

CHALLENGES & RECOMMENDATION

MACEDONIA

on Freedom of Assembly

LIABILITY OF THE ORGANIZERS



The organizer of a peaceful assembly and public protest has the **duty to secure public order and peace at the protest** and to ensure enough security stewards.

Provisions that authorize stewards for such a high level of responsibility, open a space for different and arbitrary interpretations, which could be used against the organizers of an assembly.

Issue



Obligations on the organizers to protect the citizens' rights and public order do not correspond with international standards. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association states:

“Assembly organizers and participants should not be considered responsible (or held liable) for the unlawful conduct of others... [and, together with] assembly stewards, should not be made responsible for the maintenance of public order”¹.

International standard



How it should be implemented?

The liability of the organizers should be reassessed and revised in the law, in accordance with the international standards.

PRESSURE ON CITIZENS RELATED TO PARTICIPATION IN ASSEMBLIES



Pressure on citizens related to participation in assemblies exerted by the authorities in various ways - especially if potential participants in the assembly are public servants who are threatened with sanctions for protesting against the authorities.

These practices are contrary to international standards which stress that the right to freedom of assembly obliges States to take positive measures to establish and maintain an enabling environment. The Human Rights Council (HRC) repeatedly stresses that *“peaceful protests should not be viewed as a threat, and therefore encourage[s] all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes.”*²

No influence or pressure by authorities on any level should be exerted on citizens to (not) participate in assemblies. Any such attempt should be liable to sanction by relevant bodies.



EXCESSIVE AND INDISCRIMINATE USE OF FORCE



Excessive and indiscriminate use of force by the police towards participants of assembly, which was confirmed by human rights organizations and relevant national and international institutions.

Such actions by the police constitute a violation of international human rights standards. According to the European Court of Human Rights, *“an individual does not cease to enjoy the right to peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration, if the individual in question remains peaceful in his or her own intentions or behavior”*.³

The police should be well educated on the legislative framework and the restrictions it allows. The police force should also develop skills for non-violent conflict resolution. Police use of force should be independently investigated as part of a process of public accountability.

VIDEO RECORDING OF PUBLIC ASSEMBLIES



Video recording of public assemblies - recordings are sometimes given to media and then misused for labelling and discrediting, for threatening and intimidating participants in assembly, especially those that work in the public administration.

UN Human Rights Council clearly states that “[r]ecording peaceful assembly participants in a context and manner that intimidates or harasses is an impermissible interference to these rights.”⁴

Strict guidelines should be established on the recording and use of recordings of the assemblies which would ensure recorded materials are not misused.

CRIMINALIZATION OF THE ASSEMBLIES



Criminal charges are brought against participants in anti-government assemblies and there is selective administration of justice that is attributed to political influences in the criminal justice system.

Such actions constitute a violation of international human rights standards. According to the European Court of Human Rights, “an individual does not cease to enjoy the right to peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration, if the individual in question remains peaceful in his or her own intentions or behavior”.

Strict guidelines should be established to ensure that criminal charges are used without discriminating based on the content of assembly, and detention is used only as a last resort and only for individuals who are determined as a danger to public safety.

¹ United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. (2012). *Best practices related to the rights to freedom of peaceful assembly and of association*, para. 31. A/HRC/20/27. See more in the OSCE/ODHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* Second Edition 2010; recommendation 5.7

² UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 24 April 2013, A/HRC/23/39, available at: <http://www.refworld.org/docid/51b5c8494.html> p. 14. para 45.

³ ECtHR, *Ziliberberg v Moldova* (2004).

⁴ UN Human Rights Council, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, available at: <http://www.refworld.org/docid/575135464.html>, para 76

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