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Technical Assistance for Strengthening
Fundamental Rights Sector Coordination Project

FREEDOM OF ASSEMBLY AND ASSOCIATION

FACTSHEET



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Introduction

In the international law, freedom of assembly and association have a vital position among fundamental human rights. This freedom includes the right of individuals to assemble peacefully and to organize for common purposes and supports the functioning of democratic societies. Freedom of assembly and association is protected by various international standards and legal principles.

It is accepted that everyone has the freedom of assembly and association, which are fundamental elements of democracy. To this end, the freedom of expression forms the basis and integral part of freedom of assembly and association. The freedom of expression, one of the cornerstones of democracy, constitutes the fundamental component and purpose of the effective use of freedom of assembly and association. The freedom of assembly and association serves as a means for the exercise of many other rights guaranteed under international law, including freedom of expression and the right to participate in the decision-making and conduct of public activities, and therefore, is considered an indispensable component of democracy.

While the right to or freedom of assembly includes the right to organize meetings, sit-ins, strikes, rallies, events, or protests, both offline and online; the right to or freedom of association covers the right of individuals to interact among themselves and form trade unions to collectively express, support, pursue, and defend their common interests.

The freedom of association can also be defined as the freedom of individuals to form a collective organisation that represents them to protect their own interests. The freedom of assembly and association complement each other, and in relation to other freedoms, play an important role in ensuring pluralism, open-mindedness, inclusiveness and tolerance in a democratic society. It is an area of freedom that shapes individuals' ideas and, thus, their democratic choices, contributing to the individual's self-improvement. Therefore, it is a requirement of the positive obligations of states that interventions against the freedom of assembly and association must be lawful, pursue a legitimate purpose, and comply with the criteria of necessity and proportionality in a democratic society while ensuring a healthy environment for the exercise of these freedoms.



International Standards

United Nations (UN)

The UN Universal Declaration of Human Rights is the first international document that protects the freedom of assembly and association. Article 20 of the Declaration states that "Everyone has the right to freedom of peaceful assembly and association". In this context, no one may be compelled to belong to an association.

Articles 21 and 22 of the UN International Covenant on Civil and Political Rights regulate the right to peaceful assembly and the right to establish trade unions and associations. In accordance with these Articles, no restrictions may be placed on the exercise of freedom of assembly and association other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Monitoring Mechanisms Established within the UN Framework

✓ Office of the United Nations High Commissioner for Human Rights

The Office of the High Commissioner for Human Rights is responsible for promoting and protecting the right to peaceful assembly internationally. The Office carries out monitoring, reporting and advocacy activities regarding the measures taken for the management of meetings and demonstrations. The Office contributes to the implementation of freedom of assembly and association by providing early warning regarding the economic, social and cultural rights underlying protests.

Aiming to prevent human rights violations during protests through dialogue with states and civil society, including protesters and law enforcement, the Office of the High Commissioner, when necessary, also conducts protection activities in some countries by being present at demonstrations or by following up on cases of people arrested, detained and sometimes ill-treated in connection with protests.

✔ United Nations Human Rights Committee

The Human Rights Committee makes recommendations to states to strengthen and protect the rights set out in the International Covenant on Civil and Political Rights, including freedom of assembly and association. The Committee carries out the monitoring function to ensure the performance of positive obligations.

✔ Special Rapporteur on Freedom of Peaceful Assembly and of Association

Established in 2010 to gather and share information about global, regional and local trends and issues relating to peaceful assembly and association, the Special Rapporteur makes recommendations on how to ensure the promotion and protection of the rights protected by the International Covenant on Civil and Political Rights and reports on violations, as well as discrimination, threats or use of violence, harassment, persecution, intimidation or reprisals directed at persons exercising these rights.

Council of Europe

✔ Freedom of Assembly and Association within the Framework of the European Convention on Human Rights (ECHR), the Council of Europe Venice Commission and the Case-law of the European Court of Human Rights (ECtHR)

Article 11 of the ECHR regulates this freedom under the title of freedom of assembly and association. Article 11 states that “Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests”.

The second paragraph of Article 11 regulates the reasons that may legitimize the restriction of the freedom of assembly and association. It is stated that “No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

According to the 2019 recommendations of the Council of Europe Venice Commission:

the less intrusive notification procedure should be preferred instead of a permit system,

the notification process should not be regulated excessively, and that the information requested for notification should be kept to a minimum level and that it should not be made bureaucratic and cumbersome.

With its decisions taken as a result of applications made alleging that the right to freedom of assembly and association was violated, ECtHR has formed a case-law that is important for the protection and development of this right. According to the case-law of the ECtHR:

Freedom of assembly and association is directly related to democracy and pluralism.

The positive obligations of the states regarding freedom of assembly and association are particularly important for persons who hold views not held by the majority or belong to minorities.

Organisation for Security and Cooperation in Europe (OSCE)

According to the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE),

Everyone will have the right of peaceful assembly and demonstration.

There is a presumption in favour of the freedom of peaceful assembly, and freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation.

Any restrictions must be prescribed by law and must comply with the ECHR and the case-law of the ECtHR.

Right to assemble in public spaces is as legitimate as commercial activities.

States, in accordance with their positive obligations, must implement regulations and measures to ensure that meetings and demonstrations are held in venues preferred by the organisers.

The principle of proportionality should be taken as a basis in the regulation and implementation of the limitation regime.

As required by the principle of proportionality, the least intrusive means of achieving the legitimate objective being pursued by the authorities should always be given preference.

Legislative provisions which limit the holding of assemblies only to certain specified sites or routes seriously undermine the communicative purpose of freedom of assembly and should, therefore be regarded as a prima facie violation of the right.

States have a positive obligation to facilitate and protect the exercise of the right to freedom of peaceful assembly.

States should also protect freedom of assembly against interference by non-state actors so that it can be exercised effectively, and create a healthy and conducive environment.

The term “peaceful” should be interpreted to include conduct that may annoy or give offence, and even conduct that temporarily hinders, impedes or obstructs the activities of third parties.



European Union (EU) Acquis

The EU *acquis* on the freedom of assembly and association consists of two mutually supporting components. First of all, the above-mentioned universal and European international legal documents and instruments form the basis of the EU's fundamental objectives and policies for the freedom of assembly and association, as well as a part of the EU *acquis* in a broad sense. The second component of the EU *acquis* is the legal acts published by the EU in this field. The EU adopts following binding and soft law sources as part of its *acquis*.

The freedom of assembly and association is governed by Article 12 of the EU Charter of Fundamental Rights, which closely establishes its relationship with democracy. Article 12 states “Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.”

Moreover, with its Resolution of 14 February 2019 on the right to peaceful protest and the proportionate use of force, the European Parliament underlines the right to peaceful protest and the proportionate use of force. The right to public debate and protest is vital to the functioning of democratic societies.