

ATHLETE ACTIVISM AND FREEDOM OF EXPRESSION AT PARIS 2024

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The Problem

Some of the most iconic images from the Olympic Games include athletes who have used their moment in the global spotlight to raise awareness of the social justice issues about which they are most passionate. The most prominent remains the raised gloved fists of Tommie Smith and John Carlos after they received their medals for the 200m sprint at Mexico 1968. The International Olympic Committee (IOC) did not approve of what they considered to be a politically motivated statement, ordering their suspension from the US Olympic Team and expulsion from the Olympic Village. This gesture, and others like it at both Mexico 1968 and Munich 1972, led to what is now Rule 50.2 of the [Olympic Charter](#), which absolutely prohibits any kind of demonstration or political, religious or racial propaganda in any Olympic sites or venues. Since Colin Kaepernick first took the knee when the US national anthem was played before the start of San Francisco 49ers games in 2016, increasing numbers of athletes around the world have been taking the opportunity to support issues of social and racial justice by making gestures and wearing accessories such as badges/pins and bands. The question raised by the application of Rule 50.2 is whether such a restriction of athletes' right to free expression is compatible with Article 10 of the European Convention on Human Rights (ECHR).

Legal and Policy Issues

- What is meant by a demonstration or propaganda in Rule 50.2?
- How can the prohibition in Rule 50.2 be compatible with the protection of free expression provided in Rule 40.2 of the Olympic Charter?
- Can any restrictions on athletes' right to free expression be justified?
- What action can an athlete take if they are punished for exercising their right to free expression at Paris 2024?

Our Research

Before Tokyo 2020, the IOC's Athletes' Commission issued the first ever [guidance on the application of Rule 50.2](#). This document made it clear that the Rule 50.2 prohibition remained in force for any expressions made during the opening, medal and closing ceremonies, on the playing area during an event, and in the Olympic Village.

The justification for the IOC's approach is that the Olympics is a politically neutral event, and that the IOC wants to maintain the focus on athletes' sporting performances. Despite this guidance, none of the athletes who made gestures or wore accessories were punished by the IOC at Tokyo 2020, although a warning was issued to the Chinese Olympic Committee when two gold medallists wore badges/pins depicting Mao Zedong, which was considered to be overtly political. The lack of action taken suggests that any expression made in support of a social justice or anti-discrimination cause is not in breach of Rule 50.2, or perhaps that the IOC is keen to use their regulations to alter athletes' behaviour, but not to punish formally.

The situation has, however, been complicated by amendments made to the Olympic Charter in October 2023. These have amended the Fundamental Principles of Olympism to require respect for internationally recognised human rights, and a new Rule 40.2 that protects specifically athletes' right to freedom of expression, provided that it is in keeping with the Fundamental Principles of Olympism and is exercised in compliance with the updated interpretative [Guidelines](#). As Olympism requires that athletes act with social responsibility and respect for internationally recognised human rights, promote a peaceful society concerned with the preservation of human dignity, and not engage in discrimination of any kind, a potentially confusing situation is created. First, there is no explanation of the difference between an expression, which is permitted, and a demonstration or propaganda, which is not. Secondly, it is not clear when the promotion of Olympism becomes politically, racially, or religiously motivated. Thirdly, outside of the Olympic Games, restrictions on the right to free expression are rarely lawful. This leaves Rule 50.2 open to challenge by any athlete who is punished under Rule 50.2.

Athlete Activism at Paris 2024

Following the permissive approach taken at Tokyo 2020, athletes may feel empowered to express themselves on a range of social and political issues, in particular on the wars in Ukraine, Gaza, and elsewhere. However, it is far from clear whether any expressions that they make will breach Rule 50.2, even if they are protected speech under Article 10 ECHR. If an athlete expresses themselves in support of a social justice or anti-discrimination cause, and especially where that can be related back to the Fundamental Principles of Olympism, then following what happened at Tokyo 2020 it is unlikely to breach Rule 50.2. Similarly, any general anti-war statements are likely to be seen as promoting the Olympic Truce, as happened with Ukrainian skeleton bobsledder [Vladyslav Heraskevych](#) at Beijing 2022. However, any demonstration against a specific country and/or its leaders remains likely to be in breach of Rule 50.2. The lack of definitional clarity of the terms used in the Olympic Charter and the Guidelines, and the lack of explanations for why certain expressions have been allowed and others not, adds an extra layer of difficulty for any athlete attempting to plan an expression that will be acceptable to the IOC.

Next Steps

Any athlete who is punished for acting in breach of Rule 50.2 will, in the first instance, need to challenge the IOC's decision before the [Ad Hoc Division of the Court of Arbitration for Sport](#) (CAS), which sits as a disciplinary tribunal at each edition of the Olympic Games. The complexity of the issues likely to be raised may mean that the case is referred to the regular CAS procedure for a full hearing at a later date. From the CAS, an appeal can be made to the Swiss Federal Tribunal, and from there to the European Court of Human Rights, a path taken previously by Olympians Claudia Pechstein and Caster Semenya. A human rights analysis of Rule 50.2 is likely to find that the restrictions on athletes are unnecessary and disproportionate for the purpose of protecting the political neutrality of a sporting event. Instead of allowing a restricted right to free expression, and an absolute prohibition on demonstrations and propaganda, a different approach that protects free expression should be developed. This change of focus will require the IOC to determine which of the human rights requirements in the Olympic Charter is necessary and which takes precedence over the others. A failure to do so will almost undoubtedly lead to its Rules being challenged. Changing its Rules in this way will enable the IOC to demonstrate that its Strategic Framework on Human Rights is an effective approach to protecting athletes' human rights.

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