

FACTSHEET NO. 2 ON PEACEFUL ASSEMBLIES IN PRIVATE SPACES AND UN STANDARDS



European Center for
Not-for-Profit Law



#right2freeassembly

The right of peaceful assembly protects the non-violent gathering by persons for specific purposes. Such gatherings can take in different types of places: **outdoors or indoors, physical or digital, public or private or even a combination of all these.**

01. What is a “peaceful assembly” and where can it take place?

02. What exactly is a “private space” where a peaceful assembly can take place?

It is a privately-owned space, which can either be:

- **publicly accessible or “semi public”**: both in the physical sense (e.g., shopping malls, squares, museums, terraces, libraries, courtyards, parking lots, etc.) and digitally (e.g., social media like Twitter, Facebook and Instagram); or
- **enclosed**: (e.g., private residences, flats, factories, some offices, etc.).



Sweden
Sverige

ICNL
INTERNATIONAL CENTER
FOR NOT-FOR-PROFIT LAW

Text by the European Center for Not-for-Profit Law Stichting (ECNL) as part of the ‘Monitoring the Right to Free Assembly’ regional project. The project is made possible by the International Center for Not-for-Profit Law (ICNL) through the Civic Space

Initiative, financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.

03. So does the protection granted by international human rights standards to peaceful assemblies in public spaces also apply to gatherings/meetings in private spaces?

Yes, absolutely. The UN Human Rights Committee (HRC) [General Comment \(GC\) No. 37 on Article 21 \(Right to Peaceful Assembly\) of the International Covenant on Civic and Political Rights \(ICCPR\)](#)

clarifies that the Covenant protects peaceful assemblies wherever they take place, **including in private spaces** (GC, para 6). The [African Commission on Human and People's Rights' Guidelines on Freedom of Association and Assembly](#) also emphasize that the right to

peaceful assembly applies **“to meetings on private as well as public property”** (para 69). The European Court of Human Rights (ECtHR) has also established that the right to peaceful assembly covers

“covers both private meetings and meetings in public places” (ECtHR, [Kudrevičius and Others v. Lithuania](#), 2015, para 91). Furthermore, several UN Member States' Constitutions protect the right to peaceful assembly **without distinctions related to property or access** (see, e.g., Bosnia and Herzegovina, Croatia, Cyprus, Finland, Kazakhstan, Hungary, Ireland, Belize, Jamaica, Canada, Kenya, India, China, South Korea, etc.).

Not necessarily. When authorities impose obligations or restrictions on peaceful assemblies, these must be clearly established by law and be both necessary in a democratic society and proportionate to the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others (Article 21, ICCPR and GC, para 36). While an assembly in a public or publicly accessible space may reasonably require prior notification to the authorities to protect public order or public safety, this is not usually the case, for example, for indoor meetings in private spaces. As such, the UN HRC has stated that **prior notification should not be required for this type of assemblies** ([HRC Communication Lozenko v. Belarus](#), 2014, para 7.7).

04. Does this mean that a state can impose the same obligations and/or restrictions as for assemblies in public spaces (such as prior notification)?

Furthermore, several UN Member States' Constitutions clarify that notification regimes or police regulations may only apply to meetings or demonstrations held in public place or open to the public (e.g., Albania, Czech Republic, Denmark, Germany, Greece, Slovak Republic, Spain, Georgia, Chile, Honduras, Angola, etc.). Some Constitutions even go as far as explicitly establishing that no prior notice or authorization is required for private or indoor meetings and that security forces may not attend, rbia, Bahrain, Egypt, Costa Rica, Peru, etc.).

On the other hand, the UN HRC GC 37 acknowledges that when authorities impose restrictions on gatherings in private spaces, they have to duly consider the rights of others in the property. Therefore, such restrictions may also depend on considerations such as:

- Is the space routinely accessible?
- Is its very ownership contested through the gathering?
- Do legitimate owners approve of such use? (see GC, para 57)

However, the GC also acknowledges that “**private entities and the broader society may be expected to accept some level of disruption**” as a result of others exercising their right to peaceful assembly (GC, para 31).

05. So how about some States' recent restrictions on social gatherings in homes or other private areas on the grounds of protection from the COVID-19 pandemic? Are they permissible under international human rights standards protecting assemblies?

Public health considerations are one of the legitimate grounds for restrictions listed by Article 21 of the ICCPR. The GC acknowledges, for example, that the protection of public health “may exceptionally permit restrictions to be imposed, for example where there is an outbreak of an infectious disease and gatherings are dangerous” (GC, para 45). It also states that restrictions on the number of participants in assemblies – regardless of where they take place – can be accepted “where public health considerations dictate physical distancing.” –(GC para 59). However, even such restrictions must be strictly necessary in a democratic society and proportionate to the interests pursued. Therefore, **blanket bans** on social gatherings of any size or ones that may be otherwise mitigated by appropriate physical distancing measures are **never justified** – regardless of whether they apply to assemblies in public or private spaces.