions, which however are interconnected and may partly overlap. I considered that the first question deserved more lengthy explanations, some of which are also relevant to respond to the other questions.

2. Is the ban an infringement on the fundamental rights of Russian and Belarusian athletes?

10. A reconsideration of the sanction adopted by the IOC in February 2022 may well have been prompted by a communication addressed to the IOC on 14 September 2022 by two UN experts: Ms Alexandra Xanthaki, Special Rapporteur in the field of cultural rights, and Ms E. Tendayi Achiume, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[8] The two experts, while recognising "the relocation or cancellation of events planned in the Russian Federation and Belarus, as well as the recommendation not to display the Russian or Belarusian national flags and not to play the Russian or Belarusian anthems in international sports events, as sanctions that can be considered as legitimate, as they directly target these States or their official representations", expressed "serious concern, however, about the recommendation to ban Russian and Belarusian athletes and officials such as judges from international competitions, based solely on their nationality, as a matter of principle", because they considered that this raised "serious issues of non-discrimination".

11. Ms Xanthaki sent a video message on the occasion of the hearing of 25 April 2023.[9] Subsequently, she also sent a written document entitled "*Questions and Answers on the participation of Russian and Belarusian athletes in international sports competitions*", which reiterates the arguments advanced in her video message. I decided to attach this document to the present report (see appendix), because I consider it informative and relevant.

Chairperson of the Athletes' Commission, European Olympic Committees Estonia (online); Representatives of the International Olympic Committee (IOC): Mr Arsen Julfalakyan (Armenia), Olympic silver medallist, World and European Champion, Greco-Roman Wrestling, Chair of the United World Wrestling (UWW) Athletes' Commission; Ms Gaby Ahrens (Namibia), Olympian, Shooting, Chair of the Athletes' Commission of the Association of National Olympic Committees of Africa (ANOCA). The video of the hearing is available here.

8. See here. Special Rapporteurs are part of what is known as the Special Procedures of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organisation and serve in their individual capacity.

The IOC responded on 11 November 2022 (see here).

12. Indeed, I can concur with most elements of Ms Xanthaki's analysis. I believe all of us cannot but agree on the following:

– The IOC and its members must respect human rights.

– Sports are one of the many cultural practices through which people develop and express themselves, learn from others and belong to a community, and the right to participate in cultural life, which is protected under international law, includes the right to participate in sports.

– Non-discrimination constitutes a basic and general principle relating to the protection of human rights, and human rights must be exercised without discrimination of any kind, including on the basis of nationality.

– Differential treatment based on prohibited grounds will be considered as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with human rights standards and seek solely to promote the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought and the measures or omissions and their effects.[10]

13. However, I cannot follow Ms Xanthaki's reasoning when she argues that the restriction on the right of Russian and Belarusian athletes resulting from the ban on their participation the Olympic Games is not justifiable and infringes their right to participate in sports.

14. For a start, it is worth clarifying that the right to participate in sports and states, as an expression of the right to participate in cultural life, should not be confused with the right to participate in the Olympic Games or in major world sports competitions.

15. Indeed, the Olympic Charter upholds the right to participate in sports and states, in its Fundamental Principle No. 4, that "the practice of sport is a human right" and that "every individual must have the possibility of practising sport, without discrimination of any kind".

16. All Council of Europe member States have recognised "the right to sport" in a comprehensive manner. According to Article 10 of the Revised European Sports Charter (the Charter)[11] on "The right to sport": "1. Access to sport for all is considered to be a fundamental right. All human beings have an inalienable right of access to sport in a safe environment, both inside and outside school settings, which is essential for their personal development and instrumental in the exercise of the rights to health, education, culture and participation in the life of the community."[12] And the same provision adds that "2. No discrimination on the grounds of race, colour, language, religion, gender or sexual orientation, political or other opinion, national or social origin, association with a national minority, property, birth or other status, shall be permitted in the access to sports facilities or to sports activities."

17. I may agree that the possibility for high-level athletes to participate in major sports events is also part of their right to sport; but this is only a fragment of the right to (practice) sport and not "the core essence" of this right, which is the "right of access to sport in a safe environment". In fact, one could reasonably argue that the very essence of the right to access sport safely today is denied not to Russian and Belarusian athletes but rather to Ukrainian athletes and people.

18. With this clarification in mind, does the restriction on (a component of) the right to sport of Russian and Belarusian elite athletes amount to a discrimination prohibited by international law?

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9. The video message has been published on the committee's website, together with the video of the hearing (see here). The transcript sent by Ms Xanthaki's office is annexed to the minutes of the hearing Addendum to the Minutes - Strasbourg, 25-27 April 2023.

10. As is the case for all restrictions placed on individual human rights in the interest of society as a whole, the differential treatment must be assessed by way of balancing the importance of its legitimate purposes against its negative effects on the rights of the individuals concerned. The specific measures must be necessary (which means there must be no other, less intrusive measures which would achieve the same purpose) and proportionate (which means that the effects of the measures must remain within reasonably acceptable limits, in relation to the importance of the aims pursued). According to the European Court of Human Rights, very weighty reasons have to be put forward to regard a difference in treatment based exclusively on the ground of nationality as compatible with the Convention.

11. Appendix to Recommendation CM/Rec(2021)5.

12. According to Article 2 of the Charter: "For the purpose of this Charter, 'sport' means all forms of physical activity which, through casual or organised participation, are aimed at maintaining or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels."

19. Ms Xanthaki argues that "Limitations to the right to participate in cultural life, including sports, must be determined by law, pursue a legitimate aim, be compatible with the nature of the right and strictly necessary for the promotion of general welfare in a democratic society. Any limitations must therefore be proportionate, meaning that the least restrictive measures must be taken when several types of limitations may be imposed."

20. We know well the triple test of lawfulness, legitimate aim and proportionality, as these are the conditions required by the European Court of Human Rights when it comes to limitations to rights enshrined by the European Convention of Human Rights (ETS No. 5), such as the right to respect for private life guaranteed by its Article 8, to which the right to sport can also be linked to.

21. It seems that the key issue for Ms Xanthaki is the lack of "necessity" or "proportionality" of the ban, which she considers "disproportionate to the aim that it seeks to achieve". I disagree, not with the need to assess the necessity and proportionality of the ban, but with Ms Xanthaki's conclusions.

22. As a start, it is important to clarify what the legitimate aim in question is. Ms Xanthaki only makes reference to the objective sought by the IOC EB, namely to protect the integrity of global sports competitions and the safety of all participants. However, the "general welfare in a democratic society" to which Ms Xanthaki refers, certainly includes the "protection of rights and freedom of others", which is one of the specific legitimate aims that, according to the European Convention on Human Rights (ETS No. 5), a restriction on a non-absolute human right may pursue. And together with Ms Xanthaki, I am absolutely convinced that sporting bodies should commit themselves to protecting and respecting internationally recognised human rights.

23. In this respect, the war of aggression against Ukraine is an outrageous threat to the right to self-determination of the Ukrainian people. It entails the appalling violation of a full cohort of fundamental rights of which millions of Ukrainians are victims. Therefore, on one side of the scale, we have a limitation of the right to compete in the Olympic Games of a limited number of Russian and Belarusian elite athletes; and, on the other side, we have the fundamental rights of an entire country of millions of people, including their right to life and to security, and, of course, their "right of access to sport in a safe environment".

24. Can we seriously argue that a ban adopted in reaction to the massive violations of these rights is not "necessary" or is "disproportionate" in view of the objective pursued? Let us first recall the objective pursued by a ban on Russian and Belarusian athletes: namely to send a clear signal not only to the Russian and Belarusian leadership, but also to the general population of both States. On a daily basis, the people of Russia and Belarus are subjected to propaganda aimed at making them believe that the so-called "special military operation" is needed to protect Russia and the whole world from a threat of "Nazism" emanating from Ukraine. The Olympic and Paralympic Games in Paris provide a unique opportunity to send a strong message to all Russians and Belarusians that the international community at large disapproves of the war of aggression against Ukraine and that this war must be ended before Russia and Belarus can rejoin the world stage, including the world of sports, as respected partners.

25. A ban on Russian and Belarusian athletes intended to uphold the rights of the Ukrainian people can only be considered as disproportionate if another less stringent solution could achieve the same results.

26. If such a solution existed, I would support it without hesitation. But I do not see any less stringent measures that would achieve the same purpose. Quite on the contrary, a decision to remove the ban and authorise Russian and Belarusian athletes to compete in the Paris 2024 Olympic Games, even as "neutral athletes", would send the opposite signal to the one that must be sent. It would immediately be used by Mr Putin's pro-war propaganda as a sign of acceptance, by the international community, of the "special military operation"; and each medal won by Russian and Belarusian athletes would further feed into his nationalist propaganda. As a consequence, the Russian population may be led to believe for longer that the war against Ukraine is justified, even recognised as legitimate – or at least is not really opposed – by the sports community and the international community at large. The risk of such an outcome is all too real and we must not allow it to happen.

27. Given that in Russia and Belarus, sports and politics are closely intertwined, 35 governments have expressed strong doubts about the feasibility for Russian and Belarusian Olympic athletes of competing as "neutrals" when they are directly funded and supported by their States. The strong links and affiliations between Russian athletes and the Russian military are also of clear concern.[13]

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13. According to a Statement on Russia's war on Ukraine and international sport which has been signed by 35 States and published on 20 February 2023, the IOC's proposal on exploring a pathway back to competition for individual Russian and Belarusian athletes raises many questions and concerns. This position has been reiterated by Ms Amélie Oudéa-Castéra, and by The Rt Hon Lucy Frazer KC MP, in their respective video messages.

28. The IOC considers that the questions about the definition of the neutrality of athletes with a Russian or Belarusian passport have been fully addressed its recommendations for International Federations (IF) and international sports event organisers on the participation of these athletes in international competitions. According to these recommendations:

> *1. Athletes with a Russian or a Belarusian passport must compete only as Individual Neutral Athletes.*
>
> *2. Teams of athletes with a Russian or Belarusian passport cannot be considered.*
>
> *3. Athletes who actively support the war cannot compete. Support personnel who actively support the war cannot be entered.*
>
> *4. Athletes who are contracted to the Russian or Belarusian military or national security agencies cannot compete. Support personnel who are contracted to the Russian or Belarusian military or national security agencies cannot be entered.*
>
> *5. Any such Individual Neutral Athlete, like all the other participating athletes, must meet all anti-doping requirements applicable to them, and particularly those set out in the anti-doping rules of the IFs.*
>
> *6. The sanctions against those responsible for the war, the Russian and Belarusian states and governments, must remain in place:*
>
> *a. No international sports events organised or supported by an IF or a national olympic committee in Russia or Belarus.*
>
> *b. No flag, anthem, colours or any other identifications whatsoever of these countries displayed at any sports event or meeting, including the entire venue.*
>
> *c. No Russian and Belarusian government or state official can be invited to or accredited for any international sports event or meeting.*[14]

29. To me, these recommendations still raise numerous, and virtually unsolvable problems:

– in the definition of neutrality, as this issue cannot be dealt with only from the perspective of individual formal positions at a given time (for example, what about athletes that are not under a contract with the Russian or Belarusian military or national security agencies when registering for a competition, but were under such a contract when the war was initiated? And what about athletes who have been financially supported in their career by the Russian State with public money through other public bodies? And what about athletes who can express their support to the war after the Games or be involved in ceremonies where the war is celebrated by the regime?);

– in the possibility of ensuring their effective implementation before, during and after the Paris Games, as we can hardly rely on the Russian and Belarusian authorities and their real cooperation in any monitoring mechanisms – as we all know too well.

30. Moreover, the participation of Russian and Belarusian athletes under a neutral banner – and based on the IOC's above-mentioned conditions of non-identification with their country – would not really respond to Ms Xanthaki's objection of discriminatory treatment. From her perspective, only athletes engaging in propaganda for war (irrespective of their nationality) should be excluded. This perspective is clearly too narrow: we cannot just look at individual voluntary conduct, as sport is easily converted into an instrument for propaganda by authoritarian regimes, as history has shown, and propaganda is a key tool of Putin's regime, which individual athletes are not free to dissociate from.

31. If conditionalities were strong enough to avoid propaganda, for example by requiring athletes to publicly condemn the war of aggression, the result would likely be that Russian and Belarusian athletes would not be allowed to participate by their authorities, or that they themselves would be unable to accept these stringent conditionalities, which would clearly put them and their families at risk of retaliation from their authorities.

32. Let us not forget that we are not speaking of countries where human rights are recognised and secured, but of oppressive dictatorships in which a 13-year-old girl who draws an anti-war picture can be placed in a children's home and her father be convicted for discrediting the armed forces.[15] In such countries, how could athletes really be neutral or proclaim their neutrality? And how could we prevent their possible success stories from being eventually instrumentalised?

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14. See in this respect: Q&A regarding the participation of athletes with a Russian or Belarusian passport in international competitions.

15. I am referring to the sad case of Maria and Alexey Moskalyov.

33. Summing up, there is nothing to support the likelihood that a measure less stringent than the outright ban of Russian and Belarusian athletes would be conducive to sending the intended strong message aimed at, ultimately, ending the war and achieving a just peace for Ukraine. The IOC's solution, as described above, cannot be implemented and monitored effectively and would in any event not change the fact that differences in treatment based on nationality remain.

34. In dark times we need to firmly stand up for our values. And this is exactly what we are doing by calling for the ban to be maintained. The sole conceivable exception to my mind could be for those athletes, if any, who have fled Russia or Belarus and are known for their opposition to the regimes in these countries and to the war. These athletes, who have already voluntarily accepted the risk of their dissidence, deserve our greatest respect and our support; their participation could not be instrumentalised for pro-war propaganda and there would be no reason to apply to them a sanction which is there to oppose the war. Perhaps such athletes could join a "refugee team" as has been done in the past notably during the height of the conflict in Syria.

3. Is the ban coherent with Olympic values?

35. According to the Olympic Charter:

– "The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity" (Fundamental principles of Olympism, paragraph 2);

– "The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values" (Article 1.1);

– The IOC's role includes "to cooperate with the competent public or private organisations and authorities in the endeavour to place sport at the service of humanity and thereby to promote peace" (Article 2.4).

36. The ban was decided by the IOC mainly as a consequence of the breach of the Olympic Truce by the Russian Government and the Government of Belarus through its support to this.[16] The IOC has clearly stated that its decisions in February 2022 were made first and foremost "because the Russian invasion of Ukraine represents a blatant violation of the Olympic Truce that was still in place for the Olympic and Paralympic Winter Games Beijing 2022, and thus a breach of the Fundamental Principles of Olympism, enshrined in the Olympic Charter. While the Olympic Winter Games had just come to a close, the Paralympic Winter Games were about to start."[17]

37. The IOC has also justified its measures on other grounds, namely bearing in mind that "While athletes from Russia and Belarus would be able to continue to participate in sports events, many athletes from Ukraine are prevented from doing so because of the attack on their country"[18], as well as the need "to ensure the security and integrity of competitions and to ensure that qualification to take part in an international competition was based on sporting merit and not on political decisions such as denial of visas or threatening of athletes, National Federations or National Olympic Committees."[19]

38. I will not spend time on analysing these possible additional justifications (namely the concerns for the safety and security of athletes, including Russian and Belarusian athletes, and for the integrity of competitions), and whether they are still actual or not; though I will note that the war is certainly still having a heavy impact on the possibility for many Ukrainian athletes to properly prepare their qualification rounds and their participation in the Paris Olympic Games. They certainly have other concerns at the moment, not least remaining alive and protecting their families and country.

39. But the key issue is and should remain the fact that the war of aggression against Ukraine is a blatant and still ongoing violation of the Olympic Truce, and that this war is a major threat to peace and human dignity. Therefore, to focus on the integrity of sports competitions and the safety of participants is just misleading.

16. See "IOC EB recommends no participation of Russian and Belarusian athletes and officials."
17. See "Q&A regarding the participation of athletes with a Russian or Belarusian passport in international competitions."
18. See "IOC EB recommends no participation of Russian and Belarusian athletes and officials."
19. See "Q&A regarding the participation of athletes with a Russian or Belarusian passport in international competitions."

40. Not only is the key reason for supporting the initial decision to ban Russian and Belarusian athletes still there, but the situation has worsened. The ban must be maintained, to demonstrate that we all continue to refuse to countenance the war of aggression against Ukraine. Sporting neutrality – a principle which the IOC emphasises – cannot and must not result in decisions which misconceive the obligation for all the Olympic Movement and for the IOC to safeguard human dignity and fundamental rights.

41. Removing the ban would not help to build peace and global stability, quite the opposite. It would increase the risk that the war intensifies and is prolonged, as the participation of Russian and Belarusian athletes would be exploited by Putin's propaganda, an intolerable situation would be potentially "normalised", and there are no measures or conditionalities that could prevent this.

4. Would a call on the IOC from the Assembly infringe the autonomy of sport?

42. The present report, given its tight time-frame, is not intended to discuss the meaning and scope of the "autonomy of sport" and the implications of this important principle in the relations between sport (and sports bodies) and politics. I do hope that this important question will be duly discussed with partners in the framework of the report entitled "Excluding the athletes and officials of the Russian Federation and Belarus from participating in the international Olympic movement" (Rapporteur: Ms Denisa Elena Neagu, Romania, ALDE).

43. This report is not questioning the autonomy and the competence of the IOC to make a decision on the issue of the participation of Russian and Belarusian athletes in the Olympic and Paralympic Games in Paris, and is not challenging the entitlement of the International Sport Federations (ISFs) to freely manage the qualification rounds they are entrusted to organise.

44. There are ISFs, such as World Athletics and FIFA, which share our concerns and whose statements and decisions are fully in line with our expectations. The Assembly cannot adopt measures against ISFs which are following a different approach. I would argue that sport autonomy is at risk in countries where democratic values and human rights are not guaranteed, rather than in the very valuable work of the Council of Europe in the field of sport, and the positions of its member States.

45. However, the IOC cannot expect that a withdrawal of the ban against Russian and Belarusian athletes be "endorsed" in silence by our governments. There are core principles of greater importance than the autonomy of sport. What is at stake here is the preservation of peace, global stability, the safeguarding of the international legal order, the destiny of a country and the human rights of the Ukrainian people. We all have an obligation to uphold them.

5. Is the position of those asking for the present ban to be maintained inconsistent or self-centred, given that other conflicts are not provoking the same reaction from their side?

46. The IOC notes with some insistence that: "Due to the fact that there are unfortunately far too many wars, armed conflicts and crises in this world, we have seen in almost all editions of the Games athletes compete with each other despite the fact that their nations are at war or in conflict. Currently, there are 70 ongoing armed conflicts, wars or crises around the world, including the situations in the Middle East, the Horn of Africa and the southern Caucasus. [National Olympic Committees] in the regions impacted by these armed conflicts and wars are following the principles of the Olympic Charter. They are not requesting the exclusion of athletes from the other party in the armed conflict or war, and they are allowing their athletes to compete in international sporting competitions without restrictions. One example is Yemen. According to UNICEF, eight years of fierce conflict, economic collapse and a battered social support system have devastated Yemen and left around 11 million children in need of humanitarian assistance. Some 2.2 million children are suffering from acute malnutrition."[20]

47. While deploring all of these conflicts, which most certainly do not receive sufficient international attention, I cannot concur with this justification. The war of aggression against Ukraine is of a totally different nature and scale than other ongoing conflicts. We are not speaking about a "civil war", like the one in Yemen, we are speaking about a war waged by a major world power and member of the UN Security Council, with consequences already global. The risks it entails – including of nuclear escalation, also given the recent move to install nuclear weapons in Belarus, or that other European countries could become the "next target" – have been unprecedented since the Second World WarI; arguing the opposite makes no sense.

20. See: "Q&A regarding the participation of athletes with a Russian or Belarusian passport in international competitions".

48. The values and principles the Council of Europe upholds are the same as those proclaimed by the Charter of the United Nations. This war of aggression is challenging the existing international legal order and the whole world should stand firmly and wholeheartedly alongside Europe, for Ukraine and its people, and indeed for the sake of the whole global community.

49. By the way, should the IOC consider that other conflicts – including internal conflicts – call for stronger sanctions against specific countries from the Olympic Movement, I believe that it can count on the support of the Council of Europe and its Assembly, as long as the goals pursued by the IOC are democracy, human rights, the respect of international law and peace, and that its sanctions uphold these goals.

6. Conclusions

50. Ukraine and the Ukrainian people, despite their losses, suffering and pain, continue to stand up bravely against their aggressors, with resolve and determination. They need our help and solidarity. They need to feel that, although not in the battlefields, we are wholeheartedly backing them in every single way we can.

51. All institutions and organisations which sincerely claim to uphold fundamental rights and democratic values, must stand behind Ukraine without reservations, hesitations or doubts. Countries must lead the way, but all actors in the global society should play their part. This applies to the sports community and to the Olympic Movement, the role of which is fundamental and whose decisions have a huge resonance and deep global impact.

52. Sports organisations and the IOC should remain politically neutral, no doubt about it. However, political neutrality does not mean neglecting the values which the Olympic Movement is built upon and works to uphold. We cannot deny that sport is *de facto* a most effective political tool and an influential "soft power". Russia is making use of sports diplomacy to corroborate a fake image of its war of aggression against Ukraine, but we shall not allow sports to become a tool for propaganda.

53. We are conscious that we cannot pursue justice by acting unfairly towards individuals who are not guilty of any crime; we do not seek revenge and it is not our wish that Russian and Belarusian people, including athletes, be punished for the atrocities of the war their leaders started and the grief it engenders.

54. However, what we certainly do not want, and need to prevent, is that Ukraine and the Ukrainian people are hurt even further, and that Russia and Belarus can use "sportswashing" to uphold their war of aggression against Ukraine, be this through their international relations or in their internal propaganda targeting Russian and Belarusian citizens.

55. The risk that this will happen is so high that we are convinced that there is no solution more effective than banning Russian and Belarusian athletes from participating in the forthcoming Paris 2024 Olympic Games and the qualifying international competitions that precede them. This continued ban will be noticed by the people and the leadership of both countries, and it will send a powerful message about the values embodied by the Olympic Movement.

56. For these reasons, we must urge the IOC to maintain its ban on Russian and Belarusian athletes, and not to authorise them to participate in the Paris 2024 Olympic Games.

57. However, Russians and Belarusian citizens who share our values, oppose the war against Ukraine and respect its territorial integrity must be supported by European democratic countries. We believe that this could also serve as a sign to people inside Russia and Belarus who still hope for change in their countries. For these reasons, Russian and Belarusian individual athletes who have fled from their countries in dissent against the despotic regimes therein, could be allowed to compete in the Paris 2024 Olympic Games, under a "neutral Olympic banner" or as refugees[21]. In this case, the IOC should issue a statement stressing that athletes (whatever their nationality) who compete under the "neutral Olympic banner" commit themselves unreservedly to the values of the Olympic Movement and join the IOC calls for an immediate stop to the war of aggression unleashed and waged by the Russian Federation and a just peace for Ukraine with respect for its territorial integrity.

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21. The President of the Russian Wrestling Federation, Mikhail Mamiashvili, commenting on the possible admission of Russian athletes to the 2024 Olympics in Paris with refugee status stated that 'those who are proposing this should be sent to a place known to everyone. If they want to see us in the Olympics as a refugee team, so we have to go to Paris in tanks (…). Another option, no' (see the quotation by RIA Novosti here)".

Appendix – Document sent by the United Nations Special Rapporteur in the field of cultural rights, Ms Alexandra Xanthaki: "Questions and Answers on the participation of Russian and Belarusian athletes in international sports competitions (3 May 2023)"

1. What is the chronology of the UN Special Rapporteur's involvement with the International Olympic Committee (IOC) decision on the participation of the Russian and Belarusian athletes in sports competitions?

On 14 September 2022, the Special Rapporteur in the field of cultural rights and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance addressed a letter to the International Olympic Committee (IOC) (AL OTH 90/2022) to express their concerns regarding the recommendation of the IOC Executive Board, on 28 February 2022, to exclude all Russian and Belarusian athletes from sports events.

This recommendation followed a statement made by the Executive Board on 25 February 2022, the day after the invasion of Ukraine by the Russian Federation and the breach of the Olympic Truce, recommending to all International Sports Federations

– "to relocate or cancel their sports events currently planned in the Russian Federation or Belarus" and

– that "no Russian or Belarusian national flag be displayed and no Russian or Belarusian anthem be played in international sports events".

On 28 February 2022, the IOC recommended that International Sports Federations and sports event organisers

– do "not invite or allow the participation of Russian and Belarusian athletes and officials in international competitions", and

– wherever this was not possible on short notice for organisational or legal reasons, "do everything in their power to ensure that no athlete or sports official from Russia or Belarus be allowed to take part under the name of Russia or Belarus".[22]

In their letter to the IOC on 14 September 2022, the two Special Rapporteurs noted that some of the decisions taken by the Executive Board – such as the relocation or cancellation of events planned in the Russian Federation and Belarus or the recommendation not to display the Russian or Belarusian national flags and not to play the Russian or Belarusian anthems in international sports events – could be regarded as legitimate, as they directly target the States that are, directly or indirectly, involved in the invasion of Ukraine. However, the recommendation to ban Russian and Belarusian athletes and officials from international competitions based solely on their nationality posed serious concerns in relation to the principle of non-discrimination and the right to take part in cultural life.

In February 2023, the IOC responded to the concerns of the Special Rapporteurs, explaining the dilemma the IOC had faced – striving to protect the mission of the Olympic Movement as a unifying force but seeing no other solution than excluding Russian and Belarusian athletes and expressing its willingness to explore ways to overcome it.

2. Why should the International Olympic Committee and its members respect human rights?

The IOC is a not-for-profit independent international organisation. As the leader of the Olympic Movement, the IOC acts as a catalyst for collaboration between all Olympic stakeholders, including the athletes, the National Olympic Committees, the International Federations, Organising Committees for the Olympic Games, the Worldwide Olympic Partners and Olympic broadcast partners. It also collaborates with public and private authorities including the United Nations and other international organisations.

In September 2022, the IOC affirmed in its Strategic Framework on Human Rights its commitment to respecting human rights within its remit in accordance with the United Nations Guiding Principles on Business and Human Rights (2012). To meet these expectations in practice, the IOC committed to continue to carry out human rights due diligence: an ongoing risk management process to identify, prevent, mitigate and account

22. The resolution points out that Russian or Belarusian nationals, be it as individuals or teams, should be accepted only as" neutral athletes or neutral teams", and no national symbols, colours, flags or anthems should be displayed.

for any adverse human rights impacts across its relevant activities. The prohibition of direct discrimination is long considered such an important principle of international law that it applies horizontally, to all entities, public and private.

3. What do cultural rights have to do with sports?

The concern of the Special Rapporteur in the field of cultural rights regarding the exclusion of Russian and Belarusian athletes from sports events is part of her wider concern of on-going unnecessary exclusions of Russian and Belarusian people from participating in cultural life. Artists too have been excluded from cultural events, festivals and other platforms based on their nationality and their artistic freedom tightened.

Sports are one of the many cultural practices through which people develop and express themselves, learn from others and belong to a community. The right to participate in cultural life, which is protected under international law as well as many constitutions across the world, includes the right to participate in sports. This has been affirmed, among other, by the UN Committee on Economic, Social and Cultural rights and previous mandate holders.

In the letter addressed to the IOC, the experts stress that, in accordance with international human rights law, everyone has the right to take part in cultural life. Th is right is enshrined in article 15 of the International Covenant on Economic, Social and Cultural Rights and article 27, paragraph 1, of the Universal Declaration of Human Rights. References to cultural rights are also included in a wide number of human rights instruments.[23]

In General Comment No. 21 (2009), the Committee on Economic, Social and Cultural Rights observes that “culture is a broad, inclusive concept encompassing all manifestations of human existence” (para. 11) including, inter alia, “sport and games” (para.13). The Committee also observes that the right to participate or take part in cultural life includes three interrelated main components: (a) participation in, (b) access to, and (c) contribution to cultural life. International human rights law prohibits any discrimination in the exercise of cultural rights.

The Olympic Charter expressly recognises, in its Fundamental principle 4, that “the practice of sport is a human right” and provides that every individual “must have the possibility of practising sport, without discrimination of any kind”.

4. Why is the decision of the IOC to ban Russian and Belarusian athletes and officials from international competitions discriminatory and inconsistent with the IOC responsibility to respect human rights?

Non-discrimination constitutes a basic and general principle relating to the protection of human rights. It is enshrined in the Universal Declaration of Human Rights and virtually all core human rights treaties, including the International Covenant on Civil and Political Rights (article 2, paragraph 1) and the International Covenant on Economic, Social and Cultural Rights (article 2, paragraph 2).

Human rights must be exercised without discrimination of any kind.

“Discrimination” constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly, or indirectly based on prohibited grounds of discrimination which has the intention or effect of nullifying or impairing the equal recognition, enjoyment or exercise of human rights.

Differential treatment based on prohibited grounds will be considered as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with human rights standards and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realised and the measures or omissions and their effects.

23. See for instance art. 5 (e) (vi) of the International Convention on the Elimination of All Forms of Racial Discrimination; art. 13 (c) of the Convention on the Elimination of All Forms of Discrimination against Women; art. 31, para. 2, of the Convention on the Rights of the Child; art. 43, para. 1 (g) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and art. 30, para. 1, of the Convention on the Rights of Persons with Disabilities.

5. Under which circumstances can the right to take part in cultural life including sports be limited?

International law authorizes limitations or restrictions to most human rights but under specific conditions.

Limitations to the right to participate in cultural life, including sports, must be determined by law, pursue a legitimate aim, be compatible with the nature of the right and be strictly necessary for the promotion of general welfare in a democratic society. Any limitations must therefore be *proportionate, meaning that the least restrictive measures must be taken* when several types of limitations may be imposed.

When restrictions are coupled with a breach of the non-discrimination principle, meaning they are applied to some people only, there is a strong presumption of incompatibility with international law and the test must be more stringent.

6. How does this apply to the ban against Russian and Belarusian athletes in sports competition?

A blanket ban based solely on nationality is the most restrictive measure, not the least restrictive measure, as required by international human rights law. It is disproportionate to the aim that it seeks to achieve. For this reason, it is contrary to international human rights law, both as restriction to cultural rights and even more so as a measure that creates direct discrimination.

The Special Rapporteur does not exclude the possibility of *a series of escalating measures* on a case-to-case basis and if necessary, depending on how the situation unfolds. However, less restrictive measures, such as the inclusion of Russian and Belarusian athletes, or at least some of these athletes, under a neutral banner must be adopted first. Notably it is important that exclusions based on *individual conduct*, whatever the nationality, are favoured rather than collective prohibitions, where the threshold of necessity is high. Also, any measure must have a clear effect on the specific aim that it purports to fulfil, such as the maintenance of peace.

7. Does international law authorize restrictions to combat hate speech and propaganda for war?

Ensuring that sports events do not become platforms for war propaganda is a legitimate concern. International human rights standards provide specific and clear guidance.

Athletes engaging in propaganda for war, irrespective of their nationality, can be excluded. This would be a legitimate restriction of cultural rights. Article 20 of the International Covenant on Civil and Political Rights states that any propaganda for war shall be prohibited by law. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Furthermore, article 19 of the International Covenant on Civil and Political Rights allows for restrictions to freedom of expression if they are provided by law; necessary for respect of the rights or reputations of others; or for the protection of national security or of public order, or of public health or morals; and if they are proportionate to reach these aims. Therefore, athletes engaging in speech that does not amount to propaganda for war as such but violates the rights of others or public order can also see their freedom of expression and participation restricted.

In addition, under Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, all incitement to, or acts of, racial discrimination must be eradicated.

Again, as mentioned above, the least restrictive measures must be adopted.

The UN Special Rapporteur is of the view that implementing the provisions above effectively can go a long way in addressing the concerns that have been behind the blanket ban of Russian and Belarusian athletes. Combined with the banning of the Russian Federation and Belarus and the active support to Ukrainian athletes, this set of measures would give the right message and ensure that human rights prevail over aggression and illegality.

8. Can Russian and Belarusian athletes be asked to sign a form expressing their disagreement with the war in Ukraine?

A distinction should be kept between freedom of opinion and freedom of expression. While the latter can be subject to restrictions, the former one is an absolute right and cannot be subject to any exception or restriction. In the case of sports, it means that no athlete should be excluded based on their *opinion* about the war, but only with respect to the *expression* of such opinion. Therefore, any questions by sporting associations about the athletes' support of the war would cross that line.

9. Can Russian and Belarusian athletes be banned from sports competition, based on security concerns and to protect the safety as well as physical and emotional well-being of Ukrainian athletes?

The Special Rapporteur understands the emotional distress caused by the aggression against Ukraine, as well as by the idea that Ukrainian athletes could compete against Russian and Belarusian athletes if those are allowed to compete.

International human rights law authorizes restrictions to most human rights, including the right to participate in cultural life through sports, for security reasons as well as to protect the rights of others. The same standards always apply. Restrictions must be determined by law, be necessary and proportionate to pursue a legitimate aim. As specified above, the least restrictive measures must be adopted first.

Many athletes around the world come from conflict areas and may encounter each other during sports competitions. International sports federations are used to adopting protective and mitigating measures in such circumstances. There are already many experiences of tensions, conflicts and natural disasters that the world of sports has faced, from which measures to address the current situation could be taken and adapted.

10. What could be legitimate criteria for banning individual athletes from sports competitions?

In her discussions with the IOC, the Special Rapporteur proposed that if all mitigating measures fail and decision is taken to ban individual athletes, the following criteria apply:

– Any ban or restrictions should apply to all athletes regardless of nationality / national origin (as well as on any prohibited grounds under international law). No restriction should be applied to any athlete that is not applied to all. Any restrictions must be based on an assessment that is transparent, fair and non-discriminatory, with each case assessed on its own merit, including clear provisions for a fair and independent appeal process.

– Any measure must address each situation and individual case on an ad hoc basis, therefore preventing "collective punishment".

– Any decision must rely on standards regarding possible limitations to human rights under international law. This includes in particular:

  a. Exclusions based on article 20 of the International Covenant on Civil and Political Rights: any propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

  b. Exclusions based on article 4 of the International Convention on the Elimination of All Forms of Discrimination regarding the eradication of all incitement to, or acts of, racial discrimination.

  c. Exclusions in situations where there are serious and credible allegations of crimes under international law (war crimes, crimes against humanity, genocide, aggression, torture, racial discrimination…)

  d. Exclusions in case of open support to these crimes or wars in a manner that enables qualification under the above.

11. Should active members of the military, participating in the war, be excluded from taking part in international sports competitions?

The Special Rapporteur notes that, in its Recommendation of 28 March 2023, the IOC recommended that athletes who actively support the war cannot compete. Athletes who are contracted to the Russian or Belarusian military or national security agencies are considered to support the war and therefore cannot compete.

The Special Rapporteur is of the view that limiting the athletes who will be excluded to those who are career military is a step in the right direction. It corresponds to her view that *forced conscription alone*, for example, would not be sufficient to deprive an athlete of the possibility to compete. Funding by the State also should not be equated with support for the war, in the same way that other athletes from other States are not presumed to support their governments' decisions because of their funding.

The Special Rapporteur also stresses that, as the situation unfolds and Russian and Belarusian athletes are reintegrated in sports competitions as neutral athletes, the IOC may adopt a series of escalating measures in case this is necessary. It is also the responsibility of the IOC to lift restrictive measures when possible, particularly regarding teams of athletes.

12. Does the Special Rapporteur see any human rights violations in the other measures recommended by the IOC regarding the ban of Russia and Belarus from international sports events and the support for Ukrainian athletes?

No. In their September 2022 letter, the Special Rapporteurs understood the relocation or cancellation of events planned in the Russian Federation and Belarus, as well as the recommendation not to display the Russian or Belarusian national flags and not to play the

Russian or Belarusian anthems in international sports events, as sanctions that can be considered as legitimate, as they directly target these States or their official representations.

The distinction between States and individuals is of paramount importance. Human rights were established and adopted by all nations to protect individuals and groups against the abuse of power from States and against the tyranny of majorities. Punishing individuals solely based on their nationality for the heinous acts of leaders over which they have no control, would undermine this distinction. But banning States from sports events may be a legitimate measure.

Also, measures actively supporting Ukrainian athletes are welcomed by the Special Rapporteur as positive measures, and allowed in international law to ensure substantive equality.

13. What about the States who have called for the boycott of international sports competitions if Russian and Belarusian athletes are admitted as neutral athletes?

In view of the discussion on human rights issues above, States that envisage a boycott of international sports competitions may need to reflect on how such a boycott would be compatible with their human rights obligations. Will such a restriction of the rights of their own athletes be a proportionate response to the participation of some Russian athletes who would fulfil the conditions of neutrality that have been set, even when the aggressor States are excluded? Is this the least restrictive measure these States can think of in order to declare their disagreement with the illegal war in Ukraine or/and the violation of the Olympic truce by the Russian Federation?

The Special Rapporteur urges all States to take part in international sports competitions and uphold the principles of non-discrimination and universality of human rights, principles at the core of our common co-existence as humanity.

14. Finally, what does the Special Rapporteur in the field of cultural rights do regarding the on-going violations of cultural rights in Ukraine by the Russian Federation?

Since the beginning of the invasion, the Special Rapporteur has made several public statements regarding the effects of the war on cultural heritage in Ukraine and the cultural rights of individuals living in or having been forced out of Ukraine because of the war. She has criticised the Russian Federation for violating the right to self-determination and cultural rights of Ukrainians. She has also criticised the intentional destruction of cultural heritage and has urged cultural rights to be upheld.[24] In this respect, she commends the active and effective support that is given to Ukrainian athletes and the IOC recommendation for such support to continue. Such measures contribute to substantive equality, as upheld by international human rights law.

24. See the Special Rapporteur's address to the Human Rights Council on 8 March 2022 and the press releases issued on 28 February 2022, 8 March 2022 and 25 May 2022, together with other Special Procedures mandate holders.