



Call for inputs from the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association for his report to be presented at the 50th session of the Human Rights Council

The European Center for Not-For-Profit Law (ECNL) respectfully submits answers to the annexed questions extracted from the call for inputs, with regard to specific cases of which we have direct knowledge based on our monitoring activities and projects supporting partners on the ground.

Types of Crisis Situation

1. Military crises, e.g. war and armed conflict

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on the enjoyment of human rights during protests?

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on the enjoyment of human rights during protests?

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly being violated in such a context, or do you imagine it might be violated?

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, among other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

Armenia - Azerbaijan: 2020 "Nagorno-Karabakh" war

ECNL is coordinating the implementation of an EU funded project called "CSO Meter", which supports regular and consistent monitoring of the environment in which CSOs operate in the EaP countries¹. Through our regular early warning system, our Armenian partner Transparency International Anticorruption Centre prepared an early warning update in relation to the 2020 "Nagorno-Karabakh" armed conflict with Azerbaijan and its impact on the enjoyment of human rights during protests.² The Armenian government declared a martial law on 27 September 2020, soon after the war in Artsakh (aka "Nagorno-Karabagh") had started. The martial law included significant restrictions related to freedom of expression, freedom of movement and

¹ <https://csometer.info/about-cso-meter>

² <https://csometer.info/updates/armenia-government-lifts-restrictions-assemblies-and-dissemination-information>



freedom of assembly.³ Regarding the latter, all assemblies and strikes were prohibited during daytime (8am – 10pm)⁴. On the other hand, from 10 pm to 8.00 am, assemblies near residential areas, hospitals, boarding schools, and other buildings intended for overnight stay could not be accompanied by disturbing noise or light signals. As to sanctions, they were different depending on the restrictions violated: for example, for making noise or signals in the defined time period, the fine was from 100,000 to 200,000 AMD, for not presenting notification in advance the fine was from 100,000 to 300,000 AMD. Non-compliance with other restrictions related to assembly were within similar range.⁵

Despite the restrictions, many public assemblies were held both during and after the war (before even the ban was removed) without massive intervention from the police: most of these assemblies were aimed at attracting the attention of international organisations and countries towards the atrocities. However, there were attempts by the police to disperse the assemblies held *after* the war, when most of these assemblies were organised by the opposition to protest against the government and the declaration signed by the prime minister to end the conflict, many of them demanding resignation of the prime minister.⁶

The Human Rights Defender (Ombudsman) of Armenia issued a negative opinion on the abovementioned restrictions imposed by the martial law and referred them to the Constitutional Court of Armenia, emphasizing the necessity to ensure clear standards and a high degree of specificity of relevant regulations⁷. On 20 November 2020, the Constitutional Court temporarily suspended the disputed provisions until it would finalize a judicial investigation of the issue⁸. Before the final decision was announced, on 2 December the government lifted the provisions on the prohibition of public assemblies and strikes and restrictions of the publications and reports, while the martial law remained in force.⁹

2. Humanitarian crises, e.g. relating to famine or food insecurity, mass displacement

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

³ <https://www.arlis.am/documentview.aspx?docid=117173>

⁴ The Armenian law "On freedom of assembly" (<https://www.arlis.am/DocumentView.aspx?docid=146259>) defines assembly as "a temporary peaceful and unarmed presence of two or more individuals in any location for the purpose of coming to a common opinion or expressing their opinions on issues of public interest". The assembly is differentiated from other public gatherings (such as celebrations, funerals, cultural events, etc.) by its purpose. The assembly can be in public or private open space and buildings. It is considered a public assembly in case anyone can participate, and many provisions of the law (such as notification requirement, responsibilities of organisers, possible restrictions) are related to public assemblies organised in open space (including private space that is publicly accessible), but may extend to the private assemblies and assemblies organised in the buildings with the principles "mutatis mutandis" (as applicable).

⁵ Sanctions are regulated by the Code on Administrative Offenses, article 180.1, <https://www.arlis.am/DocumentView.aspx?DocID=155155>

⁶ More detailed information on the assemblies held during the martial law period, as well as general legislative provision on the assemblies in the report by Helsinki Committee of Armenia: http://armhels.com/wp-content/uploads/2021/06/Monitoring-of-Freedom-of-Assemblies_2020_ENG.pdf

⁷ <https://www.ombuds.am/am/site/ViewNews/1389> (see the announcement in English here: https://www.ombuds.am/en_us/site/ViewNews/1358)

⁸ <http://www.concourt.am/armenian/decisions/working/2020/pdf/sdav-209.pdf>

⁹ <https://www.arlis.am/DocumentView.aspx?docid=147807>

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, among other human rights, is better respected, protected and/or fulfilled in such a crisis context?

Greece – Migrant and refugee crisis

Since 2015, Greece has witnessed a great influx of refugees reaching its borders, with a peak between 2015 and 2016¹⁰. Migrant camps are overcrowded and with extremely poor health and sanitary conditions¹¹. In 2020, the migration crisis triggered protests from various groups of people and for different reasons:

- On 22 January 2020, the local government in Lesbos, Chios and Samos (Aegean Islands, where refugee camps are situated) organised protests demanding “the decongestion of the islands” by transferring the refugees to the mainland.¹² on the 13 February, the local government and the residents protested again in the islands but also outside the Ministry of Internal Affairs in Athens (Greek capital) against the decision of the government to requisite 261 acres of land to build new refugee camps.¹³
- Refugees held protests twice in 2020: one in early February, demanding faster asylum processes; ¹⁴ the second was in September, after a fire broke out in Moria camp, leaving thousands of people without a shelter. The residents also counter-protested against the construction of a new camp replacing the old one.¹⁵ Protests were also organised by CSOs in various in Berlin and other European cities after the fire in Moria, demanding a change in EU’s migration policy.¹⁶
- Protests demonstrating solidarity to the migrants were also organised throughout 2020 in Athens and Thessaloniki by left-wing groups, anti-racist movements and migration collectives¹⁷ demanding better living conditions and

¹⁰ <https://www.unhcr.org/news/latest/2016/3/56e9821b6/million-refugees-travel-greece-since-2015.html>

¹¹ <https://www.hrw.org/world-report/2021/country-chapters/greece>

¹² <https://www.lifo.gr/now/greece/lesbos-sygkentrosi-diamartyrias-gia-prosfygiko-zitoy-n-kleisimo-olon-ton-domon>

¹³ <https://www.ieidiseis.gr/ellada/35433/prosfygiko-metanastefiko-sygkentroseis-diamartyrias-se-mytilini-kai-xio>

¹⁴ <https://ecre.org/greece-situation-in-lesvos-intensifies-after-police-crackdown-on-protesters/>

¹⁵ <https://www.bbc.com/news/world-europe-54125761>, <https://www.reuters.com/article/us-europe-migrants-greece-lesbos-protest-idUSKBN1ZY1Y3>

¹⁶ <https://www.europemustact.org/post/moria-fire-protests-in-27-cities>, <https://www.dw.com/en/thousands-march-in-berlin-to-demand-germany-take-in-moria-refugees/a-54997956>

¹⁷ <https://tvxs.gr/news/ellada/synora-anoixta-gia-tin-prosfygia-maziki-poreia-allileggyis-stoys-prosfyges-tis-morias>

to ensure refugees would be transferred to other EU countries in safety.¹⁸ Counter-protests against refugees were organised by far-right groups as well in Athens and Creta.¹⁹

In the case of residents and local authorities protesting, there was no particular reaction from the police. On the other hands, the protests of refugees were met with excessive use of force by police forces, such as teargas and flash grenades.²⁰

Aside from our own monitoring of the situation via our Greek colleagues, Amnesty International paints a grim picture in its recent July 2021 report,²¹ describing how the Greek authorities even used the COVID-19 pandemic to violate the right to protest. These violations have taken many forms such as, unlawful force, arbitrary arrests, blanket bans, unjustified fines. Our Civic Space Initiative (CSI) partner CIVICUS' Monitor also raises concerns about increased police brutality and unjustified arrests of activists.²²

Unfortunately, not only we cannot observe any promising practices, but on the contrary, the right to protest and freedom of assembly is coming increasingly under pressure: in July 2020, the Greek parliament passed a law²³ which puts in place tighter restrictions on demonstrations.²⁴ The law was met with criticism by national and international CSOs but also by the Parliamentary Legislative Review Committee. Moreover, it sparked demonstrations, with around 10.000 people gathered to protest against the law. A group threw petrol bombs to the police and they answered with tear gas.²⁵

3. Crises related to narco-trafficking, gang violence, terrorism, or the like

A. In what ways have you observed, or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

¹⁸ <https://www.news247.gr/koinonia/poreia-allileggyis-prosfyges-metanastes-athina.7596554.html>, <https://www.in.gr/2020/05/31/greece/sygkentroseis-diamartyrias-se-athina-kai-thessaloniki-gia-tis-eksoseis-prosfygon/>, <https://www.voria.gr/article/poria-allilengiiis-stous-prosfyges-ke-tous-metanastes-sti-thessaloniki>

¹⁹ <https://www.in.gr/2020/01/19/greece/sygkentroseis-gia-prosfygiko-sto-kentro-tis-athinas-kleisto-metro-sto-syntagma/>, https://www.efsyn.gr/efkriti/koinonia/241790_ratsistikes-sygkentroseis-stin-kriti-epeisodia-kai-alyso-priono-sto-irakleio

²⁰ <https://ecre.org/greece-situation-in-lesvos-intensifies-after-police-crackdown-on-protesters/>, <https://edition.cnn.com/2020/09/12/europe/lesbos-tear-gas-intl/index.html>, <https://www.dw.com/en/greek-riot-police-fire-tear-gas-at-lesbos-migrants/a-54905603>

²¹ <https://www.amnesty.org/en/latest/news/2021/07/greece-authorities-abusing-power-to-trample-on-right-to-protest/>, <https://www.amnesty.org/download/Documents/EUR2543992021ENGLISH.PDF>

²² <https://monitor.civicus.org/updates/2021/01/22/police-brutality-during-protests-and-targeting-journalists-huge-concern/>

²³ <https://www.e-nomothesia.gr/sunathroiseis-sugkentroseis/nomos-4703-2020-phek-131a-10-7-2020.html>

²⁴ <https://www.amnesty.org/download/Documents/EUR2543992021ENGLISH.PDF>

²⁵ <https://www.statewatch.org/news/2020/july/greece-unrest-as-government-passes-new-anti-protest-law/>, <https://www.dw.com/en/greece-protests/a-54119094>

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, among other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

France – Global Security Law (countering terrorism)

In wake of terrorist attacks carried out the year before, on 15 April 2021 the French Parliament finalized the fast-tracked adoption of the Global Security Law, pushed forward to toughen up the provisions aimed at fighting against terrorism and strengthening public order. However, on 20 May 2021, the French Constitutional Council rejected a provision (Article 24) of the Global Security Law, which criminalised any act provoking the identification of a law enforcement agent during an operation operations (including patrolling of protests and assemblies) “with the obvious aim that their physical and mental safety will be subject to attack”²⁶. Infringement of this provision carried a maximum sentence of five years’ jail and a €75,000 fine. The provision had already been criticized by the UN Special Rapporteurs on Freedom of Assembly and Association and on Freedom of Opinion and Expression for being incompatible with international human rights standards.²⁷ On the other hand, other provisions of the law remain highly challenging for the exercise of the right to peaceful assembly, such as those extending the possibility for local authorities to task private security guards with public surveillance tasks in the fight against terrorism and those authorising law enforcement agents to be armed off duty in public spaces or otherwise open to the public. Furthermore, the use of video-surveillance captured on drones does not require judicial authorisation prior to filming during demonstrations, nor does it include an obligation to keep the public “clearly and permanently informed about being filmed”.²⁸

Egypt – “Critical security and health situation” as grounds to extend state of emergency to counter terrorism

In April 2020, a presidential decree declared a “state of emergency” in Egypt for three months²⁹. Egypt has been in a near-continuous state of emergency since April 2017 officially to counter terrorism, however this declaration cited the “critical security and health situation” as grounds for extension of the state of emergency, reinforcing the authority of the armed forces and police to maintain security and save the lives of citizens and providing that the state may impose restrictions on individuals’ movement. The decree also stated that violations of emergency orders would be punished with imprisonment.

Further amendments to the emergency law expanded the powers of the president and military prosecution, which now include the power to: ban private and public

²⁶ <https://www.conseil-constitutionnel.fr/decision/2021/2021817DC.htm>

²⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26560>

²⁸ <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000042563668/>

²⁹ <https://ecnl.org/sites/default/files/2021-02/ECNL%20Securitized%20Covid%20Responses%20and%20Civic%20Space%20final%202.pdf>

gatherings in addition to protests; shut down schools and universities; suspend operations in the private and public sector; and subject anyone returning from outside the country to quarantine. The amendments also allow the president to give military prosecutors preliminary investigation authority over any crimes. The UN special procedures reacted to these by stating, “Tougher new regulations under Egypt’s sweeping anti-terrorism law further erode fundamental human rights and could result in more arbitrary detentions, enforced disappearances and allegations of torture, and a wider crackdown on freedom of expression, thought, association and of peaceful assembly.”³⁰

4. Major environmental crises, e.g. climate change

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

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C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

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Climate change protests - Crackdown on civic space for climate activists

The rise of a global climate movement has been accompanied by a crackdown on civic space for climate activists worldwide. As climate-related strikes, protests, and mass mobilization become more widespread, many governments have teamed up with private actors to quell climate activism. This suppression has taken many forms, from laws criminalizing legitimate expression and assembly, to attempts to paint activists as “eco-terrorists,” to civil lawsuits and physical persecution. The repression of progressive climate actors is consistent with the disproportionate risks endured by environmental human rights defenders (EHRDs)³¹.

ECNL, together with ICNL, prepared a briefer that outlines some of the common legal and extra-legal measures used to target civil society actors working on climate justice³². Here are some significant examples with regard to freedom of assembly:

³⁰ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25787>

³¹ For many decades, environmental activism has been one of the most dangerous arenas for civil society actors. The majority of human rights defenders killed in 2018 were involved in work relating to land, indigenous and environmental issues. For more, see https://www.frontlinedefenders.org/sites/default/files/global_analysis_2018.pdf, and <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>.

³² Closing civic space for climate activists, June 2020 <https://ecnl.org/sites/default/files/2020-08/Climate-Change-and-Civic-Space-Briefer-vf.pdf>.

- In London, UK, protests organized by Extinction Rebellion were banned³³;
- France enforced a blanket ban on demonstrations and placed key climate activists under house arrest before the 2015 Paris climate summit³⁴;
- Poland adopted a law specifically written for the 2018 Conference of Parties (COP24) of the UN Framework Convention on Climate Change that limited spontaneous protest in the town of the event³⁵.
- Governments have also arrested scores of climate protesters engaged in peaceful protest actions, and passed laws to criminalize formerly legal protest methods, for example:
 - In Queensland, Australia, the use of lock-on devices, relied on by protesters for more than a century (including suffragettes in 1908), now carries fines and jail time up to two years, with police allowed to search protesters they suspect of being in possession of such devices³⁶;
 - The UK authorities jailed anti-fracking activists for more than a year under its “public nuisance” laws³⁷.
- Infrastructure laws have proliferated in the US that specifically target activists protesting around "critical infrastructure" (defined broadly to include fossil fuel installations such as pipelines and oil shipping lanes). These laws create new felony offenses, typically for trespass or inhibiting construction, or assisting someone in either of those offenses. Penalties range (e.g. a 5-year prison term for trespass or obstructing construction versus 10 years for tampering with or damaging critical infrastructure), with fines in the hundreds of thousands and up to \$1,000,000 in Oklahoma³⁸ for an organisation that conspires with someone who violates the Act.³⁹

Georgia: Protests against the construction of hydro electronic power plant

It has been almost half a year of ongoing protests in various parts of the country against the construction of the Namakhvani hydroelectric power plant in Western Georgia, the largest energy project in Georgia. In April 2021, after 169 days of peaceful protests in tents in the village Namakhvani where the construction works are ongoing, the police removed the tents of the protesters under unsubstantiated grounds (allegedly to avoid danger and protect protesters' lives, due to flooding, even though the same was not applied for the local population) and prohibited them to protest anywhere else in the village. Afterwards, the police erected metal constructions/barriers at the entrance of the village and prohibited the protesters from entering the village. This is not an isolated case: in November 2020, police employed disproportionate force to disperse the peaceful protesters from the Village Zhoneti who had blocked the road for few hours (they police physically pushed the

³³ <https://www.bbc.com/news/uk-50316561>.

³⁴ <https://www.theguardian.com/environment/2015/nov/27/paris-climate-activists-put-under-house-arrest-using-emergency-laws>.

³⁵ <https://www.business-humanrights.org/en/latest-news/poland-un-experts-urge-govt-to-ensure> .

³⁶ <https://www.theguardian.com/australia-news/2019/oct/24/queensland-parliament-passes-laws-to-crack-down-on-climate-protesters>.

³⁷ <https://www.independent.co.uk/climate-change/news/fracking-protesters-jailed-cuadrilla-little-plumpton-lancashire-shale-gas-drilling-a8556331.html>.

³⁸ http://webserver1.lsb.state.ok.us/cf_pdf/2017-18%20ENR/hB/HB1123%20ENR.PDF

³⁹ <https://ecnl.org/sites/default/files/2020-08/Climate-Change-and-Civic-Space-Briefer-vf.pdf>

protesters who were chained to one another off the road, causing their injuries), without warning or assessment.⁴⁰

5. Health crises, e.g. pandemics

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

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Challenges to assemblies due to the Covid-19 pandemic:

Since the outbreak of the Covid-19 pandemic, several emergency laws and regulatory measures have impacted the right to freedom of peaceful assembly and other relevant human rights in several countries:

- Greece was among the first countries to restrict freedom of assembly, limiting the number of people who could gather to 10 during the first lockdown period, March–May 2020.⁴¹ Moreover, the authorities imposed a blanket ban on assemblies for four days in November and December 2020, a move criticised by Amnesty International⁴² and other institutions. In September 2020, there were protests against the use of masks in schools,⁴³ and in July 2021, mass protests against mandatory vaccination for certain professions, such as healthcare workers.⁴⁴ Police used tear gas and water cannons to disperse the participants.⁴⁵

In some countries, the emergency laws and measures involved total bans on physical gatherings:

- in Hungary, e.g., the government adopted measures against the second wave of

⁴⁰ https://ecnl.org/sites/default/files/2021-06/Quarterly%20Report%20COVID19%20HRC%20Georgia%20March%20-%20May%202021_0.pdf

⁴¹ <https://verfassungsblog.de/the-coronavirus-crisis-law-in-greece-a-constitutional-matter-of-life-and-death/>

⁴² <https://www.amnesty.org/download/Documents/EUR2533462020ENGLISH.pdf>

⁴³ <https://www.naftemporiki.gr/story/1633964/diailoseis-se-athina-thessaloniki-kai-alles-poleis-kata-tis-xrisis-maskas-sta-sxoleia>

⁴⁴ <https://www.reuters.com/world/europe/greek-police-clash-with-protesters-rally-against-mandatory-vaccinations-2021-07-24/>

⁴⁵ <https://www.euronews.com/2021/07/21/police-use-water-cannons-to-disperse-athens-protesters-as-greek-government-ushers-in-new-v>

- the pandemic that puts a blanket ban on assemblies in public spaces.⁴⁶
- Similarly, Turkey introduced a complete ban on physical gatherings, including for the purpose of peaceful assembly, for an indefinite time.⁴⁷
- Otherwise, the temporary measures which limited the freedom of assembly differed in each country in terms of types and number of persons allowed to assemble:
- in Ukraine, a draft law proposed in the Parliament that would prohibit assemblies near courts⁴⁸.
 - In Moldova, the Chisinau municipality website where notifications for assemblies are recorded was brought down in a hacker attack which led to a loss of information⁴⁹. The number of participants in an assembly is limited to 50 persons (after initially being limited to three persons). In addition, disproportionate fines were introduced for not respecting the new rules: the minimal fine was over 1.000 EUR⁵⁰ and was later declared unconstitutional.
 - In Belarus, the emerging epidemiological situation related to the COVID-19 pandemic also impacted on the right to peaceful assembly⁵¹: at a special meeting of the Council of Ministers on 12 March, it was decided to limit the holding of all cultural, sports and scientific events with international participation in the country until 6 April due to the unfavorable epidemiological situation. Permission to conduct other public events (including peaceful assemblies) was to be issued after the assessment of the proper conditions for their conduct, i.e. the absence of the risk of infection for the audience. This factor also had a negative impact on the number of peaceful assemblies in the period under consideration, due to the fact that the above-mentioned regulation of the Council of Ministers was often used for refusal to authorise various actions. On 8 April, by the relevant Decision of the Minsk City Executive Committee No. 1069, the holding of almost all public events was suspended due to the persistence of the unfavourable situation connected with the coronavirus pandemic in Belarus. These restrictions reduced the number of physical assemblies but in turn encouraged some people to organise assemblies online: two traditional annual marches in Minsk were cancelled (Freedom Day on 25 March and “Chernobyl’s Road” on 26 April) and were replaced by online assemblies (“Chernobyl’s Road”, online gathering was also accompanied by a march of a small group of opposition leaders).
 - In Azerbaijan, the introduction of permission via mobile phone SMS to leave places of residence has also hindered the possibility to take part in protests or assemblies as the permissible reasons for leaving the home were limited and did not include protesting⁵².
 - In Armenia, the inconsistent approach by the police towards spontaneous

⁴⁶ <https://civicspacewatch.eu/hungary-new-rules-put-a-total-ban-on-protests-infringing-on-the-right-to-freedom-of-assembly/>

⁴⁷ <https://www.tusev.org.tr/usfiles/images/E.48829.pdf>

⁴⁸ https://csometer.info/sites/default/files/2020-12/TO%20PUBLISH%20-%20Regional%20report%202020%20OFFICIALLY%20FINAL_0.pdf

⁴⁹ https://csometer.info/sites/default/files/2020-12/TO%20PUBLISH%20-%20Regional%20report%202020%20OFFICIALLY%20FINAL_0.pdf

⁵⁰ <https://csometer.info/sites/default/files/2021-04/EaP%20Emergency%20Measures%202021%20April%20final.pdf>

⁵¹ <https://ecnl.org/sites/default/files/2021-02/BLR%20assembly%20report%202020%20v4.pdf>

⁵² https://csometer.info/sites/default/files/2020-12/TO%20PUBLISH%20-%20Regional%20report%202020%20OFFICIALLY%20FINAL_0.pdf

assemblies led to unequal and disproportionate application of limitations (e.g., when it comes to dispersing protesters)⁵³.

- In Georgia, there were serious limitations as gatherings and assemblies of more than three people were not allowed during the first stage of the pandemic⁵⁴. After the easing of the measures, even though protests were not limited, the curfew and the restrictions over freedom of movement impacted the right to free assembly⁵⁵. The authorities fined protesters for violating the curfew with the protest action. The fines were disproportionately high (from 500 EUR for physical persons, to 2.000 EUR for legal persons) and their repetition led to criminal liability: according to the Presidential Decree⁵⁶, the violation of rules of state of emergency would initially result in administrative offenses – fines of physical persons by approximately 750 EUR (3.000 GEL) and fines of legal entities by approximately 3.750 EUR (15.000 GEL). The repeated violation would result in criminal responsibility for the physical persons – deprivation of liberty up to 3 years, as for legal entities – fine, prohibition of right to work or liquidation. Setting such high fines did not take into account the severe socio-economic problems that people face in Georgia that particularly worsened in the light of the pandemic. The amount of fines during the second wave of restrictions was lowered, yet they are still disproportionately high. The same aim of protection of public health and promotion of adherence to the new regulations could have been achieved with lower fine.

Overall, according to ECNL's first overview and analysis of the measures adopted and implemented in Europe on the exercise of the right to peaceful assembly during emergency crisis, the following patterns emerged⁵⁷:

- **Broad and vague wording:** all European countries that have imposed lockdowns or restrictions on movement related to countering the Covid-19 virus have also imposed restrictions on people's right to assemble. In most cases, the focus of the restrictions is on any form of gathering. However, certain provisions mention forms such as public and/or private spaces (e.g. Portugal, Malta), indoor and/or outdoor gatherings (e.g., Austria) as subject of restriction. The often broad and vague language used has in turn left some uncertainty as to what level and form of activity is permitted and what is being restricted. Across Europe different countries have imposed different limits on the number of people that may gather in public: some new laws, for example, include broad generalisations ("a large number" in Cyprus); or vague wording ("where the level of proposed attendance at the event could reasonably be considered to pose a risk of infection with Covid-19 to persons attending the event" in Ireland) and therefore open to interpretation both by the police and also by the public.
- **Diverse approaches in restricting number of people that can assemble:** where laws have been more specific, restrictions imposed are varied: e.g., the law

⁵³ https://csometer.info/sites/default/files/2020-12/TO%20PUBLISH%20-%20Regional%20report%202020%20OFFICIALLY%20FINAL_0.pdf

⁵⁴ https://csometer.info/sites/default/files/202012/TO%20PUBLISH%20%20Regional%20report%202020%20OFFICIALLY%20FINAL_0.pdf

⁵⁵ <https://csometer.info/sites/default/files/2021-04/EaP%20Emergency%20Measures%202021%20April%20final.pdf>

⁵⁶ <https://ecnl.org/sites/default/files/2021-06/Analytical%20brief%20final%20HRC%20ECNL%20Jan%202021.pdf>

⁵⁷ <https://ecnl.org/sites/default/files/files/Protest-in-a-Time-of-Pandemic.pdf>

prohibits gathering of two or more people in Bosnia and Herzegovina and Serbia, Bulgaria and the UK; of three or more people in the Netherlands; in Armenia, up to twenty people are still permitted to gather in public, whereas in Russia and Sweden permit gatherings of up to fifty people and Denmark has imposed a limit on more than ten people gathering (and restrictions do not apply to gatherings for a political or other purpose, including demonstrations or political meetings). There does not appear to be any specific rationale for the numbers of people being permitted to gather, but a smaller number is clearly more manageable for law enforcement bodies to control.

- **Prevalence of temporary durations of restrictions:** in Hungary, e.g., the restrictions on movement and gathering have been imposed indefinitely, but in most countries the various new laws have been introduced on a temporary basis. However, the time frames vary from two weeks (Portugal), one month (Georgia, Kazakhstan) and two months (France, Netherlands). In all cases the restrictions may be renewed until the situation is deemed to be under control. And while the introduction of the restrictions may be accepted as necessary by the public, they will also expect them to be lifted as soon as reasonable.
- **New criminal offences and high sanctions:** many countries have created new criminal offences with varying levels of potential punishment: in Italy, e.g., non-compliance with the restrictions risks a €200 fine or 3 months' detention; in Greece, a €1,000 fine; in Slovakia, a €10,000 fine; while in Albania the authorities can impose a fine of €40,000. However, these powers and the proportionality of the punishments have yet to be tested before the courts.
- **Promising practices:** In April 2020, the German Constitutional Court overturned a decree issued by Baden-Württemberg state imposing a blanket ban on local gatherings due to the coronavirus pandemic, arguing that proportionate restrictions to the fundamental right of peaceful assembly should only be decided on a case-by-case basis.⁵⁸ The Court had previously rejected similar bans in Hesse state for the same reasons.⁵⁹ In Slovenia, on 15 April 2021 the Constitutional Court blocked the implementation of a government decree that temporarily banned public gatherings, rallies, events and celebrations due to the coronavirus pandemic, arguing that a new decree should be adopted with due consideration of the right to peaceful assembly being a fundamental human right.⁶⁰ In Kosovo, in March 2020, the Constitutional court ruled that the Government decision to restrict citizen freedom of movement and prohibition of gatherings during the Corona virus, violates the Kosovo Constitution, which the Government failed to respect and imposed stricter restrictions⁶¹.

⁵⁸ <https://www.dw.com/en/germanys-top-court-overturns-stuttgarts-protest-ban/a-53175992>

⁵⁹ <https://www.jurist.org/news/2020/04/germany-constitutional-court-upholds-freedom-of-assembly-despite-covid-19-restrictions/>

⁶⁰ <https://civicspacewatch.eu/an-initiative-has-been-submitted-to-the-constitutional-court-of-the-republic-of-slovenia-to-review-the-constitutionality-of-a-decree-banning-protests/>

⁶¹ https://gjk-ks.org/vendimet-nga-seancat-shqyrtuese-te-mbajtura-me-30-dhe-31-mars-2020/?_cf_chl_jschl_tk_=pmd_9zQiFC18WqIqP66Bh9bZSJZPvH4.JxGXhCiZuXa51b4-1629228791-0-gqNtZGzNAiWjcnBszQdl

6. Economic crises

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

Georgia – Protests in relation to manganese extracting works in Chiatura Municipality

In Georgia, in 2021 the residents of the village Shukuri faced severe damage inflicted by the mining works on their houses and land, such as major cracks in the walls of their houses and large holes in the land.⁶² The mining works have also damaged the local infrastructure, such as roads and ecological environment, such as polluting water. In May 2021, the residents living in the village Shukruti in Chiatura resorted to extreme forms of protest, such as sewing their lips and going on hunger strike, requesting adequate reaction from the state authorities regarding the damages made by the mining works of the LLC Georgian Manganese in the village (assessment of the damage to be done by the National Bureau of Forensic Expertise, not by the company). The local population held active protests in relation to this situation in the past as well, including the blocking of the entrances to the mines operating in the village and halting the mining works in September 2019. The company has expressed openness to assess the damage inflicted on the local population and consider possible subsequent compensation. However, the state has not yet responded to this situation.

Greece – Financial crisis and protests

Greece was one of the countries hardest hit by the financial crisis, in the aftermath of the global financial crisis of 2007–2008. Greece asked for the financial support of the European Union and the International Monetary Fund, which offered 3 packages, accompanied by severe austerity measures.⁶³ The austerity measures resulted in major wage and pension's cuts, unemployment and youth unemployment reaching almost 60%, and the average Greek becoming 40% poorer between 2008–2013.⁶⁴ The austerity measures sparked mass protests between 2010 to 2015.⁶⁵ The protests

⁶²https://ecnl.org/sites/default/files/2021-06/Quarterly%20Report%20COVID19%20HRC%20Georgia%20March%20-%20May%202021_0.pdf

⁶³ <https://www.bbc.com/news/world-europe-45245969>

⁶⁴ <https://www.bbc.com/news/world-europe-33507802>

⁶⁵ <https://journals.sagepub.com/doi/full/10.1177/1478929916685728>

turned violent with protesters throwing rocks and petrol bombs to the police and the police responding with teargas.⁶⁶ Protests continued to a smaller scale in the years after 2015, with a pick in 2018⁶⁷

7. Social & political crises, e.g. related to major political contestation, coup d'état

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

Belarus – Political crisis

Our CSO-Meter partners from Belarus have provided evidence on how the political crisis impacts assemblies and other human rights.⁶⁸

The following types of measures were observed:

- In the first five months of 2021, several laws that significantly restrict civil rights and narrow the space for the activity of civil society were adopted in Belarus. The new laws (or new versions of previous laws) aim to legalise the unconstitutional practices used by the authorities (especially by police and intelligence agencies) to stifle protests like those that erupted in the second half of 2020 after the presidential election. The key elements of this package of restrictive laws that have already come into force are the following:
 - **Code of the Republic of Belarus on Administrative Offences.** The Code was urgently adopted in January 2021 without public discussions and imposes heightened liability for violation of the procedure for holding rallies and assemblies (e.g., increased the duration of the arrest for such a violation up to 30 days, higher fines and liability for use of prohibited symbols).
 - **Law Amending the Codes on Criminal Liability.** According to the new norms, holding mass event in violation of the established administrative procedure is an administrative offence but turns into criminal liability if the violation occurs again within a year after the first offence. Criminal liability for activity of extremist groups (both registered organisations and informal groups) has

⁶⁶ <https://www.bbc.co.uk/news/world-europe-16981783>

⁶⁷ <https://www.dw.com/en/greek-parliament-approves-bailout-reforms-as-thousands-protest/a-42158130>,
<https://www.euronews.com/2018/04/25/greeks-protest-austerity-measures-and-public-infrastructure-sales>

⁶⁸ We are not disclosing here the identity of our partner on the ground and their sources to protect their safety.

also been significantly expanded: when earlier only founders and leaders of extremist groups were subject to criminal liability, now such liability it extends to *all* members of extremist groups (it is enough to just be a member of the association which is recognised as extremist). Criminal liability also applies to promotion of extremism (Article 361⁴, punished with imprisonment for up to 7 years) and planning of extremist activity. The notion of "discrediting the authorities" has been extended and includes dissemination in any form of deliberately false and discrediting information about the political, economic, social, military or international situation in the country, aimed at harming national security (punished with imprisonment).

- **Law Amending the Law on Mass Events in the Republic of Belarus.** All mass actions now must receive prior special permits from the local authorities; at the same time, prior to applying for such a permit, it is required to preliminarily coordinate with the police and conclude a contract with it on policing the event. The law further introduces a ban on live broadcasts (streams) of unauthorised events and a ban on informing about the intention to hold a mass event (it is forbidden to publish even calls to organise an event on the Internet) before a permit is received.
- **Law Amending the Laws on Labor Relations.** The law stipulates that it is forbidden to make political demands during strikes. New grounds for dismissal of employees have been introduced - coercion to a strike, participation in an illegal strike or serving of an administrative arrest.
- **Law Amending the Laws on the Mass Media.** The list of information prohibited for publication has been extended. The procedure for non-judicial blocking of websites and their mirrors has been simplified (the right to block websites is also granted to local authorities) and grounds for restriction of access to websites have been extended. A new ban has been introduced on publishing the results of opinion polls regarding the social and political situation carried out without prior accreditation. It is also not allowed to publish hyperlinks to websites that contain prohibited information. The Ministry of Information, instead of the court, can now stop the media from operating. Regardless of the time when the media was established, foreign citizens or legal entities with foreign participation. cannot act as its founders.
- **Law Amending the Laws on Ensuring National Security of the Republic of Belarus.** The Ministry of Internal Affairs (MIA) agencies have been granted the power to use military and special equipment when suppressing mass riots. The MIA is now not liable for damage caused by the use of force, special equipment, weapons, military equipment, if this was carried out in accordance with the law. Police are also empowered to prohibit photographing of events and in other ways restrict exchange of information.
- **Law on the Introduction of Amendments to the Law on Electronic Communications.** The law established the possibility of complete or partial blocking of the Internet, as well as mobile or fixed telephone communications, to prevent situations that pose a threat to national security.

Georgia: Political crisis

Since November 2021, the political crisis continued to escalate in Georgia.⁶⁹ The opposition political parties refused to enter Parliament, protested the results of the elections and demanded new parliamentary elections and release of political prisoners. The protests by the civic movements were also frequent, but the rules of curfew and ban on public transportation significantly hampered the organisation of assemblies and manifestations and affected the number of people joining them. The law enforcement authorities fined the protestors for violating the curfew as the protest actions continued during the hours when movement was banned (between 21:00 pm and 05:00 am). Sanctioning protesters for violating the rules of curfew must be assessed as unlawful interference into the right to peaceful assembly and manifestation, considering that the current Law on Public Health of Georgia, which authorises government to enact measures to fight the pandemic, grants government the power to restrict freedom of movement and gatherings of individuals for conducting social events but does not refer to assemblies and manifestations. Therefore, the movement of the participants of the protest actions should have been protected under the right to assembly and manifestation. However, this line of reasoning was unfortunately not supported by the Constitutional Court of Georgia.

8. Crises of systemic discrimination against particular groups

- A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?
- B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?
- C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?
- D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

Systemic discrimination of LGBTI, Feminist movement, and children/adolescents impacting assemblies and religious communities

Our CSO-Meter partners from Armenia, Ukraine, Georgia and Belarus have provided evidence that certain groups cannot enjoy of human rights during protests.

The following types of measures were observed:

- In Armenia, the police fail to protect organizers of LGBTI events and discourages

⁶⁹ Upcoming report on freedom of assembly by HRC Georgia (Georgia Inspires), to be published in September 2021.

- their organisation.⁷⁰
- In Ukraine⁷¹ and Georgia⁷², the police fail to protect the participants in LGBTI protests from counter-protesters and enable violence over them.
 - In Belarus⁷³, children and adolescents face harassment and other violations by the authorities for participation in protests.
 - In Georgia⁷⁴, the government applied a discriminatory approach against the religious minorities when it comes to free movement during their religious holidays (by lifting curfew for the pre-dominant religious communities).

⁷⁰ <https://csometer.info/sites/default/files/2020-11/Armenia-CSO-meter-Final.pdf>

⁷¹ <https://csometer.info/sites/default/files/2020-11/CSO-Meter-Ukraine-report-ENG.pdf>

⁷² <https://csometer.info/updates/georgia-violent-attacks-activists-and-journalists-pride-week>

⁷³ <https://ecnl.org/sites/default/files/files/Monitoring-the-Right-to-Free-Assembly-Belarus-report.pdf>

⁷⁴ <https://ecnl.org/sites/default/files/2021-06/HRC%20ECNL%20Quarterly%20%20COVID%20March%2015.pdf>