

National Contact Point of Switzerland

Final Statement

Specific Instance regarding the International Olympic Committee submitted by the Swiss-Tibetan Friendship Association, Tibetan Youth Association in Europe, Tibetan Community in Switzerland and Liechtenstein as well as the Tibetan Women's Association Switzerland

Berne, 21 December 2021

Executive summary

On 27 July 2021, the Swiss-Tibetan Friendship Association, the Tibetan Youth Association in Europe, the Tibetan Community in Switzerland and Liechtenstein as well as the Tibetan Women's Association Switzerland (hereafter "submitting Parties") addressed a written request to the National Contact Point of Switzerland for the OECD Guidelines for Multinational Enterprises (hereafter "Swiss NCP") to consider a specific instance under the OECD Guidelines for Multinational Enterprises (hereafter "OECD Guidelines") regarding the International Olympic Committee (hereafter "IOC" or responding Party). The submission alleged that the IOC has not conducted sufficient due diligence and thereby failed to avoid contributing to possible violations of internationally recognized human rights and abusive employment practices in the People's Republic of China (hereafter "China") by having awarded the 2022 Winter Olympics to Beijing, China.

In its report of 23 November 2021 on the [Initial Assessment](#) the Swiss NCP accepted the submission and offered its good services to the parties. While the submitting Parties accepted the offer of mediation of the Swiss NCP, the IOC declined the offer. In its decision, the IOC referred to the Implementation Procedure of the OECD Guidelines, which states that the effectiveness of specific instance procedures depends on good faith behaviour of all parties including maintaining confidentiality where appropriate, refraining from misrepresenting the process and genuinely engaging in the procedures with a view to finding a solution to the issues raised. In view of the IOC, these requirements were not fulfilled by the submitting Parties as the IOC's confidential written statement to the submission was disclosed on the website of one of the submitting Parties.

The Swiss NCP regrets that it has not been possible to conduct a mediation with both parties. It recommends that the parties continue their dialogue building on the previous written exchange. Moreover, according to the Swiss NCP, the IOC should maintain contact with all stakeholders and disclose its policies and practices for implementing human rights due diligence in relation to the awarding and holding of the Olympic Games. Finally, the submitting Parties should respect the rules of confidentiality of the specific instance procedure under the OECD Guidelines when considering any future submission to an NCP.

1. Submission and Initial Assessment

The OECD Guidelines represent a set of principles and standards for responsible business conduct, addressed as recommendations by the governments of the 38 OECD member and 12 other adhering States to multinational enterprises operating in or from their territories. The Swiss NCP has the mandate to raise awareness and promote observance of the

OECD Guidelines. The Swiss NCP also contributes to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances by offering a forum for mediation, assisting parties concerned to deal with these issues and providing recommendations regarding the implementation of the OECD Guidelines.

On 27 July 2021, the Swiss-Tibetan Friendship Association, the Tibetan Youth Association in Europe, the Tibetan Community in Switzerland and Liechtenstein as well as the Tibetan Women's Association Switzerland submitted a written request to the Swiss NCP to consider a specific instance under the OECD Guidelines regarding the IOC. The submission concerned alleged breaches of specific provisions of Chapter II (General Policies), Chapter IV (Human Rights) and Chapter V (Employment and Industrial Relations) of the OECD Guidelines.

The Swiss NCP accepted the specific instance (see report of 23 November 2021 on the [Initial Assessment](#)) and offered its good services to the parties. It proposed to focus in a possible mediation on the mitigation and remediation of the alleged adverse human rights impacts during and due to the 2022 Beijing Winter Olympic Games and the respect of human rights regarding the organization of future Olympic Games. According to the Swiss NCP, such mediation could also explore the roles and responsibilities of individual actors (e.g. sponsors, suppliers) according to the OECD Guidelines.

2. Proceedings of the Swiss NCP

Since the receipt of the submission on 27 July 2021 the Swiss NCP took the following steps:

27.7.2021	Confirmation to acknowledge receipt of the submission to the submitting Parties
28.7.2021	Information of the Swiss Embassy in China
29.7.2021	Constitution of an ad hoc Working group including representatives from the State Secretariat for Economic Affairs, the Federal Department of Foreign Affairs and the Federal Office for Sport according to the Specific Instances Procedure of the Swiss NCP ¹
2.8.2021	Submission was forwarded to the responding Party
26.8.2020	Meeting of the ad hoc Working group with the submitting Parties to inform them about the procedure of the specific instance
13.9.2021	Meeting of the ad hoc Working group with the responding Party to inform them about the procedure of the specific instance
29.9.2021	Receipt of the written statement by the responding Party
27.10.2021	Consultation of the draft Report on the Initial Assessment with both parties with regard to possible misrepresentations of factual information
10.11. 2021	Receipt of written comments by both parties
23.11.2021	Publication of the Report on the Initial Assessment
24.11.2021	Offer of mediation, proposal for the nomination of a mediator and draft <i>Terms of Reference for Dialogue</i> sent to both parties
	Receipt of the IOC's request to close the specific instance due to the confidentiality breach of one of the submitting Parties on 23 November 2021
26.11.2021	Decision of the Swiss NCP to continue the procedure despite the IOC's request to close the specific instance
	Acceptance of the NCP's offer for mediation by the submitting Parties

¹ www.seco.admin.ch/ncp

1.12.2021	Receipt of written statement by the responding Party informing the Swiss NCP that it declines the offer for mediation
9.12.2021	Consultation of the ad hoc Working group on the draft Final Statement
14.12.2021	Consultation of both parties on the draft Final Statement
21.12.2021	Publication of the Final Statement

3. Outcome of the process

In view of a possible mediation, the Swiss NCP offered the parties its good offices, proposed the nomination of a mediator and provided draft *Terms of Reference for Dialogue* to the parties on 24 November 2021.

The submitting Party accepted the offer for mediation of the Swiss NCP on 26 November 2021.

On 23 November 2021, one of the submitting Parties published on its website the IOC's confidential written statement to the submission as part of a media release on the Report on the Initial Assessment. For this reason, the IOC requested the Swiss NCP to close the specific instance. Following the reiteration of the NCP's request to guarantee confidentiality in the proceeding, the submitting Parties noted that the confidential document was mistakenly uploaded and removed it from the website. At the same time, the submitting Parties reassured that they will respect confidentiality requirements during the continuation of the proceedings. Therefore, the NCP decided to continue the procedure. The IOC subsequently informed the Swiss NCP on 1 December 2021 that it declines the NCP's offer of good offices in this specific instance. It referred in its decision to the Implementation Procedure of the OECD Guidelines, which states that the effectiveness of specific instance procedures depends on good faith behaviour of all parties, which includes, among other things, maintaining confidentiality where appropriate, refraining from misrepresenting the process and genuinely engaging in the procedures with a view to finding a solution to the issues raised. In view of the IOC, these requirements were not fulfilled by the submitting Parties and due to the breach of confidentiality the chances for a constructive discussion have been entirely compromised.

4. Recommendations

The Swiss NCP regrets that it has not been possible to conduct a mediation, which could have established the basis for a possible future collaboration between the Parties. It also regrets the breach of confidentiality rules by the submitting Parties in relation to IOC's written submission and the subsequent refusal of the IOC to accept the NCP's offer of mediation.

The Swiss NCP recommends:

- the IOC to maintain a dialogue with all stakeholders and other interested parties including the submitting Parties;
- the IOC to ensure the disclosure of its policies and practices for implementing human rights due diligence in relation to the awarding and holding of the Olympic Games, including its expectations towards business partners such as sponsors and suppliers having a direct link with IOC's operations;
- the submitting Parties to respect the rules of confidentiality of the specific instance procedure under the OECD Guidelines for Multinational Enterprises when considering any future submission to an NCP, taking into account that the mechanism aims at fostering a dialogue and reaching future orientated agreements between the parties.

With this Final Statement, the Swiss NCP closes the specific instance.