UNDER PROTECTED AND OVER RESTRICTED

THE STATE OF THE RIGHT TO PROTEST IN 21 EUROPEAN COUNTRIES

AMNESTY INTERNATIONAL

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Cover photo: *Montage of images from different mobilizations and protests across Europe showing the power of protest*
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GLOSSARY

WORD	DESCRIPTION
THREE-PART TEST	State authorities must ensure that any limitations placed on the right of peaceful assembly adhere to the principles of legality, proportionality and necessity, as set out in Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and General Comment 37 of the Human Rights Committee (HRC). Specifically, the *three-part test* means that any limitations must be: i) *prescribed by law*; ii) demonstrably in pursuit of a *legitimate aim*; and iii) *necessary* and *proportionate* to that aim (using the least restrictive measure amongst those which might achieve the specified purpose, and the impact of that measure should not outweigh the legitimate aim to be pursued nor should it render void the possibility to enjoy the right of peaceful assembly).
CHILLING EFFECT	Harsh restrictions on protesters, and other forms of human rights violations such as unwarranted surveillance, are likely to dissuade others from exercising their rights in the future, creating a so-called chilling effect.
FOGLIO DI VIA	Administrative measure in Italy banning presence from a specific territory, other than one's place of residence, imposed on people by the Questore (chief of Police). See details in Chapter 7.4.4.
DASPO ORDERS	Orders in Italy originally prohibiting access to a sporting event. Through legal amendments, this provision has been extended so that it can be applied more generally to prohibit individual access to a specific place for reasons of public order for up to two years. See details in Chapter 7.4.4.
KETTLING	Term used, in certain contexts, to define 'containment' which consists of the use of police cordons to physically block people from leaving a certain area and enclosing them in confined spaces for many hours and with limited or no access to food, water or toilets.
LESS-LETHAL WEAPONS	Term used to describe a weapon that is designed for the use of force without causing death, while acknowledging the inherent risk of *any* weapon to cause death depending on the circumstances and manner of its use. Also sometimes referred to as 'non-lethal'.
PETTY OFFENCES	As international human rights law and standards do not provide a universally agreed definition of petty offences, the concept may be subject to varied definitions and understandings in different national contexts. The African Commission on Human and People's Rights define petty offences as "minor offences for which the punishment is prescribed by law to carry a warning, community service, a low-value fine or short term of imprisonment". Petty offences can be proscribed by criminal law, administrative law or laws combining both criminal and administrative aspects, depending on the specific national context. The European Court of Human Rights has reiterated that the two decisive criteria to establish whether a provision is of criminal nature are the nature

WORD	DESCRIPTION
	of the offence and the severity of the penalty incurred. The classification of the offence under national law is only indicative. The Court has noted that although some measures are labelled 'administrative' under certain national legal systems, they can nonetheless be considered as criminal because they fulfil certain criteria such as aiming to have a deterrent effect or the severity of the penalty risked, particularly where individuals can be deprived of their liberty. In this report, petty offences that can result in punishment, including custodial sentences, are referred to as criminal offences. Sanctions that are not criminal in nature can have a similar effect as criminal sanctions in punishing, controlling and/or dissuading individuals from exercising their right to freedom of peaceful assembly.
PROTEST ORGANIZERS/ PROMOTERS	The term 'protest organizer' is used predominantly in the report, however 'promoter' is used in relation to specific countries, in line with the national legislation's terminology.

LIST OF ABBREVIATIONS

CAT	Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FRT	Facial Recognition Technology
HRC	UN Human Rights Committee
HRD	Human rights defender
ICCL	Irish Council for Civil Liberties
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
OHCHR	Office of the UN High Commissioner for Human Rights
OPT	Occupied Palestinian Territories
ODIHR	OSCE Office for Democratic Institutions and Human Rights
ODIHR GUIDELINES (2010)	Guidelines on Freedom of Peaceful Assembly (Warsaw and Strasbourg: ODIHR and Venice Commission, 2010, 2nd ed.), available at http://www.osce.org/odihr/73405
SIRACUSA PRINCIPLES	Siracusa Principles on the Limitation and Derogation of Provisions of the International Covenant for Civil and Political Rights (ICCPR) are an expert interpretation of the ICCPR and provide guidance on when and how restrictions to human rights may be implemented.
TOKYO RULES	United Nations Standard Minimum Rules for Non-custodial Measures

UN DECLARATION ON HUMAN RIGHTS DEFENDERS	UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms
VENICE COMMISSION GUIDELINES (2020)	Guidelines on Freedom of Peaceful Assembly (Warsaw and Strasbourg: Venice Commission and ODIHR, 2020, 3rd ed.), available at https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLAD(2019)017rev-e
WHO	World Health Organization
XR	Extinction Rebellion
X	Social media platform formerly known as Twitter

INTRODUCTION

REGIONAL CONTEXT

Peaceful protest is a powerful and public way of making our voices heard. Throughout history, protests have been one of the key means for individuals and groups to express dissent, opinions and ideas, expose injustice and abuse, and demand accountability from those in power.

This way, protesting has long been a vital means for advancing human rights and justice. Many of the rights and freedoms that we take for granted today have been achieved, in whole or in part, by people taking to the streets to demand change for the better and make their calls heard. Examples from past and present include disenfranchised people rising up to demand the right to vote, citizens amassing to bring down the Berlin Wall, Pride marches challenging discrimination against LGBTI people, children calling for climate justice, Black Lives Matter protests, International Women's Day events, and Indigenous peoples demanding their land rights.

Protest has played, and continues to perform, a vital role in ensuring that institutions with power respect human rights, end harmful laws and practices, and adopt new and more rights-respecting legislation. People have a right to protest peacefully, and states have a duty to respect, protect and facilitate this right.

In a world that is grappling with increasing inequality, persisting discrimination, racism, armed conflict, and climate change concerns, protests are a more important tool than ever for people seeking justice and human rights.

However, in Europe, as well as globally, many state authorities respond to peaceful protests by stigmatizing, impeding, deterring, punishing and cracking down on protesters, instead of addressing their pressing concerns, promoting dialogue to find solutions to injustice, abuses and discrimination, removing obstacles, protecting and facilitating people's right of peaceful assembly. The report documents such state actions.

Authorities use a wide range of different means to suppress those organizing and participating in protests, including by passing repressive laws and using unnecessary or excessive force against peaceful protesters or arbitrarily apprehending, detaining and imprisoning them.

States' increasing employment of surveillance technology, such as the use of artificial intelligence to monitor individuals and groups, also represents a grave attack on human rights including the right of peaceful assembly. The constant threat of surveillance makes many people reluctant to exercise their human rights, including by taking part in demonstrations.

This so-called 'chilling effect' is especially severe for individuals and groups who already experience heightened barriers to protest, for example, because they are subjected to inequality, marginalization, racism, discrimination and violence because of their race, ethnicity, religion and/or migration status. This occurs in the context of discriminated against groups being disproportionately subjected to restrictions and repression by the authorities.

In some parts of Europe, Amnesty International has documented a wide array of undue restrictions on protest for a number of years, as well as policing that disproportionately focuses on racialized individuals and groups and discriminates against them. In other European countries, these undue restrictions form a newer and/or more subtle pattern of violations and interferences with the right to assemble peacefully.

Many advances in human rights around the world have been gained through the courage of people who dared to stand up for a more inclusive and equal society, despite the risks and challenges they faced. To

continue advancing people's rights and freedoms, it is crucial that everyone can protest safely and without discrimination.

In this comprehensive report, Amnesty International presents an overview of the current state of play of the right of peaceful assembly in 21 countries across Europe, exposing harmful trends and patterns, highlighting concerns through illustrative country examples,[1] and making detailed recommendations to governments to better ensure that everyone's right to protest – codified through the broader rights to freedom of peaceful assembly, association and expression as well as the right to non-discrimination – is protected, respected and fulfilled.

THE PRESUMPTION IN FAVOUR OF PEACEFUL ASSEMBLIES

International and regional human rights standards[2] governing the right of peaceful assembly emphasize as a core principle, the "presumption in favour of (peaceful)[3] assemblies".[4] While this principle has particular relevance to the domestic legislative framework governing the right of peaceful assembly, it also has broader implications for the protection and facilitation of the right more generally.

There is no single test by which to assess whether a domestic regulatory framework adequately reflects such a presumption in favour of peaceful assembly. Certainly, any such assessment must reach far beyond a mere textual analysis of a state's constitutional and legislative framework. It requires a detailed analysis of legislation, policy and practice[5] and a careful assessment of the extent to which authorities fulfil their overarching obligation to "respect and ensure", without discrimination, the exercise of the right of peaceful assembly.[6]

This overarching obligation is binding on all state organs and agents[7] and it gives rise to a number of specific duties, both *negative* and *positive,* in law and in practice, before, during and after assemblies.[8] In particular,

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[1] The country examples given in the reports are intended to illustrate specific issues and trends that are of concern to Amnesty International. They are not meant to be exhaustive, and the exclusion of a particular country should not be taken to imply that Amnesty International has found no such concerns in that country, unless stated otherwise.

[2] The key instruments include the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention against Torture and other Cruel, Inhuman and Degrading Treatment (CAT); Convention on the Rights of the Child (CRC); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of Persons with Disabilities (CRPD), The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Charter of Fundamental Rights of the European Union. A complete overview of the status of ratification of all relevant international human rights treaties, for all countries, is available at https://indicators.ohchr.org/

[3] According to international law, only 'peaceful' assemblies are protected. An assembly must still be considered 'peaceful' even if there are sporadic violence or unlawful behaviour by some individuals. (UN Human Rights Committee (HRC), General Comment 37, paras 15-19). According to HRC, 'violence' in the context of assemblies "typically entails the use of participants of physical force against others that is likely to result in injury or in death, or serious damage to property. Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to 'violence' (para. 15). When a small minority of participants are engaging in violence, as opposed to what could be considered widespread and serious violence by participants, the authorities should ensure that those who are remaining peaceful can continue to exercise their rights without the entire assembly being dispersed (para. 17.)

[4] HRC, General Comment 37, para.17 emphasizes that "there is a presumption in favour of considering assemblies to be peaceful."; Guidelines on Freedom of Peaceful Assembly (Warsaw and Strasbourg: ODIHR and Venice Commission, 2010, 2nd ed.), available at http://www.osce.org/odihr/73405 (hereinafter, the "ODIHR Guidelines (2010)"), para. 30; Also Guidelines on Freedom of Peaceful Assembly (Warsaw and Strasbourg: Venice Commission and ODIHR, 2020, 3rd ed.), available at https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLAD(2019)017rev-e (hereinafter, the "Venice Commission Guidelines (2020)", paras 21, 55, 76, and 119.

[5] An additional resource for research and assessment is the 'Toolkit' prepared by the Special Rapporteur on freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary and arbitrary executions. It contains a list of 100 indicators categorized under 10 guiding principles applicable to assemblies and relating to the implementation of the recommendations made by the Special Rapporteurs. The recommendations were based on consultations with over 100 experts and more than 50 UN Member States. The toolkit is available at http://freeassembly.net/reports/managing-assemblies-checklist/

[6] HRC, General Comment 37, paras 2, 8, 11, 23, 26, 28, 35, 74 and 102. While 'respect and ensure' clearly differs (nominally) from the well-known tripartite understanding of state obligations to 'respect, protect, and fulfil' human rights, these different ways of framing the obligations of state authorities nonetheless broadly align: the obligation to 'respect' requires the State to abstain from doing anything that infringes on individual freedoms, and so the authorities should not prevent, hinder or restrict people's rights except when it is necessary to do so (and then, within a human rights approach); The obligation to 'protect' requires that the State and its agents take all measures necessary to prevent other individuals or groups from violating peoples' rights. The obligation to 'fulfil', requires the State to take the measures necessary to promote and ensure human rights, including through adequate resourcing, policy and educational initiatives.

[7] HRC, General Comment 31 on the nature of the general legal obligation imposed on States parties to the Covenant (CCPR/C/21/Rev.1/Add. 13), 26 May 2004, para.4: 'The obligations of the Covenant in general, and article 2 in particular, are binding on every State Party as a whole. All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level – national, regional or local – are in a position to engage the responsibility of the State Party'; Also, General Comment 37, para. 35.

[8] HRC, General Comment 37, para. 23.

States must avoid unwarranted interferences with the exercise of the right of peaceful assembly.[9] States must also protect those exercising the right against interference by others, and facilitate the exercise of the right in ways that make it possible for participants to achieve their objectives.[10]

State authorities must furthermore ensure that any limitations placed on the right of peaceful assembly meet the *three-part test* by adhering to the principles of legality, proportionality and necessity, as set out in Article 21 of the ICCPR and General Comment 37 of the HRC. Specifically, the *three-part test* means that any limitations must be:

i) *prescribed by law* (that is, set out by laws that are not arbitrary or unreasonable, and formulated with sufficient precision to enable any individual[11] to foresee its effects and regulate their conduct[12] accordingly);

ii) demonstrably in pursuit of a *legitimate aim*[13]; and

iii) *necessary* and *proportionate* to that aim[14] (using the least restrictive measure amongst those which might achieve the specified purpose and the impact of that measure should not outweigh the legitimate aim to be pursued nor should it render void the possibility to enjoy the right of peaceful assembly).

International and regional human rights standards have established that states must respect and ensure the right of peaceful assembly without discrimination on any grounds. Concretely, states should guarantee, in legislation and in practice, that all individuals can exercise their right to protest without discrimination based on grounds such as ethnicity, sex, race, religion or belief, sexual orientation, gender identity, disability, age, political or other opinion, socio-economic status, nationality or any other status. The right of peaceful assembly must be guaranteed to all individuals, groups, unregistered associations and legal entities, members of ethnic, racial or other minorities, nationals and non-nationals, stateless people, migrants, refugees and asylum seekers and people without full legal capacity.

People participating in protests do not all face the same barriers and the various forms of intersecting discrimination make participation much harder for some groups. Women, children, LGBTI people and gender non-conforming people, Black people, Arab people, Roma or other racialized people and groups, and persons with disabilities face specific challenges to participation in protests and more generally in the civic space, as their rights are restricted by societies through different forms of intersecting racism, sexism, violence, marginalization, social norms and sometimes even legislation to repress them and to maintain a status quo dominated by patriarchy and heteronormativity. They must be protected, in legislation and in practice, and states must tackle the root causes of any direct or indirect discrimination, as well as any harmful stereotypes, existing prejudicial norms, values and practices that restrict people's right of peaceful assembly.

Each chapter of this report analyses one or more key component parts of the right of peaceful assembly and assesses the extent to which the authorities in the 21 countries in focus are respecting, protecting and fulfilling their obligations under international human rights law.

While comprehensive, the list below does not aim to be exhaustive, but rather a useful tool for authorities, civil society and other experts to reflect on and use to evaluate national contexts:

- Legal recognition of the right of peaceful assembly, state obligations and political commitments to respect and ensure the right of peaceful assembly equally to everyone, without discrimination

[9] HRC, General Comment 37, paras 8 and 23, "The negative duty entails that there be no unwarranted interference with peaceful assemblies. States are obliged, for example, not to prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification nor to sanction participants or organizers without legitimate cause."
[10] HRC, General Comment 37, paras 8 and 24-25. This might, for example, include providing services such as traffic management or toilets, if necessary.
[11] Articles 21 and 22 of the ICCPR also establish that no restrictions should be placed on the rights of peaceful assembly and association, respectively, other than those "prescribed by law". Articles 10 and 11 of the European Convention of Human Rights (ECHR) also establish that the right to freedom of peaceful assembly – as well as expression and association - can be subject only to restrictions "prescribed by law". The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, UN Doc. E/CN.4/1985/4 (Siracusa Principles) states that laws limiting the exercise of human rights should be clear and accessible (Principles 16 and 17).
[12] European Court of Human Rights (ECtHR), Kudrevicius and Others v. Lithuania, Application 37553/05, Grand Chamber Judgement, 15 October 2015, paras 108-110, and Djavit An v. Türkiye, Application 20652/92, Judgement 20 February 2003, para. 63; HRC, General Comment 37, para. 39.
[13] A legitimate aim can only be one among those expressly established in the applicable human rights instruments themselves. As such, under European and international human rights law, interference with these rights can only pursue the protection of 'national security, public order, public health or morals, or the rights of others'. ECHR, Articles 10.2, 11.2; International Covenant on Civil and Political Rights, Articles 19.2 and 21; HRC, General Comment 34, para. 22; HRC, General Comment 37, Section IV, paras 36-69; Siracusa Principles, Principles 1-14.
[14] HRC, General Comment 34, para. 34 and para. 40.

(Chapter 1 on legislation and discrimination, Chapter 4 on restrictions on assemblies and Chapter 8 on children in protests).

- No 'authorization' regime should be put in place for assemblies, intended as processes to seek 'permission' for assemblies (rather than mere provision of notice of the intention to assemble) (Chapter 2 on authorization regimes).
- Notification requirements for assemblies that confine the regulatory scope of the law only to assemblies that likely impact on the rights of others (and may thus warrant some form of proportionate regulation). For example, by establishing a high threshold for any mandatory prior requirement (Chapter 2 on notification requirements).
- Recognition and protection conferred in law to spontaneous assemblies (Chapter 2 on spontaneous assemblies).
- Obligations and responsibilities of assembly organizers are limited to the organization of a gathering with professed peaceful intentions, and liability is limited only to one's own unlawful conduct – if sanctions are applied, they are proportionate, non-discriminatory, and not based on offences that are ambiguously or over-broadly defined (which would present an undue interference with the right of peaceful assembly) (Chapter 3 on liability of organizers).
- Establishing a narrow margin for restrictions applied on assemblies, ensuring that any restrictions imposed meet the *three-part test*, are not discriminatory, and are subject to adequate procedural safeguards. The onus is on the authorities to justify any restrictions, which must be subject to a case-by-case assessment in each circumstance (and no blanket restrictions in place) (Chapter 4 on restrictions on assemblies).
- State authorities presume protests to be peaceful (non-violent) even if they are disruptive. Disruption should generally be tolerated as inherent in protesting (Chapter 4 on restrictions on assemblies, Chapter 7 on peaceful acts of civil disobedience).
- State's overall approach towards policing assemblies is guided by the objective of 'facilitation' of the right of peaceful assembly, communication, seeking to prevent conflicts from occurring through dialogue and/or mediation, as well as the need to show force with restraint (only exceptionally), de-escalate and peacefully settle any conflicts that may occur (Chapter 5 on policing) – recognizing that any engagement by organizers with law enforcement agencies should be entirely voluntary (Chapter 3 on liability of organizers). Any overreach or human rights abuse is adequately and promptly investigated to prevent a lack of accountability and a culture of impunity (Chapter 6 on accountability).
- State authorities protect and facilitate peaceful protests even in circumstances where the organization of an assembly and/or conduct of some or all participants involves some element of unlawfulness (Chapter 7 on peaceful acts of civil disobedience).
- Protests are presumed peaceful, not a threat to be tackled, and authorities do not carry out indiscriminate, unwarranted, unchecked, discriminatory, or otherwise unlawful surveillance of protesters and protests prior to/during or after assemblies (Chapter 9 on surveillance).

The report demonstrates that, for many states, their legal framework and/or state practice fails to sufficiently reflect the presumption in favour of peaceful assemblies. While some of the countries analysed appear to be closer to respecting people's right of peaceful assembly than others, concerns exist throughout the region on all the key aspects related to the right.

This report does not only aim to present and analyse these key components in the relevant state laws, regulations and policies, but also to articulate, through the presented recommendations, a vision for the positive changes required to improve the respect, protection and facilitation of people's right of peaceful assembly.

METHODOLOGY

This research project forms part of Amnesty International's global campaign 'Protect the Protest', which aims to defend the right of peaceful assembly across the world. In Europe, Amnesty International's national offices participate in this global effort to ensure that states respect, protect and fulfil the right of people to organize and participate in protests safely, with adequate protection and without state discrimination, violence, oppression or surveillance.

COUNTRIES COVERED BY THE RESEARCH

The research and the subsequent findings included in the report cover 21 European countries: Austria, Belgium, Czechia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, Türkiye and the UK. These countries were included based on self-selection by Amnesty International national entities and considerations of geographical balance within the region, as well as on the availability of internal resources to undertake this regional project.

METHODOLOGY

At the outset of this project, no comprehensive overview existed of the right of peaceful assembly covering all countries in Europe. This research project therefore set out to assess and document the situation across the region to identify and highlight the main human rights violations occurring in selected European countries as well as recent trends and systemic patterns of human rights breaches arising throughout the life cycle of protests (before, during and in the aftermath of assemblies), and where present, identify better policies and practices put in place by states for the protection and facilitation of peaceful assemblies.

A detailed questionnaire was designed by the research team, working with law and policy experts on the right of peaceful assembly and freedom of expression. The resulting 143 questions which formed the basis for the research were rooted in the international legal obligations that states have to respect, protect and fulfil the relevant human rights under international treaties to which they are party.

The research methodology has been developed with an intersectional lens, based on the recognition that addressing racist policies and practices in the region is at the heart of Amnesty International's work. It was also based on assertions and learnings from research already conducted by the organization in relation to assemblies, policing and discrimination, that highlighted that barriers to organizing and participating in a peaceful protest are exacerbated for Black people, Arab people and people belonging to other racialized groups, or otherwise belonging to marginalized and discriminated groups, such as those with insecure legal status, doing precarious work or those whose rights are challenged by a culture of misogyny and patriarchy, fear, discrimination (including based on age, gender and sexual orientation) and disproportionate targeting by violence, abuse or harassment, including by law enforcement, when exercising their right of peaceful assembly.

The research focused on nine key areas including the overarching national legal and policy framework governing the right of peaceful assembly; stigmatizing and negative rhetoric towards protesters from those in authority; the discriminatory and/or disproportionate impact of certain laws and practices on certain groups, protest planning and organizing processes and considerations including the respective notification or

authorization regimes and obligations and possible liabilities leveraged on organizers; restrictions placed on protests based on their time, place and content; policing of protests and mechanisms and practices for ensuring accountability for any human rights violations perpetrated during protests; states' response to peaceful acts of civil disobedience; any specific challenges and barriers to children's enjoyment of their rights of peaceful assembly; and the use by authorities of targeted and mass digital tools for surveillance including monitoring, collection, analysis and storing of information of people involved in protests.

TIME PERIOD FOR THE RESEARCH

The research based on the questionnaire was conducted between December 2022 and September 2023 with the intention of providing a snapshot of the relevant laws, policies, and practices in force during that indicated period. However, some examples have been included that pertain to times outside this period where they are illustrative of ongoing concerns. For example, the report covers how, since October 2023, many European countries have responded to peaceful assemblies in support of Palestinian's human rights by enacting disproportionate restrictions, including discriminatory pre-emptive bans, the banning of certain chants, Palestinian flags, keffiyehs and other symbols, stigmatizing and harmful rhetoric by public officials, including high level politicians against protesters, use of excessive force and arbitrary detention of protesters, and dispersal of peaceful protests including student encampments.

COMBINING QUALITATIVE LEGAL ANALYSIS AND DESK RESEARCH

Using the questionnaire as the basis, staff based in Amnesty International entities in countries and in the Europe Regional Office (part of the International Secretariat in London) conducted standardized qualitative and quantitative analysis of the legal and policy frameworks and practice governing the right of peaceful assembly in each of the selected European countries.

The research was based on a mixed methodology, combining qualitative legal analysis and desk research with the gathering of data on restrictions and human rights violations to measure patterns and trends related to peaceful assemblies across Europe. Most of the analysis was conducted primarily via legal and desk research, and supplemented with exchanges, interviews and consultation with civil society actors, lawyers, and affected groups. Where appropriate, the names of interviewees have been withheld for privacy and security reasons, as well as in line with the consent provided for the use of information.

FORMAL COMMUNICATION WITH RELEVANT AUTHORITIES

Amnesty International researchers also conducted written and/or face-to-face communication with local, regional and national authorities around key research questions to clarify official positions and gain access to official data collected by law-enforcement agencies and ministries relating to the right to protest. Further, letters were sent to pertinent authorities in June 2024 to share key findings and afford the authorities an opportunity to respond. Responses from authorities in 9 countries (Belgium, Finland, Greece, the Netherlands, Portugal, Poland, Slovenia, Serbia and Switzerland) had been received at the time of publication of the report.

It should be noted that the methodology did not extend to documenting individual cases of victims of human rights abuses in a detailed manner, although emblematic examples have been included where they are indicative of or illustrate a trend, pattern or concern.

STRUCTURE OF THE REPORT

This report is divided into nine chapters, preceded by the Introduction, Methodology, Glossary, List of Abbreviations and Executive Summary.

Each chapter contains an introduction to a theme pertinent to the right of peaceful assembly, a compilation of the key applicable human rights terms, concepts and international and regional human rights, and analysis and compilation of the legislation, policies and practices across the countries examined. Each chapter concludes with a list of recommendations to states, as relevant to the area of focus of each chapter, to bring their laws, policies and practices into full compliance with international and regional human rights standards.

The country examples given in the following chapters are intended to illustrate particular issues and trends that are of concern to Amnesty International. They are not meant to be exhaustive, and the absence of a particular country in relation to a specific issue should not be taken to imply that Amnesty International has found no such concerns in that country, unless stated otherwise.

Chapter 1 analyses the protection deficit built into the domestic legal frameworks on the right of peaceful assembly. It also examines the trend of stigmatizing and negative rhetoric towards peaceful protesters by state authorities and politicians and scrutinizes the disproportionate and discriminatory impact of specific laws, policies and practices on specific groups (non-nationals, as well as women, children, LGBTI and non-confirming people, Black people, Arab people, Roma and people belonging to other racialized groups, sex workers, people with disabilities, and climate justice protesters).

Chapter 2 examines the deficiencies of the authorization and notification systems and procedures established by authorities in law and practice across the region, and their impact on protest organizers and participants. The chapter also examines the situation of 'spontaneous' assemblies, including, where applicable, the lack of protection and related subsequent consequences and sanctions for organizers and participants.

Chapter 3 discusses the wide spectrum of often excessive obligations and problematic liability provisions that can be leveraged on organizers of peaceful assemblies, in law and in practice. The chapter demonstrates how many of the obligations and restrictions imposed on organizers do not meet the international human rights standards' requirements, they are at times discriminatory in nature, and overall result in conduct which is protected by international law being supressed or unduly restricted.

Chapter 4 details the broad powers and a wide discretionary margin authorities have to impose hindering restrictions on assemblies based on their time, place, and content, at odds with international law. The chapter also examines the worrying pattern of such restrictions imposed on marginalized groups, especially LGBTI people, Muslim people, Black people, Arab people and other people belonging to racialized groups, including on the basis of the perceived identity of organizers and/or the political causes or messages that they espoused. Specific analysis is dedicated to the crackdown by some European states on peaceful protests organized in solidarity with Palestinian's human rights.

Chapter 5 examines the key human rights concerns in relation to the role of law enforcement authorities in the facilitation of assemblies, their powers in law and how the policing of protests is carried out in practice. It analyses the use of tactics such as de-escalation, containment, dispersal and the use of force, and discusses the training required by law enforcement officers to ensure human rights-compliant policing of assemblies. It draws attention to discriminatory policing, and provides examples of deficiencies in law and practice, including cases of abuses by law enforcement when policing assemblies.

Chapter 6 considers people's right to effective remedy for human rights violations, as embedded in international human rights law. It maps the review and investigation proceedings in place in the examined countries and gives illustrative examples of impunity and lack of accountability for abuses perpetrated by law enforcement in the context of assemblies.

Chapter 7 discusses acts of peaceful of civil disobedience and their recognition and protection under international human rights law as a legitimate exercise of the right of peaceful assembly. It documents a worrying trend of states framing peaceful disobedience as a threat to public order and/or national security, and deploying an array of unwarranted police responses, administrative measures and criminal laws to arrest and prosecute activists. The chapter provides examples of cases when legislation enacted with the purpose of tackling terrorism and criminal organizations and/or activities was used against activists, generating a chilling effect for individuals, social movements and civil society overall.

Chapter 8 outlines the rights of children, including the special protection they are entitled to, in relation to protests in international and regional human rights standards. It further examines the relevant states' key legislation and practices across the countries, and illustrates the limitations and challenges children face, in practice, regarding the enjoyment of the right of peaceful assembly in the region. It includes cases where children's rights have been restricted, violated, or denied through negative rhetoric, the threat or application

of punitive measures, and failure by states to recognize and afford the additional protections required in relation to their presence at protests.

Chapter 9 examines the link between the right to privacy and the right of peaceful protest, and examines the lack of safeguards, where applicable, to prevent indiscriminate, unwarranted and discriminatory, or otherwise unlawful surveillance. It illustrates the various forms of online and offline methods for surveillance used by state agencies to collect information on protesters and protests, and the chilling effect this has on organizers and participants.

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The organization hopes that the resulting findings from the research and analysis provide a sound assessment of the extent to which governments in the 21 countries covered by the report comply with their obligations to respect, protect and fulfil the right of peaceful assembly for all. Where countries fall short in upholding the human right of peaceful assembly for everyone free from discrimination, we hope that this report highlights the breach, and that the recommendations, combined with our 'Protect the Protest' global campaign, will help bringing about positive changes towards full compliance.

EXECUTIVE SUMMARY

INTRODUCTION

Peaceful protest has long been a vehicle for advancing human rights and justice. Many of the rights and freedoms that we take for granted today have been achieved, in whole or in part, by people taking to the streets to demand change for the better and make their calls heard. In a world that grapples with increasing inequality, persistent discrimination, racism, armed conflict, and climate change concerns, protests are a more important tool than ever for people seeking justice and human rights. However, Amnesty International's upcoming report documents how, instead of respecting, protecting and facilitating people's right to peacefully assemble, authorities across Europe are deliberately stigmatizing, impeding, deterring and punishing people who protest.

Amnesty International researched the legal regulations and related policies governing the right of peaceful assembly in 21 European countries, namely Austria, Belgium, Czechia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, Türkiye and the UK. States are obliged, under the international treaties to which they are party, to respect, protect and uphold human rights to freedom of peaceful assembly, expression and association, as well as the rights to non-discrimination, privacy and physical integrity which encompasses the right to security and to be free from violence. These are essential for people to protest safely. However, Amnesty International's research shows that many state authorities, instead of addressing pressing concerns, removing obstacles and promoting dialogue to remedy injustice, abuses and discrimination, they respond to peaceful protests by cracking down on those organizing and participating in protests. This includes through the passing of repressive laws, establishment of onerous procedural obligations, imposition of arbitrary or discriminatory restrictions, racist policing and use of unnecessary or excessive force against peaceful protesters, arbitrary interferences including the arrest, prosecution and imprisonment of protesters, as well as increasing use of invasive surveillance technology.

Such attacks on the right of peaceful assembly make many people reluctant and fearful to exercise their human rights. The subsequent 'chilling effect' is especially serious for individuals and groups who already experience heightened barriers to protest, and who are subjected to inequality, marginalization, racism, discrimination and violence because of, among other grounds, their race, ethnicity, religion, and/or migration status.

Amnesty International's research on the current situation of the right of peaceful assembly in Europe is part on the organization's global campaign 'Protect the Protest' and contributes to the global effort to ensure that states respect, protect and fulfil the right of people to organize and participate in protests safely, with adequate protection and without discrimination, state violence, oppression or surveillance.

METHODOLOGY

The research sets out to assess and document the protection of the right to protest across the region – specifically, to identify and highlight the main human rights violations occurring in selected European countries, as well as recent trends or systemic patterns and breaches, arising throughout the life cycle of protest events (before, during, and after they occur). Where present, it also sought to identify better policies and practices put in place by states for the protection and facilitation of peaceful assemblies.

The research was carried out through a comprehensive research methodology which included a questionnaire of 143 questions anchored in the international human rights obligations that states must respect, protect and fulfil. The questionnaire was developed with an intersectional lens based on past work and learnings regarding states' response to assemblies and the policing of, and discrimination against, marginalized and discriminated groups. The imperative of addressing racist policies and practices by states is at the heart of Amnesty International's work.

The 21 countries selected for the study were included based on self-selection by Amnesty International national entities, considerations of geographical balance within the region as well as the availability of internal resources to undertake this regional project. The research was conducted between December 2022 and September 2023 with the intention of providing a snapshot of the relevant laws, policies and practices in force primarily during the indicated period, as well as illustrative case examples of the effects of these laws.

Some examples of legislative and policy developments outside of this period have been included where they illustrate ongoing concerns about violations of the right of peaceful assembly. For example, the report covers how, since October 2023, many European states have responded to peaceful assemblies in support of Palestinians' human rights by enacting disproportionate restrictions, including pre-emptive bans on protests, the banning of certain chants, flags, keffiyeh, and other symbols, the use of unnecessary or excessive force, the dispersal and arbitrary detention of peaceful protesters.

Using the questionnaire as the basis, the research combines qualitative legal analysis and desk research with the gathering of data on restrictions and human rights violations to measure patterns and trends related to peaceful assembly across Europe. This research was supplemented by exchanges, interviews and consultation with civil society actors, lawyers and affected groups, and written and/or face-to-face communication with local, regional and national authorities around key research questions to clarify official positions and gain access to official data collected by law enforcement agencies and ministries in relation to the right of peaceful assembly. It should be noted that the methodology did not extend to documenting individual cases in a detailed manner, although emblematic examples have been included where they are indicative of or illustrate a trend, pattern or concern.

The research focused on nine key areas relevant to people's effective exercise of their right of peaceful assembly in Europe, and include: the overarching national legal and policy framework governing the right of peaceful assembly; stigmatizing and negative rhetoric towards protesters from those in authority; the discriminatory and disproportionate impact of certain laws and practices on certain groups; the procedures for planning protests including notification or authorization requirements, and the obligations and potential liability of organizers; restrictions placed on assemblies based on their time, place, and content; policing of protest and mechanisms and practices for ensuring accountability for any human rights violations perpetrated during protests; states' response to peaceful acts of civil disobedience; specific challenges and barriers to children's enjoyment of their right of peaceful assembly; and the use by authorities of targeted and mass digital tools for surveillance including monitoring, collection, analysis and storing of information of people involved in protests.

Amnesty International expresses gratitude to all individuals and organizations who contributed to the findings of the report by sharing information, analysis, their lived experience, expertise and reflections. The organization is also grateful to those authorities who shared information and data and engaged with researchers during the investigation. Amnesty International also hopes that the resulting findings from the research and analysis provide a sound assessment of the extent to which governments in 21 countries covered by the report comply with their obligations to respect, protect and fulfil the right of peaceful assembly in Europe. Where countries fall short in terms of upholding the right of peaceful assembly for everyone free from discrimination, Amnesty International hopes that, by identifying and highlighting specific breaches, the recommendations, combined with our 'Protect the Protest' global campaign, will help bring about positive change towards full compliance.

THE RIGHT OF PEACEFUL ASSEMBLY: OVERREGULATION, HOSTILITY AND DISCRIMINATION

International and regional human rights standards governing the right of peaceful assembly emphasize, as a core principle, the 'presumption in favour of (peaceful) assemblies', which should be reflected in domestic legislation, policy and practice. This obliges states to facilitate assemblies and, among other things, remove obstacles to participants and organizers, fully justify any restrictions, and exercise tolerance and restraint

(including in relation to disruption). States have both negative obligations (to avoid unwarranted interferences with the exercise of the right of peaceful assembly), and positive obligations (to both *protect* those exercising the right and to *facilitate* the exercise of the right in ways that make it possible for participants to safely assemble and achieve their objectives). Any limitations placed on the right of peaceful assembly must in turn adhere to the principles of legality, proportionality and necessity.

States must respect, guarantee in law and ensure that all individuals can exercise their right to protest without discrimination based on ethnicity, sex, race, religion or belief, sexual orientation, gender identity, disability, age, political or other opinion, socio-economic status, nationality or any other status. People participating in protests do not all face the same barriers and the various forms of intersecting discrimination make participation much harder for some groups, including women, children, LGBTI people and gender non-conforming people, Black people, Arab people, Roma and other racialized groups, and persons with disabilities. The groups face specific challenges to participation in protests and more generally in the civic space, as their rights are restricted by societies through different forms of intersecting racism, sexism, violence, marginalization, social norms and sometimes even legislation to repress them and to maintain a status quo dominated by patriarchy and heteronormativity.

The right of peaceful assembly covers any form of assembly provided that they are "peaceful". An assembly must still be considered "peaceful" even if there is sporadic violence or unlawful behaviour by some individuals. When a minority of participants are engaging in violence, as opposed to widespread and serious violence by participants, the authorities should ensure that those who remain peaceful can continue to exercise their rights without the entire assembly being restricted or dispersed.

All 21 countries analysed in the report have ratified the key human rights instruments protecting the right of peaceful assembly. However, there is variance across the region in terms of people's ability to exercise this right. This derives, in part, from states' differing codification of the right and failure to fully implement the international and regional provisions protecting the right of peaceful assembly in domestic law. While some countries have long-standing legislative provisions on assemblies that have not been revised to reflect international human rights standards (such as in **Portugal**), in other countries newer and/or more recent laws have been used, proposed or already introduced, to create a significantly more restrictive environment for the exercise of the right of peaceful assembly (**Belgium**, **France**, **Germany**, **Greece**, **Italy**, **Luxembourg** (proposal), **Spain**, **UK**).

This research found that harmful rhetoric from state officials across the 21 countries was commonplace and that it often stigmatized peaceful protests and the aims and identities of their participants, demonizing protesters by likening them to "terrorists", "criminals", "foreign agents", "anarchists" and "extremists", among numerous other stigmatizing terms. The groups on the receiving end of such harmful statements include people who mobilized for Palestinian solidarity, climate justice, women's rights, LGBTI activism and rights, the rights of migrants, refugees and asylum seekers, and anti-racism and discrimination against minorities. This harmful rhetoric is at times used to justify the introduction of yet further restrictions on the right of peaceful assembly (**Germany**, **Italy**, **UK**). Meanwhile, such attacks on specific groups of participants can exacerbate the fact that people face different barriers to exercising their right of peaceful assembly, and various forms of intersecting discrimination make participation much harder for some groups in the countries examined in the report.

All 21 countries examined have codified the principle of equal treatment and non-discrimination in their legislation at various levels. Nonetheless, international and regional mechanisms have highlighted numerous deficiencies, including fragmented legislation, the absence of protection on certain grounds (e.g. sexual orientation and gender identity) and the lack of comprehensive protective provisions. In some of the countries studied, the existing legal provisions prohibiting discrimination stand in stark contrast to the treatment that some groups and individuals face in practice, including Black people, Arab people or people belonging to other racialized groups (**Austria**, **Belgium**, **France**, **Germany**, **Portugal**, **Spain**, **UK**), women (**Greece**, **Poland**, **Türkiye**, **UK)**, LGBTI people (**Hungary**, **Poland**, **Serbia**, **Türkiye)**, children (**UK, Poland, France**), people with disabilities (**France**, **UK**), sex workers (**France**, **Ireland**, **Italy**), people protesting in support of Palestinian's rights (**Austria**, **France**, **Germany**, **Greece**, **Italy**, **Slovenia**, **Switzerland**, **UK**), climate justice protesters (**Austria**, **Belgium**, **Finland**, **France**, **Germany**, **Italy**, **Portugal**, **Serbia**, **Spain**, **Slovenia**, **Sweden**, **Switzerland**, **UK**) both in relation to the right of peaceful assembly and also other rights and freedoms. Moreover, in some countries, specific legislative provisions appear to discriminate against 'non-citizens' (even if the practice might differ) (**Austria**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Portugal**, **Serbia**, **Türkiye**) or children with regards to the right to organize assemblies (specific details are included below addressing children in protests).

CONCERNS REGARDING NOTIFICATION AND AUTHORIZATION REQUIREMENTS AND PROTECTION OF SPONTANEOUS ASSEMBLIES

The advance requirements commonly imposed on the organizers of public assemblies by state authorities take either the form of a notification requirement (as in most countries, where the organizer must simply inform the authorities of their intention to hold an event), or an authorization requirement (where the organizer must apply for permission to be able to hold – and in some cases, even to publicize – an event). The distinction between notification and authorization can become blurred in practice, and what a state describes as a notification requirement may in fact more closely resemble an authorization requirement.

Given that such procedural requirements – even a requirement simply to notify the authorities of a planned assembly – constitute an interference with the right of peaceful assembly, they must always be justified within a human rights framework. The notification regimes in the countries examined are generally mandatory (with organizers – and sometimes participants – facing administrative and/or criminal penalties for non-compliance). An alternative approach, however – one that gives weight to the negative obligation of states not to interfere with the right of peaceful assembly and that recognizes the agency of those who wish to assemble – is a system of voluntary notification for most forms of assembly. States should seek to expand the range of assemblies that are subject only to a voluntary notification scheme – reserving a *requirement* to submit prior notification only for narrow categories of assembly where prior notice is essential to aiding the protection and facilitation of an assembly or the rights of those affected by it. States should seek to expand the range of assemblies that are subject only to a voluntary notification scheme. Notification regimes should not be used to control protests, the procedures should be transparent, accessible and free of charge, and no burdensome or excessive obligations should be placed on organizers. Furthermore, non-notification does not absolve the authorities from their obligations to facilitate the assembly, nor to protect its participants. Non-notification should not be used as a basis to disperse an assembly or arrest its participants, as protections apply to all *peaceful* assemblies (not only to 'lawful' assemblies). The full enjoyment of the right of peaceful assembly is not compatible with either authorization regimes, or notification regimes that operate as a de-facto authorization requirement, and any such requirements should be repealed.

Sometimes, certain categories of assembly are defined so as to exclude them from the notification requirement (or to subject them to a different regulatory regime altogether), such as sporting, cultural or religious events. In some countries different requirements may apply depending on whether an assembly will be "static" or "moving" (Czechia, Ireland, Italy, Portugal, UK). These categories and definitions privilege certain types of assembly over others. This research found that most of the 21 countries analysed have mandatory notification regimes for some types of assembly in national law at federal and/or state or canton level. Only in Ireland is notification voluntary for all forms of assembly.

Several countries stipulate time limits within which notice must be given, ranging from 24 hours (Finland, some municipalities in the Netherlands), to 28 days (for public processions) (UK/ Northern Ireland and Scotland). Some jurisdictions establish even longer time frames – 30 days – for prior authorization (Switzerland/ Geneva canton). Some countries have in place burdensome notification requirements which could constitute barriers to the exercise of the right of peaceful assembly. For example, the authorities in Türkiye require an assembly to have a committee appointed, composed of at least seven people above 18 years of age, and among other things, a copy of the organizers' criminal records. Despite the general mandatory notification regime in place, foreigners attending assemblies need to seek *authorization* from authorities for an assembly, which points to discriminatory provisions in the law. In Italy, the identity of those designated to speak at assemblies is required in addition to organizers' details. In Hungary, organizers must wait 48 hours after submitting the notification before they can publicly advertise the assembly, limiting the time available to mobilize participants. Many countries require information about security or facilitation arrangements, as well as related arrangements to be put in place for assemblies. In Hungary, organizers must designate persons to assist in maintaining order or security for the assembly. In some countries, notification must include information on measures taken by the organizer to ensure the safety of the assembly, its peaceful character, or its compliance with the law (Czechia, the Netherlands, Poland, Serbia, Spain, UK).

Out of the 21 countries examined, Belgium, Luxembourg, Sweden, and Switzerland have what most closely resembles an authorization regime, at least for some types of events. This requires organizers to make an application for an official permit to hold an assembly. Slovenia has a mandatory notification regime in place for most types of events, however an authorization regime exists for assemblies in some circumstances,

related to 'exceptional use of public road' or if the number of participants exceeds 3,000 people. The proposed legislation in **Luxembourg**, while presented as a 'notification regime', would de facto continue to operate as an authorization regime.

International human rights obligations require that the process of informing authorities about protests is free of charge, and this was found to be the case in nearly all the countries studied, with some exceptions. For example, an application for authorization requires organizers to pay a fee in **Sweden** (approximately EUR 30); In the canton of Geneva, **Switzerland**, organizers are required to pay a fee (between CHF 200 and 500, approximately EUR 205 to 510) if the request for an assembly is submitted less than 30 days prior to the day when it is intended to take place.

Some countries allow for the possibility of administrative or even criminal sanctions for failure to notify/seek authorization, failure to abide by the requirements of the notification or authorization regimes, or for attending assemblies that have not been notified or authorized by authorities (administrative sanctions: **Austria**, **Belgium**, **Czechia**, **Germany** (if false information is provided), **Luxembourg**, **Slovenia** (if not all required information is provided), **Spain**; criminal sanctions: **France**, **Germany**, **Hungary**, **Italy**, the **Netherlands**, **Poland**, **Portugal**, **Serbia**, **Sweden**, **Switzerland**, **Türkiye**, **UK**). Such punitive approaches run counter to the emphasis in international human rights law that the role of the authorities is to protect and facilitate the exercise of the right of peaceful assembly. Provisions which leave open the possibility of criminal sanctions, or any other undue sanctions, on organizers for failure to notify should be repealed. Moreover, unless enforcement of a notification requirement is itself shown to be necessary and proportionate to achieving a legitimate aim, the imposition of any sanction merely for failure to notify the authorities will constitute an unjustified interference with (and thus a violation of) the right of peaceful assembly.

Some countries have provisions in their legislation that allow for an assembly to be dispersed if notification or authorization requirements are not met (**Belgium**, **France**, **Greece**, **Luxembourg**, the **Netherlands**, **Portugal**, **Poland**, **Serbia, Türkiye**). Organizing or participating in an unnotified assembly should not lead to criminal or any other undue sanctions.

Spontaneous assemblies (those responding or reacting to current events, for which it is not feasible to provide advance notice within the usual time frame/ procedure) should also not be dispersed due to a failure to notify. Spontaneous gatherings should be considered an expected form of civic participation, they should be facilitated and protected in the same way as assemblies that are planned in advance and should be exempted from prior requirements. However, only seven countries (**Czechia**, **Finland**, **Greece**, **Hungary**, **Poland**, **Serbia**, **Slovenia**) explicitly protect spontaneous protests in their national legislation. Other concerns relate to the definition of what qualifies as a spontaneous assembly – definitions that may be either too vague or too narrow – for example in **Greece**, **Hungary, Finland, Serbia** and **Slovenia**. In seven other countries, spontaneous assemblies are protected on the basis of prevailing legal doctrine or jurisprudence (**Austria**, **Belgium**, **Germany**, **Ireland**, **Italy**, **Sweden**, **UK**). However, in practice, the discretion available to the authorities can still lead to undue regulation of spontaneous events. Some measure of protection, or a simplified procedure, applies to spontaneous assemblies in **Luxembourg**, **Spain** and **Switzerland**. In the **Netherlands** and **Portugal**, while there is no specific protection for spontaneous assemblies in law, in practice generally they are allowed to go ahead.

UNWARRANTED AND EXCESSIVE BURDENS IMPOSED ON ORGANIZERS OF ASSEMBLIES

This research exposed a wide spectrum of often excessive and unwarranted obligations, restrictions and problematic liability provisions that are imposed on organizers of peaceful assemblies. As detailed above, failure to provide notification or seek authorization brings administrative and criminal sanctions on organizers in some of the countries examined.

In some countries, the legislation restricts the possibility to be an organizer to certain 'citizens' (at times including European Union citizens) (**Austria**, **Czechia**, **Hungary**, **Türkiye)** or places age restrictions which can affect children's ability to organize protests (see more below).

Many of the obligations and restrictions imposed on organizers across the countries analysed are unwarranted and excessive. They fail to meet the requirements of legality, necessity and proportionality established under international law, including when they are based on vague or ambiguous provisions. Furthermore, they are discriminatory in nature.

Some countries' laws place obligations on organizers to maintain security and order during assemblies (Czechia, Finland, Hungary, Portugal, Serbia, Slovenia, Spain, Sweden, Türkiye), including the duty (or being called on by authorities) to organize and/or pay or contribute to costs for private security and/or stewarding services (Finland, Serbia, Sweden, Slovenia). The research uncovered alarming provisions and practices across countries that raise concerns about additional costs being levied on organizers in order to exercise the right of peaceful assembly, for example for the costs of public services at an assembly – such as street cleaning, policing and/or security and provision of emergency services (Hungary, the Netherlands, Portugal, Sweden, Slovenia, Switzerland). In some countries, organizers are burdened with additional liabilities for the actions of others and corresponding costs (Austria, Hungary, Switzerland, Greece, Poland, Spain, Türkiye). Assembly organizers (and participants) should never be liable for the actions of others, but only for their own unlawful conduct.

In some of the countries however, provisions were identified allowing for the defence of 'reasonable excuse' or similar arguments, which can be used by organizers to limit their liability (Austria, Greece, Hungary, Spain). With the exception of Italy, there does not appear to be a requirement for organizers to obtain public liability insurance for assemblies. At times, organizers are made responsible for bringing public assemblies to an end and/or dispersing the participants (Finland, Hungary, Serbia).

The function of maintaining public order and safety is non-delegable and should always remain the responsibility of state agencies. The attempt to delegate it to organizers and stewards amounts to an abdication by state authorities of their positive obligations to actively protect and facilitate the right of peaceful assembly. Legally requiring organizers to contribute towards costs of policing or security, or public cleaning or medical services, or to appoint stewards, is incompatible with states' obligations.

While engaging in dialogue with relevant law enforcement authorities may sometimes help de-escalate tensions (and thus constitute good practice), such dialogue must not be a requirement but should always rather be voluntary. Protesters should not be compelled to enter into a collaborative working relationship with the authorities, for example, by being required to relay or announce messages from the authorities to protesters (such as an order to disperse), or to inform the police of unlawful conduct by participants.

Imposing unnecessary or excessive burdens on organizers, including administrative and criminal sanctions for failing to abide by undue restrictions and obligations directly contravenes the UN Human Rights Committee's assertion that "States are obliged … not to prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification, nor to sanction participants or organizers without legitimate cause." It may also result in the suppression of conduct which is protected by international and regional human rights standards. The application of sanctions, including of a criminal nature, on organizers and/or participants in peaceful assemblies, discourages participation and can exert a significant chilling effect, which itself can amount to a violation of the right of peaceful assembly and freedom of expression.

SWEEPING RESTRICTIONS ON ASSEMBLIES BASED ON TIME, PLACE, AND CONTENT

In recent years, many governments in Europe have imposed sweeping restrictions on protests purporting to protect public health and public order,

Amnesty International's research shows that the reasons given for these restrictions by authorities were often spurious, or the restrictions were not proportionate to achieve a legitimate public interest objective. Governments often used "national security" and "public order" as pretexts to crack down on peaceful dissent. For example, they used the Covid-19 pandemic to pass emergency legislation that restricted protests beyond the strict exigencies of the situation.

These violations of the right of peaceful assembly did not, however, occur only in relation to these exceptional events or perceived threats. A closer analysis shows that laws and policies across Europe grant broad powers and a wide discretionary margin to domestic authorities to impose disproportionate restrictions based on the time, place, and content of public assemblies, and these restrictions are used regularly to hinder peaceful assemblies across the region. While most countries do not impose any time-related blanket bans on protests, some countries do restrict assemblies to certain days or times. For example, assemblies are restricted to daytime (Portugal, Serbia, Türkiye), not permitted in some locations on certain days (Belgium/ Brussels) or limited to certain times (Portugal for parades and processions). In Poland, priority is

afforded to so-called 'cyclical assemblies' effectively imposing a blanket ban on any other assembly planned to take place at the same time and place.

In some countries protests can never take place in certain areas, for example in the vicinity of government buildings, parliaments and/or other public institutions (**Austria**, **Belgium**, **Czechia**, **France**, **Germany**, **Portugal**, **Türkiye** and **UK**). In other countries, including the **Netherlands**, local guidelines designate certain areas as protest-free zones. These laws often result in disproportionate restrictions on public assemblies, especially when their implementation operates similarly to blanket bans, for example when assemblies in those areas are routinely not allowed. In several other states, including **Hungary**, **Ireland**, **Italy** and **Serbia**, domestic laws allow the authorities to designate certain areas as protest-free zones. Many countries have legislation that empowers the authorities to move, reroute, restrict, or limit organizers and participants' movements during a protest, which may have also a consequence on the choice of location (**Belgium**, **Czechia, France**, **Finland**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Portugal**, **Slovenia**, **Sweden**, **Switzerland**, **Türkiye**, **UK).** While some of these laws prescribe detailed and narrow circumstances under which the location can be restricted, in others the authorities have wide discretion (**Italy**, **Türkiye**)**.** Cases of unlawful and discriminatory restrictions on assembly locations have been documented (**Austria**, **Finland**, **France**, **Italy**, **Portugal**, **Switzerland**, **Türkiye**).

No restrictions should be imposed on an assembly except in a very limited range of circumstances. Restrictions should be considered an exception, and the state authorities are responsible for justifying them, by ensuring they comply with the principles of legality, proportionality, and necessity to achieve a legitimate objective in concrete circumstances. Disproportionate restrictions violate the rights of organizers and participants in assemblies and are likely to dissuade others from exercising their rights in the future (the so-called 'chilling effect'). This includes blanket bans which are a sweeping one-size-fits-all form of restriction that prevent certain categories of assembly and/or assemblies at certain times, or in certain places from taking place.

International standards specify that (necessary) restrictions should be based only on the time, place or manner of an assembly, without regard to the message that it seeks to convey (the principle that restrictions must be 'content neutral'). However, most countries do not explicitly refer to any such principle in their national legislation. In some countries, the (perceived) identity of protest organizers and participants, as well as the political causes they mobilize for or the content of their messages – which authorities have framed, for example, as "threats" to public order or morals – has influenced the restrictions imposed. In practice, many countries seem to differentiate in a discriminatory manner between different protest movements, groups, organizers and participants. According to the findings, authorities have often justified these restrictions by making inferences to harmful racial or gender-based stereotypes and tropes, which point to deeply entrenched institutional racism, homophobia, transphobia and other forms of discrimination. Rather than countering racism and discrimination, as required by international and regional human rights standards, European governments reinforce and entrench them by failing to ensure the enjoyment of right of peaceful assembly to everyone, including to people who systematically face racism and discrimination.

Content-based restrictions are often imposed on protests organized by or in solidarity with marginalized groups, such as Black people, Arab people or people belonging to other racialized groups, LGBTI people, and migrants, asylum seekers or refugees, and are often based on discriminatory and harmful stereotypes. This violates the prohibition of racism and all forms of discrimination.

Amnesty International's research has identified a worrying pattern across Europe – **Austria, Belgium, Czechia, France, Germany, Greece, Italy,** the **Netherlands, Serbia, Switzerland, UK** – where public assemblies organized to express solidarity with Palestinian people have been banned and/or disproportionately restricted; certain chants, Palestinian flags, keffiyehs and other symbols were banned; proceeded to dispersing peaceful protests camps, including when did not result in serious and sustained disruption; and protesters also reported excessive use of force and arbitrary detentions. The spurious grounds of 'public order' or 'public safety' used to ban or severely restrict Palestinian solidarity demonstrations fail to comply with the principles of legality, necessity and proportionality, but also entrench racial prejudice and stereotyping, and raise serious concerns regarding the failure of European countries to combat racism and all other forms of discrimination and expose institutionalized racism towards Arab people and Muslim people.

Restrictions were also put in place by most countries during the Covid-19 pandemic, sometimes through the adoption of emergency laws by governments that circumvented parliamentary scrutiny. On several occasions, courts declared such decrees entirely or partly unconstitutional, or reversed newly implemented legislation. Numerous countries banned all protests and gatherings, in particular during the first phase of the lockdowns. They restricted assemblies either by limiting their size, not allowing moving assemblies, or by

using people's vaccination/immunity status to restrict attendance once vaccines were available. While many of the measures have since been abolished in most countries, some powers and/or restrictions introduced as emergency measures during the pandemic continue at the time of writing in some countries (Italy, the Netherlands).

CONCERNS REGARDING POLICING OF PROTESTS

Law enforcement agencies have a duty to respect, protect and facilitate protests. Facilitation must not however be understood to mean the 'management' of protests – the peaceful exercise of the right to protest should not be 'controlled'. Rather, genuine facilitation includes both the obligation to refrain from undue interference as well as taking measures to ensure the effective exercise of assembly rights, including enabling and supporting participants to protest as they intended. The obligations to facilitate and protect extend to journalists, monitors, observers and others involved in monitoring and observation of protests. The obligation includes the creation of an enabling framework, in both law and practice, to ensure everyone can exercise their rights, without discrimination.

The presence of police officials is often not required, especially in the context of small public assemblies where there is no (or a low) risk of violence. Therefore, rather than starting from the point of deploying police at protests as a default measure, states should reflect and engage in efforts to reimagine the facilitation of assemblies and alternative methods to deploying police and the use of force. This is particularly important as structural racism and discrimination are pervasive in law enforcement across Europe and specific individuals, groups and communities have been systematically on the receiving end of stereotyping, discriminatory policing, disproportionate restrictions, unlawful and excessive use of force, in a context of lack of accountability for perpetrators of violations.

Where police officers are deployed, they should always have tactics at their disposal to help facilitate protests to ensure that participants can effectively exercise their right of peaceful assembly. These include engaging in dialogue with protest organizers and participants – on a voluntary basis for organizers and participants – to de-escalate any conflict that may occur. This can help reduce outbreaks of violence and the need to use force.

There should always be a presumption in favour of holding assemblies, and authorities should seek facilitation as a core objective, try to establish trust, be guided by the exercise of restraint and avoid/minimize tensions and the need to resort to the use of force. When force is deployed, police must ensure its use is exhaustively regulated by domestic law and employed strictly only when necessary and proportional to the legitimate objective. Any use of force must be guided by the principles of precaution, non-discrimination and accountability, and fully respect human rights, including the right to life and the prohibition of torture and other ill-treatment.

The countries reviewed in this report have laws and regulations governing the use of force by the police. The principles of necessity and proportionality are also reflected in general terms in the laws. However, most of the countries did not have specific regulations on the use of force in the context of assemblies. Most countries do not explicitly outline in law an approach for de-escalation before resorting to the use of force during a protest. Few have detailed regulations, and even when available, they are not publicly available which makes their compliance with international human rights standards difficult to assess (Ireland, Greece).

International human rights law and standards outline the specific and limited circumstances in which less-lethal weapons (LLW) can be used during protests, given the high potential for harm to peaceful protesters or bystanders, including the risk of serious injury or death. Yet only a few countries have specific legislation on equipment, weapons and tactics for policing assemblies – mostly concerning generic use of force, dispersal and containment. Some countries' legislation on this subject – for example in Türkiye and parts of Switzerland and the UK – is extremely broad, leaving decisions about when to use force and what weapon(s) to deploy to the discretion of the individual law enforcement officer. Where specific guidance exists on the use of LLW, it is often not public. Of the 21 countries examined, only Serbia has detailed, public regulations on specific less-lethal weapons and the circumstances under which these can be used, including in assemblies. However, the specific thresholds and risks are not clearly articulated. The protocol for the use of kinetic impact projectiles (foam rounds) has only been partially disclosed by authorities in Spain.

The devastating impact of LLW has long been documented by Amnesty International in countries such as Belgium, France, Greece, the Netherlands, Poland, Serbia, Spain, Türkiye and UK. In the countries

examined in the report, during the period 2020 to September 2023, a very high number of examples of excessive and/or unnecessary use of force were reported during protests. This resulted in serious and sometimes permanent injuries among protesters, some of them journalists covering protests, including broken bones or teeth (France, Germany, Greece, Italy), loss of hearing (Greece), burns (Greece), loss of a hand (France), loss of a testicle (Spain), and damage to the eyes and severe head trauma (Spain). In some cases, injuries were inflicted upon children (Belgium, Finland, France, Italy, Germany, Poland, Serbia, Slovenia, Switzerland). In some countries, incidents of use of force were reported that amount to torture or other ill-treatment, including when officers beat or kicked protesters who were already lying on the ground and/or offering no resistance (France, Germany, Hungary, Portugal, Serbia, Slovenia, Spain).

A tactic often used by police to control assemblies is the containment of protesters (sometimes also termed "kettling"). At least eight countries examined have no regulations on containment or so-called 'kettling' tactics. Those with regulations or jurisprudence in place allowing for containment tactics in the policing of assemblies include France, Germany, Slovenia, Türkiye and the UK. Only Hungary outlaws kettling as a tactic for dispersal. In practice, most of the countries examined use such tactics, often not in line with their national regulatory framework (where these exist). In some countries, kettling is commonly used by police for intelligence-gathering purposes, by compelling peaceful protesters, and even bystanders, to disclose information such as names and addresses as they leave the containment, with a chilling effect on future protest participants.

In light of its inherent detrimental effect on the right of peaceful assembly, as well as on the right to freedom of movement and, in some instances, the right to liberty, Amnesty International's position on containment, similarly to that of the UN Human Rights Committee, recognizes that while containment may very exceptionally be used, this should *only* be to address actual violence or an imminent threat of violence from the specific individuals being contained, where their containment is necessary and proportionate in the circumstances, and with a view to avoiding dispersal of the entire assembly.

Some of the countries examined allow for the deployment of military personnel to police protests, mostly though in limited and/or exceptional circumstances (Belgium, Finland, France, Germany, Serbia, Switzerland, Türkiye, UK). Military should not be used to police assemblies, and their involvement is inherently problematic due to the military's lack of training in the protection of assemblies or de-escalation, and their equipment which is not appropriate for assemblies (as designed for combat operations). Their training, experience and modus operandi is generally oriented to the conduct of hostilities in which the use of force, including lethal force, is often the first choice of action. In the Netherlands, although the legislation does not permit the deployment of military to assemblies, in practice this has occurred. Most recently, military personnel were deployed during the 2023 climate protest and peaceful blockade of A12 motorway in the Hague and climate actions at two airports in 2022 and 2023.

Dispersal of an assembly must be a measure of last resort, in line with principle of necessity and proportionality. Nevertheless, only Finland, Germany, Spain and Sweden recognize this explicitly in law. In some of the other countries, legislation or policy guidance that includes the principles of legality, necessity and proportionality would however also apply to dispersal of assemblies. An assembly should only ever be dispersed if it is no longer 'peaceful'; that is, if there is "widespread and serious violence", or an imminent threat of such violence, which cannot be contained by more proportionate measures such as, for example, individual arrests. Isolated or sporadic acts of violence do not justify dispersal; nor does non-compliance with notification requirements or other illegitimate prior restrictions (including authorization requirements). In exceptional circumstances, an assembly that is peaceful may be dispersed, but only if the disruption caused by the assembly has reached the high cumulative threshold of being both 'serious and sustained' such evaluation to be undertaken on a case-by-case basis. Causing 'disruption' alone is not a legitimate reason for dispersing protesters, and authorities must tolerate disruption, which is inherent to protests. Whenever the dispersal of an assembly is considered a necessary and proportionate response, law enforcement officials should avoid the use of force.

In some of the countries examined, law enforcement officers dispersed assemblies both in cases where dispersal was not lawful, as well as in cases where it was legitimate, but the means deployed for the dispersal including the use of force were unnecessary and/or disproportionate (Austria, Finland, France, Greece, Italy, the Netherlands, Poland, Portugal, Serbia, Spain, Türkiye).

Several countries have legislation in place that permits administrative detention, including Belgium, France, Germany and Switzerland and such legislation is increasingly used in those countries to prevent people from participating in protests. For example, in Germany, administrative detention has frequently been used against climate activists in the state of Bavaria, Berlin and North Westphalia with activists being detained, for example, for up to 30 days (in Bavaria). Amnesty International and international human rights mechanisms

have repeatedly criticized these laws as not meeting international human rights standards and have urged the federal states to amend them. Cases of preventive detention were documented also in France, the Netherlands, Portugal, Serbia, Switzerland, and Türkiye. Another reason given for detaining people in the context of assemblies is to conduct identity checks at police stations, including in France, Greece, the Netherlands, Slovenia and Switzerland.

In some countries, police use 'stop and search' practices to search participants in, and on the way to, peaceful assemblies. Many of the countries examined have legislation which allows for 'stop and search' or 'stop and frisk' practices without requiring a reasonable suspicion of a criminal offence or intent to commit an offence (France, Germany, Greece, Hungary, Italy, Luxembourg, Poland, Serbia, Slovenia and Switzerland). In practice, in many countries there are reports that protesters are stopped and searched by police before, during and after protests, including in Czechia, France, Greece, Ireland, the Netherlands, Slovenia, Spain, Switzerland, Türkiye and parts of the UK (England, Wales and Scotland), even where this contravenes national legislation. Such practices are not in compliance with international human rights law and standards as they violate the principles of legality, necessity and proportionality and carry the risk of discriminatory application. They infringe on the right of peaceful assembly and could have a chilling effect on protesters. In particular, for those who are already at heightened risk of arbitrary checks, racial profiling and other violations of their rights by law enforcement officials, as has been widely documented, including by Amnesty International to occur to Black people, Arab people, Roma and people belonging to other racialized groups.

In some of the countries, laws on policing have established some requirements for officers to observe human rights while exercising their duties and the possibility to attend human rights compliant (general) training. However, the evidence gathered from the 21 countries analysed suggests a very patchy and inconsistent approach to ensuring human rights-compliant policing of assemblies across Europe. To ensure that the policing of assemblies is human rights-compliant, law enforcement officials need to be *specifically* trained in the policing of assemblies, and *only* those trained should be deployed for that purpose. Training on policing of protests must underscore the standing obligations to respect, protect and fulfil human rights, and must include specific guidelines on combating racial discrimination by police.

CONCERNS REGARDING ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS PERPETRATED DURING ASSEMBLIES

The principle of accountability requires states to ensure that the actions of law enforcement officials are subject to review and that any human rights violations committed in the context of an assembly are redressed. Nevertheless, Amnesty International's research found cases of police impunity or lack of accountability in numerous countries including Austria, Belgium, France, Greece, Germany, Italy, Portugal, Serbia, Slovenia, Spain, Switzerland, Türkiye and the UK.

Prerequisites to ensuring police officers' accountability for their actions during assemblies include, among other things: publishing information on chain-of-command structures to allow identification of command responsibility in each circumstance; ensuring that individual officers can be identified; not preventing anyone from making recordings or taking photographs of police during assemblies; and giving legal protection to independent assembly monitors, observers and media workers. The research found numerous contraventions of each of these prerequisites across the countries examined.

In law, none of the examined countries provide for immunity from liability for police while performing their official duties. Nonetheless, Amnesty International found that accountability systems in several countries are set up or implemented in such a way that can lead, in practice, to lack of accountability for human rights violations committed by law enforcement officials. For example, in administrative proceedings in Spain, police reports are presumed to be truthful, unless disproven by the claimant, and in Luxembourg, all acts by the administration are presumed to be lawful unless an administrative judge suspends this presumption. In Austria and France, the prevailing climate of impunity acts as an effective deterrent for victims to seek justice for police abuses. In Türkiye, the legally required authorisation to prosecute members of law enforcement is often not granted by the responsible administrative authority. Other barriers to accessing legal proceedings include the length and cost of proceedings, for example in Finland, Greece and Switzerland; and the risk of counter proceedings including in Austria, Germany, Greece, Spain and

Switzerland. Together, these obstacles can result in a significant further deterrent effect preventing victims being able to access justice.

Police accountability mechanisms and procedures take various forms in the countries examined. Internal investigations conducted by the police authorities themselves or by their supervisory body (where this exists) often remain untransparent, suffer from undue delays, and can be in conflict with judicial proceedings (i.e. can determine their outcome (Austria)). Such internal processes cannot be independent and might thus risk be reproducing institutional racism and other biases within police institutions. External oversight bodies set up to monitor the police, while established in most countries, also show shortcomings in relation to their competence and/or independence and/or impartiality. Committees, inquiries, and investigations that are either parliament-led or government-led may be underused and/or ineffective.

In none of the countries examined are assembly observers legally protected and in several of them, the lack of clear guidelines has meant that treatment of monitors and journalists is left to the discretion of individual police officers. Cases of problematic treatment by law enforcement of protest observers or monitors, as well as of journalists, were reported in Austria, Finland, Germany, Greece, Portugal and Switzerland.

CONCERNS REGARDING STATES' RESPONSE TO PEACEFUL ACTS OF CIVIL DISOBEDIENCE AT ASSEMBLIES

Throughout history, people around the world have used civil disobedience to contest unfair laws and challenge human rights abuses. In recent years, a growing number of people, organizations and transnational social movements have carried out peaceful acts of civil disobedience targeting states and business corporations to highlight concerns about the climate emergency and to formulate demands to protect the environment.

Amnesty International's research found a recent and concerning pattern of states often framing civil disobedience as a threat to public order and/or national security and denying that these acts are protected under international human rights law and standards. Additionally, Amnesty International's research has documented harsh responses by states to peaceful acts of civil disobedience, raising concerns regarding the respect of the rights to freedom of expression, thought, conscience and religion, and peaceful assembly.

Civil disobedience means an act – carried out individually or in a group - which involves the premeditated breaking of the law, for reasons of conscience or because it is perceived to be the most effective way to raise awareness, express social or political dissent or bring about change. Acts of peaceful civil disobedience can include a range of activities such as media stunts, sit-ins, occupations and protest camps and other tactics involving methods of disruption through direct and non-violent means.

International human rights standards clarify that regardless of the infringement of a country's law, acts of civil disobedience involving gatherings of individuals constitute a form of assembly and, when enacted in a non-violent manner, are protected by the right of peaceful assembly. This protection means that state responses, including any restrictions, on peaceful acts of civil disobedience must adhere to the principles of legality, proportionality and necessity.

None of the 21 countries examined in this report provides explicit legal protection for peaceful acts of civil disobedience as a legitimate exercise of the right of peaceful assembly or any other right. The jurisprudence of domestic courts on civil disobedience is not consistent either across the countries, or in some cases, within the same country (Germany, the Netherlands, Switzerland, UK). In the Netherlands, despite some rulings against peaceful acts of civil disobedience, other courts have recognized such actions as a legitimate form of peaceful assembly. In Germany, while some courts acquitted climate justice activists who engaged in civil disobedience, others have punished similar acts with administrative and criminal sanctions.

The increased visibility of peaceful acts of civil disobedience in Europe provides governments with an opportunity to assess whether their responses are human rights compliant. This assessment requires, as a pre-condition, the recognition from states that peaceful acts of civil disobedience are protected – as per countries' obligations under international human rights law.

The research identified a wide range of restrictions and sanctions on peaceful acts of civil disobedience in many of the examined countries, which raise human rights concerns. These restrictions include, for

example, unnecessary dispersals by police, including through use of excessive force; arrests based on laws lacking legal clarity; and harsh charges that were at times upheld by courts.

The fact that peaceful acts of civil disobedience entail the breaking of a domestic law does not per se warrant their dispersal. The dispersal of activists who engaged in these acts must comply with international human rights law and standards applicable to any peaceful assembly.

Peaceful acts of civil disobedience may result in some level of disruption, for example when they block roads and traffic. However, causing disruption alone is not a legitimate reason for dispersing peaceful protesters. Indeed, the dispersal of a peaceful assembly is a measure of last resort that may only be justified to respond to assemblies that are no longer 'peaceful', or if the disruption caused by the assembly is both serious *and* sustained. Disruption is inherent in protests and as long as it remains peaceful, the authorities must tolerate the disruption and must only impose restrictions in narrowly defined circumstances to protect the rights of others.

Amnesty International's research – in **Belgium**, **Finland**, the **Netherlands**, **Spain** and the **UK** – highlighted that protesters who engage in peaceful acts of civil disobedience are usually dispersed by law enforcement officials, including through the excessive use of force, often shortly after the start of their actions, and certainly, long before they caused "serious *and* sustained" disruption. In some instances, law enforcement officials used excessive force while carrying out these dispersals. Peaceful protesters were often arrested and, in some cases, charged.

Acts of peaceful civil disobedience involve the premeditated breaking of domestic law for reasons of conscience or because it is perceived to be the most effective way to express dissent, get public attention or stop human rights abuses. The domestic law being broken can fall into one or other of two categories: (a) laws that conflict with international human rights law and standards e.g. legislation imposing a blanket ban on protests, or criminalizing the holding of a demonstration without the authorities' prior authorization, or (b) laws that do not per se violate international laws and standards. The assessment of the necessity or proportionality of any sanctions and restrictions on civil disobedience, including criminal sanctions, depends on which category – (a) or (b) – the domestic law being broken falls within.

The imposition of restrictions, including criminal or administrative charges and sanctions, on acts that break a domestic law which contravenes international human rights law and standards (category (a) above) are usually unnecessary and disproportionate. Instead of arresting, prosecuting and sanctioning those involved in such acts, states should repeal or substantially amend the respective laws to bring them in line with international human rights law and standards.

Amnesty International has identified such laws in at least 16 of the 21 countries analysed (**Austria**, **Belgium**, **France**, **Greece**, **Germany**, **Hungary**, **Italy**, **Luxembourg**, the **Netherlands**, **Poland**, **Portugal**, **Serbia**, **Sweden**, **Switzerland**, **Türkiye**, **UK**). The most common such laws that are present across the region include vaguely formulated provisions punishing "disturbing peace" or "disrupting traffic"; laws imposing a blanket ban on wearing face coverings at public assemblies; and laws criminalizing or otherwise penalizing conduct that is protected by the right of peaceful assembly, such as organizing or participating in "unannounced demonstrations", as well as laws punishing failure to adhere to an authorization regime in instances where the authorities need to grant permission for assemblies to take place.

When peaceful acts of civil disobedience break a domestic law which contains a prohibition or other restriction which is compliant with international human rights law and standards (category (b) above), and the act was conducted due to reasons of conscience or the belief that it was the most effective way to achieve change, any restrictions must comply with the principles of legality, necessity and proportionality. Any sanctions must be commensurate with the recognizable offence committed, and authorities should consider the different elements of the actions on a case-by-case basis, including the intent of the action and its overall disruptive impact. When using criminal law provisions in response to civil disobedience, states must ensure that the criminal justice system is used only to the 'minimum amount needed to protect society' (the principle of minimum intervention).

Amnesty International's research has identified a worrying pattern where individuals involved in peaceful acts of civil disobedience were often arrested, charged and prosecuted, even in instances where their acts did not threaten a public interest nor result in harmful behaviour in (**Czechia**, **France**, **Finland**, **Germany**, **Greece**, **Ireland**, **Italy**, the **Netherlands**, **Poland**, **Portugal**, **Spain**, **Switzerland**, **Sweden**, **UK**, **Türkiye**). While charges were subsequently dropped in some cases, in others, peaceful protesters faced administrative and also criminal sanctions, including risk of custodial sentences. In at least three countries – **Germany, Italy** and the

UK – peaceful environmental activists received prison sentences for acts of civil disobedience. In Italy the prison sentence was however suspended.

The authorities in some countries – including Germany, Italy, Spain and Türkiye – have resorted to terrorism-related provisions, and laws related to combating organized crime, and national security, to target activists engaged in protests and peaceful acts of civil disobedience. Prosecutions based on these provisions raise concerns regarding the weaponization of 'public order' and 'national security' as justifications for silencing dissent and disincentivizing the legitimate exercise of human rights. As well as criminal sanctions, various national authorities have introduced and/or used a wide range of administrative measures and preventive provisions that allow people to be banned from certain places and activities – and in some cases detained – to prevent them from participating in future acts of civil disobedience (Germany, Italy, UK). In Germany, administrative detention for up to 30 days has been increasingly used against climate activists to prevent them from participating in protests. In Italy, orders banning presence (i.e. 'foglio di via' and 'DASPO orders') have been used to prevent people from certain places and activities, and in the UK, a new administrative measure was introduced – Serious Disruption Prevention Orders (SDPOs) which can be imposed by a court on someone convicted of a protest-related offence to prevent them from committing a future protest-related offence or causing 'serious disruption' to others (with attendant liability for breaching the SPDO). Such administrative measures stand to violate the principles of legality and the presumption of innocence and are at odds with fair trial safeguards and may also violate the rights to liberty and to freedom of movement.

CHALLENGES AND BARRIERS TO CHILDREN'S ENJOYMENT OF THE RIGHT OF PEACEFUL ASSEMBLY

Children are among the groups or categories of people identified by international and regional human rights treaties as requiring special attention and protection, including in the context of protests. Children frequently experience discrimination based on various intersecting aspects of their identity as well as their age, such as their gender, if they are racialized, disabled or migration status, amongst others.

In recent years, children in Europe (and around the world) have led and participated in major protests demanding climate justice, racial equality, social justice and better education among other issues. Such increased involvement by children and young people highlights the growing need for concerted efforts from states to respect, protect and fulfil, including by facilitating, children's rights at protests. Children, like adults, have the right to voice their concerns and put forward demands, and to be able and enabled to participate in society, including by being able to protest safely and without discrimination.

Nevertheless, across Europe, Amnesty International has recorded numerous instances of children's right of peaceful assembly being restricted, denied or violated. Several states have failed both to recognize and to afford children and young people the additional protections to which they are entitled during protests. Children and young people have been shamed, attacked, punished or threatened with punitive measures for standing up for their rights. They have been unlawfully arrested and detained and have suffered excessive use of force at the hands of law enforcement officers.

The rhetoric around children and young people's participation in protests included negative and inflammatory statements from politicians, the authorities and other actors (Belgium, France, Germany, Poland, Portugal). Several of the 21 countries examined prescribe minimum age requirements for *organizing* protests: Czechia, Finland, Hungary, Slovenia, Sweden, Switzerland and Türkiye.

International expert monitoring bodies called in recent years on Hungary, Türkiye and UK to amend legislation to ensure that children do not face repression, including through criminalization, in relation to the exercise of their right of freedom of peaceful assembly, including through their involvement in activism. Amnesty International's research uncovered a variety of concerning examples of criminalization, penalization and detention of children in Greece, Poland, Slovenia, Sweden and Switzerland. In some countries – including Poland, Portugal and some cantons in Switzerland – children experienced penalties and threats of punishment at schools in relation to their participation at protests. Yet, the Swiss cantons of Bern and Lucerne (Switzerland) are implementing more positive solutions that allow children time off school and, in Bern, children are encouraged to share their experiences of political participation in class. The research also uncovered cases of sanctions being applied, or potentially being applicable, to parents in relation to their children's participation in protests (Poland, the Netherlands, UK). In the UK, some children, and particularly Muslim and racialized children, increasingly fear being sanctioned, and parents also report self-censoring

and fearing showing solidarity or speaking out about Palestinian human rights in a context where authorities have widened and deepened the use of the much criticized 'Prevent' Programme.

International human rights mechanisms advanced in recent years specific recommendations to Czechia, France, Slovenia and the UK to amend their legislation on policing and use of force in relation to children in protest. Amnesty's examination of the 21 countries also exposed reports about instances when children or youths were harmed during protests. Instances of excessive use of force against children by police were reported in Belgium, Finland, France, Germany, Italy, Poland, Slovenia, Serbia, and Switzerland.

Amnesty International's research has not been able to identify any specific piece of legislation, policy or procedural framework in the examined countries that address the presence of children at protests, how facilitation should occur when children are present, nor the use of equipment and tactics when children are present (including in relation to containment, dispersal, use of equipment including less-lethal weapons. Moreover, in none of the countries did Amnesty International find any local or national guidelines or specific police training on the rights and treatment by law enforcement officers of children in protests.

CONCERNS REGARDING SURVEILLANCE, MONITORING, COLLECTION, ANALYSIS AND STORING OF PROTESTERS' DATA

Around Europe, states' law enforcement and security agencies are increasingly using digital tools to carry out targeted and mass surveillance of protesters; invade their privacy; and track, monitor, collect, analyse and store their information. Often, several methods are used in conjunction, ranging from sophisticated technologies such as facial recognition tools to low-tech yet highly intimidating techniques such as visiting activists' homes.

States have argued that surveillance programmes are necessary to safeguard national security and ensure the protection of citizens. Amnesty International recognizes that states have obligations to protect the security of citizens and, as a result, may sometimes legitimately (in accordance with law) need to conduct covert surveillance, including the interception and monitoring of private communications.

However, it is worth noting that protest surveillance is an interference with people's rights to privacy, freedom of expression and peaceful assembly – one that can both undermine the facilitation of the right of peaceful assembly and directly violate this right. To comply with states' obligations under international human rights standards, any legislation or practice allowing law enforcement agents to undertake protest-related surveillance must contain safeguards adequate to prevent unwarranted restrictions or arbitrary intervention in the exercise of rights and provide transparency and judicial oversight capable of preventing and addressing abuses, and a chilling effect on the exercise of people's rights.

According to the information retrieved for the research, all 21 countries examined appear to have codified in law – to varying extents – the protection of the right to privacy as well as other rights that can be affected by surveillance practices, including the rights of peaceful assembly and expression. However, the safeguards in place in some of the countries – to prevent indiscriminate, unwarranted, unchecked, discriminatory or otherwise unlawful surveillance – are sometimes inadequate to protect against all forms of surveillance that undermine the right of peaceful assembly. The legal basis for the measures examined is often either missing completely or is reliant on overly broad and generic powers in some countries, or the safeguards in place are inadequate to ensure that surveillance is authorized and carried out in conformity with human rights (Greece, UK). Moreover, abuses continue to occur in states where the law arguably does or should guard against such surveillance practices (the Netherlands), and some states have continued to legislatively expand surveillance powers to the detriment of protest rights (France).

Amnesty International found that video/photo surveillance cameras are being used increasingly by police in numerous countries, with concerns around the necessity and proportionality of their deployment and the legality of retaining the recordings for future use (Belgium, France, Germany, Greece, Ireland, Italy, Luxembourg (proposal), the Netherlands).

Facial recognition technology is another fast-growing method used by the police to conduct surveillance at assemblies. Among EU countries, police in Austria, Finland, France, Germany, Greece, Hungary, Italy, the Netherlands and Slovenia, among others, already employ facial recognition technology (FRT) in their criminal investigations, and countries including Czechia, Portugal, Spain and Sweden are among those

which are expected to follow the trend. There has also been a recent and marked increase in the use of facial recognition technology by law enforcement in the UK, including at protests. Amnesty International believes that the use of FRT for identification amounts to indiscriminate mass surveillance and therefore, if used in protests, it cannot be a proportionate interference with the rights that might be engaged (such as privacy, freedom of expression, association and peaceful assembly). All indiscriminate mass surveillance, including FRT, fails to meet the test of necessity and proportionality and therefore violates international human rights law. It also carries the risk of having a long-term chilling effect on the enjoyment of these rights and may deter people from exercising such rights, including on discriminatory bases. No safeguards can prevent the human rights harms that facial recognition inflicts, and it should therefore be banned outright.

The research uncovered concerning reports about practices related to law enforcement paying unjustified visits to protesters' homes, in some cases asking them not to attend planned protests (the Netherlands, Poland, Serbia). Moreover, in some of the countries analysed there were concerning reports of undercover police officers infiltrating protests social movements (the Netherlands, Spain). Concerns about the use of undercover police against protesters remain also in the UK. Some states use social media monitoring to collect information about participation in peaceful assemblies. In some cases, people have been prosecuted, or threatened with prosecution, after being labelled as "organizers" simply for sharing information about protests on social media which authorities monitored (France, the Netherlands, Poland, Serbia, Türkiye).

Under international human rights standards, restrictions or prohibitions on face coverings in public spaces, including a ban on covering one's face in the context of protests, are generally discriminatory in intent and effect and will rarely be proportionate or necessary to achieve any permissible aims under international human rights law. Such restrictions or prohibitions are also gendered and racist in the harm they inflict, for example when they affect Muslim women and girls.

Under international human rights standards, a ban on covering one's face in the context of protests should only be lawful where there are "reasonable grounds for arrest". Such situations could occur, for example, when a person is engaging in or shows a clear intent to imminently engage in violence or if the face covering constitutes a symbol or form of expression that is directly and predominantly associated with advocacy of hatred that constitutes incitement to discrimination, hostility or violence. Assemblies and their participants should be assumed to be peaceful, rather than posing a threat to public order, and the authorities must demonstrate if this is not the case in specific instances. Nevertheless, in some countries Amnesty International found a total or partial blanket restriction on face coverings in public places and/or in relation to assemblies that appear to be discriminatory and disproportionate (Austria, Belgium, France, Germany, Hungary, Italy, the Netherlands, Switzerland). In several of those countries, covering one's face at a protest is a criminal offence (France, Germany, Hungary, Italy, Switzerland, Türkiye).

KEY RECOMMENDATIONS

On the basis of the research findings, Amnesty International has developed a number of recommendations for states on each of the areas identified as a human rights concern which, if implemented, will assist states to bring their policies, legislation and practices into compliance with their obligations under international human rights law. The full lists of recommendations can be found in the relevant nine chapters of the report. The following is a summary of Amnesty International's key recommendations arising from this research. States should:

- Bring domestic laws fully in line with international human rights law and standards by repealing or substantially amending provisions prohibiting or criminalizing conduct that must be protected. This should include, among other things, repealing provisions that establish authorization (or *de facto* authorization) regimes, criminal sanctions for non-compliance with notification requirements, excessive obligations and liabilities on organizers; unwarranted restrictions placed on the time, place and content of assemblies including blanket bans; disproportionate restrictions on peaceful acts of civil disobedience, including the widespread use of custodial sanctions; undue restrictions of children's protest rights; inappropriate application of counter terror laws or programmes, and unlawful surveillance.

- Assess and tackle any discriminatory impact of laws, policies and practices on the right to freedom of peaceful assembly for specific groups which may include, among others, those protesting for women's rights, LGBTI rights, Palestinian solidarity, climate justice and racial justice, as well as take action to ensure the rights of those who experience heightened barriers to participation, including Black people,

Arab people, Roma or people belonging to other racialized groups, sex workers, people with uncertain legal status, foreign nationals, people with disabilities, children and older people, among others.

- Address widespread impunity for human rights violations committed by law enforcement officials while policing protests and prevent unnecessary and excessive use of force. To achieve this, domestic laws and policies should detail the permissible circumstances and principles around the use of force during assemblies, which must strictly respect the necessity and proportionality criteria, and the use and prohibition of specific equipment and tactics involved in policing assemblies, especially those that are capable of resulting in torture and other ill-treatment and other human rights violations. Moreover, the authorities must establish independent oversight mechanisms with powers to conduct independent, impartial, thorough, prompt and fair investigations into allegations of human rights violations by law enforcement officials.

- Stop all stigmatizing discourse and rhetoric which fuels harmful stereotypes and portrays peaceful protesters in a way that is likely to foster hostility and justify punitive measures against them. This includes characterizing protesters as criminals, terrorists, threats to public order and security, or a nuisance to be crushed.

1. THE RIGHT OF PEACEFUL ASSEMBLY IN EUROPE: OVERREGULATION, HOSTILITY AND DISCRIMINATION

1.1 INTRODUCTION

All 21 countries analysed in this report have ratified the key international and regional human rights instruments protecting the right of peaceful assembly.[15] In some countries, legislation exists which guarantees the direct applicability of international treaty provisions in domestic law. In others, legislation has been passed to give domestic effect to the state's treaty obligations.

Yet, despite this backdrop of treaty ratification (and of strengthened standards at the international and regional levels), those exercising their right of peaceful assembly face both familiar and new forms of restrictive and discriminatory regulation. This has a corresponding chilling effect[16] on those who seek to gather together with others, as people have to overcome obstacles and risks placed in their way by states. Despite the rights set out in law, protesters have to endure being stigmatized, stifled, stymied, surveilled and sanctioned by authorities. Some are subjected to physical harm during their protests at the hands of police. Some are at more risk than others of being subjected to such treatment.

It is clear that the hostility experienced by protesters is underpinned and sustained by legal frameworks that cast the right of peaceful assembly as a 'nuisance' and a 'threat', and this context is exacerbated by stigmatizing rhetoric on the part of political leaders and others in positions of power and influence. Such hostile narratives and legal frameworks that impede instead of facilitating the right to protest, embolden and empower law enforcement officials to also in many cases violate, rather than support people's right to protest.

This chapter provides an overview of the hostile environment protesters face across the 21 countries examined across Europe. It highlights an array of belligerent political and legal responses to peaceful protest,

[15] The key instruments include the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention against Torture and other Cruel, Inhuman and Degrading Treatment (CAT); Convention on the Rights of the Child (CRC); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of Persons with Disabilities (CRPD), The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the Charter of Fundamental Rights of the European Union. A complete overview of the status of ratification of all relevant international human rights treaties, for all countries, is available at https://indicators.ohchr.org/

[16] As a legal concept, 'chilling effect' has been defined as: "the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns. State action is understood in this context as any measure, practice or omission by public authorities which may deter natural and/or legal persons from exercising any of the rights provided to them under national, European and/or international law, or may discourage the potential fulfilment of one's professional obligations (as in the case of judges, prosecutors and lawyers, for instance)." From: Laurent Pech, *The concept of chilling effect: Its untapped potential to better protect democracy, the rule of law, and fundamental rights in the EU*, 2021, p. 4.

and thus evidences the widening gap between states' human rights commitments, including to non-discrimination, and the protection and facilitation of the right of peaceful assembly.

1.2 PROTECTION DEFICITS BUILT INTO THE DOMESTIC LEGAL FRAMEWORK ON RIGHT OF PEACEFUL ASSEMBLY

The right of peaceful assembly is constitutionally protected in each of the countries considered in this report: **Austria**, **Belgium**, **Czechia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Luxembourg**, the **Netherlands**, **Poland**, **Portugal**, **Serbia**, **Slovenia**, **Spain**, **Sweden**, **Switzerland**, **Türkiye**, and the **UK**.[17]

All 21 countries examined have adopted additional and specific primary legislation on the right of peaceful assembly at national, or where applicable, at federal/regional level.[18] In many of the countries, this legislation is supplemented by provisions in, for example, the Criminal or Penal Code or laws on misdemeanours or administrative offences; laws on policing, public order or traffic management; or secondary legislation such as regulations governing the powers or functioning of law enforcement or municipal authorities.

In some countries with federal systems – such as **Germany** and **Switzerland** – the right of peaceful assembly is regulated by laws that differ from canton to canton, or federal state to federal state. The **UK** has three separate legal jurisdictions: England and Wales, Scotland, and Northern Ireland – each with distinctive laws and procedures governing assemblies. Similarly, in other countries (such as the **Netherlands**),[19] conditions for protests are regulated in local by-laws that differ from town to town.

Many of these laws have been amended several times, though such details go beyond the scope of this report. In some countries, the legislation on the right of peaceful assembly was enacted some decades ago and has experienced only minor changes over time. For example, in **Portugal**, the Decree-Law 406/74, the country's main legal document regulating the right of peaceful assembly, has only seen minor alterations[20] to the text since its adoption almost 50 years ago.

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[17] Austria: Federal Law consolidated, Article 12, Entire legal provision for the Basic Law on the General Rights of Citizens; Belgium: Constitution, Articles 22bis (right of children to participate), 26 and 27; Czechia: Article 19 of the Charter of Fundamental Rights and Freedoms (Law No. 2/ 1992 Coll), which is part of the Constitution, although a separate document; Finland: Constitution, Chapter 2, section 13; France: 1789 Declarations of the Rights of Man and of the Citizens (DDHC), Article 10. DDHC is part of the preamble of the French Constitution; Germany: Constitution, Article 8; Greece: Constitution, Article 11; Hungary: Fundamental Law (Constitution), Article VIII; Ireland: Constitution, Article 40; Italy: Constitution, Article 17; Luxembourg: Constitution, Article 25; the Netherlands: Constitution, Article 9; Poland: Constitution, Article 57; Portugal: Constitution, Article 45; Serbia: Constitution, Article 54; Slovenia: Constitution, Article 42; Spain: Constitution, Article 21; Sweden: Constitution (instrument of the Government), Chapter 2, Article 1(3-4); Switzerland: Federal Constitution, Article 22; Türkiye: Constitution, Article 34; UK: A Constitution has never been codified in this way in the UK; instead, the various statutes, conventions, judicial decisions and treaties which, taken together, govern how the UK is run are referred to collectively as the British Constitution. The Human Rights Act 1998 domesticates the rights set out in the European Convention on Human Rights. The Human Rights Act came into force in the UK in October 2000 (and is applicable in England and Wales, Scotland and Northern Ireland).

[18] Austria: General Rights of Nationals (Staatsgrundgesetz – StGG) is a federal constitutional law that protects the right of peaceful assembly in Article 12. The regulation of assemblies at the ordinary legal level is implemented in the General Assembly Act of 1953. Several amendments have been brought to the 1953 text; Belgium: The right to assembly in open air and outdoors gatherings are subject to police regulations at municipality level, thus the local government largely determines the interpretation and restrictions of right of peaceful assembly in these matters; Czechia: Act Nr. 84/1990 on Freedom of Assembly; France: Various legislative provisions apply to assemblies, including provisions of the Criminal Code, Law on National Security, National Plan for Maintenance of Order (Schéma National du Maintien l'Ordre); Finland: 1999 Assembly Act; Germany: Freedom of peaceful assembly is coded in the German Constitution, as well as in some the constitutions of the federal states; Greece: Law 4703/2020 "Public outdoor assemblies and other provisions"; Hungary: Act LV of 2018 on the right of assembly (ARA); Ireland: Public Order Act 1994; Italy: Consolidated Law on Public Security (TULPS), 1931 (last updated 2022); Luxembourg: The right to assembly is currently governed by the police rules of each municipality; however, a draft law concerning demonstrations is under discussion by the Ministry of the Interior and the Ministry of Home Security; the Netherlands: Public Assemblies Act, 2010; Poland: Law on Assemblies 2015; Portugal: Decree-Law 406/74, 1974; Serbia: Law on Public Gatherings, 2016; Slovenia: Public Assembly Act, 2002; Spain: Organic Law 9/1983; Organic Law 4/2015 on Public Security (commonly known as the "Gag Law") does not expressly establish a protection of the right of peaceful assembly but several of its provisions interfere with the rights of peaceful assembly and freedom of expression; Sweden: Public Order Act, 1993: 1617; Switzerland: The right of peaceful assembly is protected by the cantonal Constitutions, for example: Constitution of Basel-City (Article 11), Bern (Article 19), Geneva (Article 32), Vaud (Article 21), Ticino (Article 8); Türkiye: Law No. 2911 on Meetings and Demonstrations, 1983; UK: England and Wales, Scotland and Northern Ireland do not maintain specific comprehensive national legislation on right of peaceful assembly. Therefore, relevant provisions are contained in various laws and differ according to local regulations and by-laws.

[19] The Netherlands has 342 local municipalities.

[20] The changes brought to the Decree-Law 406/74 (Decree) in 2011 regarded primarily the abolishment of the civil governments and the transfer of their competencies to other authorities, such as the local municipalities. See https://diariodarepublica.pt/dr/legislacao-consolidada/decreto-lei/1974-166429452

In other countries, the recent introduction of new laws has meant significant changes, often towards a more restrictive environment for the exercise of the right of peaceful assembly (see below and Chapter 1.3.2). In **Germany**, for example, several federal states have introduced new laws on assemblies[21] or on policing[22] which disproportionately restrict the right of peaceful assembly by extending state control and police intervention powers.

The introduction in the **UK** of the Policing, Crime, Sentencing and Courts Act in 2022 and the 2023 Public Order Act seriously erodes the protection of the right of peaceful assembly.[23] Measures include, for example, the creation of new offences (such as interfering with 'key national infrastructure', broadly defined to include, amongst other sites, newspaper printing facilities);[24] broadening law enforcement's powers to shut down protests – such as by introducing a sweeping definition of 'serious disruption' capable of justifying the imposition of restrictions on public processions and public assemblies,[25] and the creation of 'serious disruption prevention orders';[26] increased maximum penalties for certain offences (such as obstruction of a highway – now six months in prison, compared to a fine previously);[27] extending specific areas where particular restrictions apply (for example, Parliament Square in London and the area leading up to the Cenotaph war memorial),[28] and granting new stop and search powers to the police.[29]

At the time of writing, in **Luxembourg,** plans for a new law on assemblies remained under consideration.[30] The draft law proposed in 2023 was presented as aiming to create a national legislative framework in the country (since the right of peaceful assembly is ruled by the police rules of each municipality). However, the draft law raised human rights concerns and has been criticized by civil society.[31] Its proposed provisions included the confirmation of an authorization regime for assemblies and administrative and criminal sanctions for lack of compliance;[32] and a burdensome process underpinning the authorization regime.[33] The

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Amnesty International recommended a review of the Decree to ensure its compliance with international law and standards binding on Portugal as well as with the Portuguese Constitution. See Amnesty International, "Freedom as a flag" (in Portuguese), 15 March 2024, available at https://www.amnistia.pt/a-liberdade-como-bandeira/.

[21] This includes the new assembly law in the federal state of North Rhine-Westphalia, in force since January 2022, see https://www.amnesty.de/sites/default/files/2021-10/Amnesty-Stellungnahme-Einfuehrung-Versammlungsgesetz-NRW-September-2021.pdf. Regarding the new law in the federal state of Hesse, see https://twitter.com/amnesty_de/status/1638464249495187456

[22] See, for example, Amnesty International, Germany: Discrimination on the Rise (Index: EUR 23/6481/2023), 2023, https://www.amnesty.org/es/wp-content/uploads/2023/07/EUR2364812023ENGLISH.pdf para. 8.

[23] See Amnesty International UK, "UK: Dark day for civil liberties as 'deeply-authoritarian' Policing Bill passed by Lords", 27 April 2022, https://www.amnesty.org.uk/press-releases/uk-dark-day-civil-liberties-deeply-authoritarian-policing-bill-passed-lords; Amnesty International UK, "UK Government: Stop the assault on our freedoms", undated, https://www.amnesty.org.uk/actions/uk-government-stop-assault-our-freedoms; Amnesty International UK, "Police Crime Sentencing and Courts Bill Part 3: Protest – Report Stage", undated, https://www.amnesty.org.uk/files/2022-05/Amnesty%20International%20UK%20Briefing%20Police%20Crime%20Sentencing%20and%20Courts%20Bill%20Part%203%20Report%20stage%20FINAL.pdf?VersionId=uJdQzHNRQajpN9QbyiX6I3_DDAH8mf2p; See also: CIVICUS, *United Kingdom: CIVICUS Monitor Watchlist: Overview of Recent Restrictions To Civic Freedoms*, September 2021, https://civicus.contentfiles.net/media/assets/file/WL.UKBrief.23September.pdf; NetPol, "Overview: The Police, Crime, Sentencing and Courts Act", undated, https://netpol.org/pcsc-act-2022/; NetPol, "Explainer: The Public Order Act 2023", 18 May 2023, https://netpol.org/2023/05/18/explainer-the-public-order-act-2023/; Liberty, "Public Order Act: New protest offences & 'serious disruption'", undated, https://www.libertyhumanrights.org.uk/advice_information/public-order-act-new-protest-offences/

[24] Public Order Act 2023, section 7, available at https://www.legislation.gov.uk/ukpga/2023/15/section/7

[25] Policing, Crime, Sentencing and Courts Act 2022, sections 73-74, available at https://www.legislation.gov.uk/ukpga/2022/32/part/3/crossheading/public-processions-and-public-assemblies

[26] Public Order Act 2023, Part II, available at https://www.legislation.gov.uk/ukpga/2023/15/part/2
Public Order Act 2023, section 34, available at https://www.legislation.gov.uk/ukpga/2023/15/section/34

[27] Policing, Crime, Sentencing and Courts Act 2022, section 80, available at https://www.legislation.gov.uk/ukpga/2022/32/section/80

[28] Policing, Crime, Sentencing and Courts Act 2022, sections 76-77, available at https://www.legislation.gov.uk/ukpga/2022/32/part/3/crossheading/palace-of-westminster-parliament-square-etc

[29] Public Order Act 2023, sections 10-14, available at https://www.legislation.gov.uk/ukpga/2023/15/part/1/crossheading/powers-to-stop-and-search

[30] A draft law proposal was shared in 2023 by authorities with Amnesty International. The analysis in this report is based on the provisions included in the 2023 draft. However, In June 2024, the authorities released a new version of the draft law, which was open for input until 26 June 2024. Amnesty International Luxembourg provided written comments to the authorities on the most recent version of the law, however those are not reflected in this report. Many of the concerns raised in relation to the draft law opened for input in 2023, remain valid also in relation to the June 2024 version of the draft Amnesty International reviewed. The organization hopes that the authorities will use the analysis provided in this report, as well as of the comments submitted in June 2024, to ensure full compliance of any upcoming legislation on assemblies.

[31] Public information on the draft law (proposed in 2023) is available at www.chd.lu/lu/node/445.

[32] According to the draft law released in June 2023, a person who participates to an assembly "forbidden under the conditions of the law" can receive a fine of between 251 EUR and 2,500 EUR (Article 12). A person who organizes an assembly without having previously declared under the conditions of the law, or who organizes an assembly "forbidden under the conditions of this law" or who makes an incomplete or an exact declaration to cheat on the object or conditions of a projected assembly, or does not respect the conditions imposed by the *bourgermestre*, can be punished with a fine of between 500 EUR and 7,500 EUR (Article 14). Persons who are found guilty of the infractions included in the law can also be punished with an additional penalty of prohibition to attend assemblies for a maximum of five years (Article 19(1)). The violation of this new rule could lead to imprisonment of between eight days and two years and a fine of between 251 EUR and 5,000 EUR.

[33] According to the draft law released in June 2023, the proposed process included the need to seek authorization from authorities eight days in advance of an assembly, and required an excessive level of detailed information from the organizers/leaders, and a mandatory "consultation meeting" to be held between authorities and organizers/leaders.

draft was neither sufficiently precise in its proposed provisions, nor was it clear on the reasons for creating a restrictive framework on assemblies. It placed significant responsibilities on organizers, for example, by delegating the responsibility of the authorities to ensure the security of assemblies. It also missed an opportunity to reinforce the need for adequate training for law enforcement officers engaged in protests and specifically in relation to vulnerable groups, use of force, available and permissible equipment, and tactics that may be used in accordance with international human rights standards.[34]

In **Belgium**, a draft law that proposed, among other measures, a provision to ban so-called "rioters" from participating in protests was under discussion for months before the government eventually backed down and withdrew the bill.[35] Trade unionists and activists expressed concerns that the draft law, risked undermining the right of peaceful assembly and the right to strike, while additionally some NGOs criticized the scope of the text and the relevance and proportionality of some of the envisaged sanctions.[36] Meanwhile, Belgium's new Criminal Code, which comes into force in April 2026, introduces an offence that punishes "malicious interference with the authority of the State".[37] NGOs, civil society organizations, trade unions and the country's federal human rights institution heavily criticized such measures as threatening to unduly restrict the right of peaceful assembly and criminalize legitimate forms of protests.[38] The vague wording raises serious concerns that this infraction could be used to penalize peaceful acts of, or calls for, civil disobedience and that it may in effect criminalize acts of peaceful protest and have a chilling effect upon peaceful dissent.

In **Spain**, during the previous legislature, the Parliament was working on a reform of the Law on Citizen Security (so-called Gag Law), however, the process ended due to lack of agreement on key aspects. Some positive elements of the proposed reform – which did not materialize - consisted of the recognition and non-punishment of spontaneous assemblies, and the development of protocols on the use of force and riot control equipment. Nevertheless, other key elements of the reform did not achieve sufficient agreement – such as prohibiting rubber bullets at protests, or clarifying the definition of the offences of 'disrespect, disobedience or resistance to authority' (characterized as a "catch-all provision" by the Venice Commission of the Council of Europe).[39] In December 2022, the Spanish Penal Code was reformed to remove the crime of 'sedition' (the crime for which Catalan civil society leaders Jordi Cuixart and Jordi Sànchez spent almost 4 years in prison[40]). Although the reform introduced some improvements – for example it eliminated as an aggravating circumstance the fact that public disorders took place in the context of demonstrations – it maintained and incorporated ambiguous elements in the definition of the crimes of 'disorder'. It also did not eliminate the crime of 'invasion and occupation of legal persons' offices', which is used against peaceful actions of civil disobedience carried out by activists for the right to housing.[41]

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[34] In April 2023, Amnesty International Luxembourg met with the Ministry of Justice to discuss the content of the proposed law and, in May 2023, Amnesty International sent a written commentary with concerns and recommendations on the law to the authorities.

[35] If the draft law had passed, criminal judges would have been able to temporarily ban a person from participating in protests as an additional punishment for a series of offences committed during a "protest gathering" – i.e. criminal association, the threat of attack against individuals or property punishable by a criminal sentence, homicide, deliberate assault and battery, arson, certain forms of vandalism, destruction or deterioration of property, and breaches of the law on weapons. The maximum duration of the ban would have ranged from three to six years, in case of recidivism.

[36] See Euractiv, "Belgian justice minister to legislate against rioters despite party objections", 17 May 2023, https://www.euractiv.com/section/politics/news/belgian-justice-minister-to-legislate-against-rioters-despite-party-objections/; Politico, "'Van Quickenborne bill' threatens Belgian democracy, activists say", 5 October 2023, https://www.politico.eu/article/van-quickenborne-bill-threaten-belgium-democracy-activists-say/

[37] New Article 547 of the Penal Code reads: "Malicious undermining of the authority of the State. Malicious interference with the authority of the State consists, with malicious intent and in public, in impairing the binding force of the law or rights or the authority of constitutional institutions by directly provoking disobedience to a law, causing a serious and real threat to national security, public health or morality. This offence is punishable by a level 1 penalty when it relates to a non-criminal law, or a criminal law with an offence punishable by a level 2 or higher penalty. This offence is punishable by a level 2 penalty when it relates to a criminal statute and an offence punishable by a level 5 or higher penalty."

[38] Federal Institute for the Protection and Promotion of Human Rights, 'Opinion on Book II of the Penal Code' (In French), 5 October 2023, https://federaalinstituutmensenrechten.be/fr/avis-sur-le-livre-ii-du-code-penal; Amnesty International, 'Reform of the Penal Code : « Protect the protest » action in the Federal Parliament' (in French), 21 February 2024, available at https://www.amnesty.be/infos/actualites/droit-penal-action-parlement; Amnesty International Belgium, 'Malicious attack on the authority of the state: A threat to the right to protest' (in French), 25 January 2024, available at https://www.amnesty.be/infos/actualites/article/atteinte-mechante-autorite-etat-menace-droit-protester

[39] Amnesty International, "Amnesty International deplores the fact that the proposed reform of the Law on Citizen Security continues to be a 'gag on peaceful protest'", 13 December 2021, https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/amnistia-internacional-lamenta-que-la-propuesta-de-reforma-de-la-ley-de-seguridad-ciudadana-siga-suponiendo-una-mordaza-frente-a-la-protesta-pacifica/

[40] Amnesty International, "Spain's conviction for sedition of Jordi Sànchez and Jordi Cuixart threatens rights to freedom of expression and peaceful assembly", 19 November 2019, https://www.amnesty.org/en/latest/news/2019/11/spain-conviction-for-sedition-of-jordi-sanchez-and-jordi-cuixart-threatens-rights-to-freedom-of-expression-and-peaceful-assembly-2/

[41] Amnesty International Spain, "The reform of the Penal Code to eliminate the crime of sedition is good news, however it must ensure it does not criminalize peaceful protest", 24 November 2022, https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-la-reforma-del-codigo-penal-para-eliminar-el-delito-de-sedicion-es-una-buena-noticia-pero-debe-garantizar-que-no-criminaliza-la-protesta-pacifica/

1.2.1 LACK OF UP-TO-DATE AND PUBLICLY AVAILABLE NATIONAL ACTION PLANS TO GUIDE THE PROTECTION AND FACILITATION OF ASSEMBLIES

According to information available, including in some cases from correspondence with relevant authorities,[42] most countries do not have an up-to-date and publicly available National Action Plan (NAP)[43] – or the equivalent at federal state level – to guide the implementation in law of international standards relevant to the protection and facilitation of assemblies. While there are some exceptions – countries that have adopted a National Action Plan that addresses the right of peaceful assembly – these are often deficient in many respects. For example, Greece's National Plan, adopted in 2021, was criticized for seeking to implement controversial legislative provisions on public outdoor assemblies including the regulation of spontaneous assemblies and dispersal of assemblies.[44]

In some countries, NAPs (or federal state-level equivalents) on other matters might include passing references to the right of peaceful assembly. In Germany, while the National Action Plan against Racism sets out a number of general policy measures addressing non-discrimination and inclusion – and points to international standards and good practice examples regarding the protection of marginalized groups from hostility and violence – it only considers the right of peaceful assembly from the perspective of restricting assemblies that seek to legitimize violence or that are otherwise discriminatory, and does not further expand on the positive obligations of state authorities to protect and facilitate the exercise of the right.[45] Within Türkiye's 2021 Action Plan on Human Rights,[46] it is envisioned that the right of peaceful assembly will be strengthened in light of international standards. However, this does not appear to be the case for current legislation on the right of peaceful assembly or current practice when policing protests, with numerous concerns of violations remaining, as detailed in subsequent chapters.

General guidelines exist in each of the countries studied concerning the general operational responsibilities of the police. However, these do not always include details on policing assemblies – they are often more generic and not intended to cover considerations regarding the protection and facilitation of protests and the promotion and safeguarding of the right of peaceful assembly (see further, Chapter 5 on policing of protests).

1.3 STIGMATIZING AND NEGATIVE RHETORIC AGAINST PROTESTS AND PROTESTERS

The information collected across the 21 countries included in this report points to a pattern of stigmatizing and negative rhetoric by authorities and politicians with the objective, directly or indirectly, of delegitimizing and demonizing protesters and protests.

While the research did not uncover statements expressly undermining the value of the right to protest per se (or criticizing, minimizing or undermining the existence or need for the recognition of such a right), the research did however record numerous declarations against specific types of protests or groups active on specific issues. The examples below are only an illustrative selection and not an exhaustive list.

Groups which emerged from the research findings as having been on the receiving end of negative, stereotypical and harmful statements by politicians and/or state authorities include those that have mobilized around the following subjects: Palestinian solidarity (this was documented before and after the 7 October

[42] Correspondence or discussions held by Amnesty International on this specific issue with relevant Ministries of the Interior in Finland, Hungary, Italy, Poland

[43] National Action Plans are policy documents created by states which set commitments, priorities and actions regarding a specific area or issue. They provide a blueprint for actions and steps to be undertaken by states, as well as offering an opportunity for civil society and other organizations to engage in consultation with, monitor and examine such actions.

[44] Amnesty International, *Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of Covid-19* (Index: EUR 25/4399/2021), 14 July 2021; Sections 1, 3.1 and 10.2 of the Guidelines available at https://bit.ly/3svmMkF

[45] Germany's National Action Plan on Racism is available (in German) at https://www.bmfsfj.de/resource/blob/116798/5fc38044a1dd8edec34de568ad59e2b9/nationaler-aktionsplan-rassismus-data.pdf. Germany does not have an action plan that regulates the implementation of international standards relevant to assemblies.

[46] Ministry of Justice of the Republic of Türkiye, *Action Plan on Human Rights: Free Individual, Strong Society: More Democratic Türkiye*, March 2021, https://insanhaklarieylemplani.adalet.gov.tr/resimler/eylemplani-eng.pdf (official translation). Amnesty International, *Türkiye: The New Action Plan is a Missed Opportunity to Reverse Deep Erosion of Human Rights* (Index: EUR 44/3883/2021), 25 March 2021, https://www.amnesty.org/en/documents/eur44/3883/2021/en/

2023 events[47]; climate change and climate justice; women's rights (including the right to safe abortion); LGBTI activism and rights; migrants, refugees and asylum seekers; discrimination against minorities (including Roma); anti-racism and anti-fascism; anti-government criticism; animal rights; and anti-war/anti-NATO and pacifist causes.

1.3.1 THE STIGMATIZATION OF PROTESTS AND PROTESTERS BY STATE AUTHORITIES AND POLITICIANS

Some of the protests organized by climate activists have caused significant disruption and have included peaceful acts of civil disobedience (see Chapter 7 on civil disobedience). However, the rhetoric propagated against them fundamentally undervalues the right of peaceful assembly and goes against cultivating an enabling environment for the exercise of the right because it appears to validate and give political cover for restrictive rather than facilitative responses.

A variety of discrediting and harmful terms have been used by authorities and politicians to describe climate protesters and/or specific groups and their protest activities, including Extinction Rebellion (XR), Last Generation, and many others. These terms include "climate terrorists jeopardizing culture, traffic and human life" (**Austria**);[48] "dangerous extreme movement", "acting like a terrorist organization", "violent extreme organization" and "ecofascist extremist organization" (**Finland**);[49] "[part of a] criminal organization" and "the terror of the Taliban" (**Germany**);[50] "environmental fundamentalists", "cowards", "criminals", "radical chic environmentalists... extremists, ideological environmentalists", "thugs and hooligans" (**Italy**);[51] and "eco-terrorists" (**France**).[52] In the **Netherlands**, political representatives have spoken of a "threat to national security"[53] and organized crime[54] in relation to protests, specifically XR's March 2023 blockade of the A12 motorway in The Hague, where politicians stated that protesters "shouldn't complain about being confronted with a water cannon".[55] In **Portugal**, politicians spoke of "climate extremism", "activists normalizing violence", "climate terrorists, criminal behaviour, criminal association", and the need for "activists [to] be arrested for terrorism, social alarm, modern terror".[56] In **Spain**, the State Attorney General's annual report in

[47] On 7 October 2023, Hamas and other armed groups carried out attacks into southern Israel which included deliberate killings of civilians, launching of indiscriminate rockets and the taking of hostages. Shortly afterwards, the Israeli army began a campaign of massive bombardment and then a ground offensive which has included indiscriminate attacks and direct attacks on civilians and civilian objects. The scale of civilian casualties and extent of destruction and damages to homes, health care and infrastructure is unprecedented, Subsequently, people in Europe have been taking to the streets to demand a ceasefire and protest against war crimes, crimes against humanity and the risk of genocide in Gaza and Israel's system of apartheid over Palestinians.

[48] See 'Climate terrorists endanger culture, transport and human lives (13109J)' (in German), https://www.parlament.gv.at/PAKT/VHG/XXVII/J/J_13109/index.shtml

[49] See (in Finish) post on X at https://twitter.com/teresammallahti/status/1381869250785243137; post on Facebook at https://m.facebook.com/PSvarsinaissuomi/posts/10159699712694166/; 'Antikaine: Extinction Rebellion's harm to the rest of society must be addressed' (in Finish), 21 June 2021, available at https://www.suomenuutiset.fi/antikainen-elokapinan-haitantekoon-muulle-yhteiskunnalle-on-puututtava/; and post on Facebook (in Finish) at https://www.facebook.com/attekaleva/posts/pfbid09QHgNMLyeSYjnQC4NX85TDGgy1mz2HiwCda21vJ8cZv2jtbhFChn2mEjiCTXqKril

[50] CDU deputy Christopher Förster referring to the Last Generation group in a post on X available at https://twitter.com/Foerster_Chris/status/1581275732940304385; Michael Roth (SPD) comparing the actions of the Last Generation to the 'terror of the Taliban' in '"You don't give a shit about fundamental rights": SPD politician Roth compares Last Generation to Taliban' (in German) 6 March 2023, available at https://www.rnd.de/politik/letzte-generation-mit-oel-attacke-auf-denkmal-spd-politiker-vergleicht-aktivisten-mit-taliban-WAVFWSZY7RF6HCKLDKWOPQROEU.html

[51] Nello Musumeci, Minister for Civil Protection and Sea Policies, called climate activists "environmental fundamentalists" in May 2023; statement by the President of the Senate in January 2023; statement in November 2022 by a senator from the "Lega Nord" party; statement by Minister for Ecological Transition, R. Cingolani, in 2022; statement by the then Minister of Interior in July 2019 in relation to the No Tav movement.

[52] See 'Sainte-Soline : these politicians outrages by the « terrorists » who confront the police' (in French), 25 March 2023, available at https://www.huffingtonpost.fr/politique/article/sainte-soline-ces-politiques-outres-par-les-terroristes-qui-affrontent-les-forces-de-l-ordre_215726.html; '"Ecoterrorism": Why Gerald Darmanin raises his voice against the demonstrators of Sainte-Soline' (in French), 31 October 2023, available at https://www.bfmtv.com/politique/gouvernement/ecoterrorisme-pourquoi-gerald-darmanin-hausse-le-ton-face-aux-manifestants-de-sainte-soline_AV-202210310333.html

[53] See 'Police unions: 'Pressure from demonstrations affects national security' (in Dutch), 23 April 2024, available at https://www.telegraaf.nl/nieuws/459531303/politiebonden-druk-door-demonstraties-raakt-nationale-veiligheid

[54] See 'Extinction Rebellion activists are annoying, but not criminal' (in Dutch), 3 February 2024, available at https://decorrespondent.nl/15099/activisten-van-extinction-rebellion-zijn-irritant-maar-niet-crimineel/90737996-a278-063b-01da-47f423977398; House of Representatives, 29th meeting, 16 January 2024, 'Plenary report' (in Dutch), available at https://www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail/2023-2024/29; 'Forming parties demand tougher action by the police and the judiciary against Extinction Rebellion' (in Dutch), 16 January 2024, available at https://www.volkskrant.nl/politiek/formerende-partijen-eisen-harder-optreden-politie-en-justitie-tegen-extinction-rebellion~b1d967150/

[55] See 'Hundreds of arrested activists shivering put back on the street after A12 blockade: 'You're your own fault, big bump' (in Dutch), 12 March 2023, available at https://www.ad.nl/binnenland/honderden-opgepakte-activisten-rillend-weer-op-straat-gezet-na-a12-blokkade-eigen-schuld-dikke-bult~ae1c5a6e4/

[56] See post (in Spanish) o X at https://x.com/ritamariamatias/status/1735397751784137147; see post on Linkedin (in Spanish) at https://www.linkedin.com/posts/antonio-pinto-pereira-8191122b_ativistas-climaximo-clima-activity-7141396463292514304-

2022, included the activities of the environmental organizations XR and Futuro Vegetal under the heading 'National Terrorism'.[57] In **Serbia**, smear campaigns labelling environmental protesters as "foreign agents", "spies" and "fascists", falsely describing them as violent and destructive and downplaying the violence against them by masked assailants were led by the highest public officials to discourage citizens from joining the protests.[58] In **Slovenia**, activists were called "fascists" and "bullies".[59] In **Sweden**, peaceful protesters were described as "terrorists" and "extremists",[60] and were criticized for "putting lives in danger",[61] or more widely slandered,[62] and well-known climate activist Greta Thunberg was accused of wanting "[e]co fascism instead of democracy".[63]

In the **UK**, climate protesters were heavily stigmatized, and their actions were used in part as justification for proposed amendments to the Public Order Act. High-ranking officials labelled disruption created by environmental protests as "a threat to our way of life", described activists as "using guerilla tactics", and announced intentions to take a "firmer line to safeguard public order".[64] The UN Special Rapporteur on environmental defenders, following his visit to the UK in January 2024, expressed distress at how such "toxic discourse" and the widespread derision of environmental defenders by "media and political figures" was being instrumentalized to enact an "increasingly severe crackdown" on the right of peaceful assembly.[65] The Special Rapporteur also observed that environmental defenders, including those engaged in peaceful protests and civil disobedience, are increasingly portrayed negatively in the media and by political figures, and raised an alarm that such discourse is not only derogatory but is:

> **"often defamatory, contributes to endangering environmental defenders, is used to justify their repression and a corresponding shrinking of the civic space, and deters members of the public from participating in protests out of fear of being categorized as criminals and treated as such".[66]**

People protesting in solidarity with Palestinians have also been subjected to derogatory and hostile slurs and discriminatory stereotyping. In **Slovenia**, protesters calling for peace in Palestine were told to "go home to where they came from" by the then Prime Minister.[67] In October 2023, former Prime Minister and former Minister of Interior urged people on social network X to take photos of protesters showing support of Palestine, arguing they might be "terrorists".[68] In the **UK**, demonstrations were described as "hate marches"[69] by the Home Secretary and "descending into mob rule"[70] by the Prime Minister, after demonstrators called for a ceasefire and protested around MPs' homes, offices and council chambers, in addition to protests in major cities. In **Germany**, bans of assemblies on and around the Nakba Remembrance Day in May 2022 and 2023, among other things, referenced the "migration background" and

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bwzC/?originalSubdomain=pt; and 'Climate activism or terrorism' (in Spanish), 11 October 2023, available at 'https://www.publico.pt/2023/10/11/opiniao/opiniao/activismo-terrorismo-climatico-2066261

[57] The State Prosecutor's annual report for 2022 is available (in Spanish) at https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/clima-terrorismo/

[58] See 'Serbia, new environmental protests', 2 December 2021, available at https://www.balcanicaucaso.org/eng/Areas/Serbia/Serbia-new-environmental-protests-214325; 'Protests and blockades in Serbia: Mass brawl in Novi Sad' (in Serbian), 4 December 2021, available at https://balkans.aljazeera.net/news/balkan/2021/12/4/srbiju-danas-ocekuju-masovni-ekoloski-protesti-i-blokade-puteva

[59] See https://www.rtvslo.si/rtv365/arhiv/174806022?s=tv See video 'After the anti-PCT protests' (in Slovenian), 16 November 2021, available at https://365.rtvslo.si/arhiv/odmevi/174806022

[60] See post on Instagram (in Swedish), 1 November 2021, at https://www.instagram.com/p/CVvOfwvsrYD/?hl=en; post on X (in Swedish) 25 November 2022, available at https://x.com/Martin_Kinnunen/status/1596216822235217920;

[61] See 'Kristersson: "MP activists endanger lives" (in Swedish), 30 August 2022, available at https://www.aftonbladet.se/nyheter/a/OrRKkO/kristersson-mp-aktivister-aventyrar-liv

[62] See 'SD thinks climate activists don't belong in Sweden' (in Swedish), 30 November 2022, available at https://www.aftonbladet.se/nyheter/a/OrRKkO/kristersson-mp-aktivister-aventyrar-liv

[63] See 'Greta's response after the criticism from SSU: Democracy is everything' (in Swedish), 10 November 2021, available at https://www.aftonbladet.se/nyheter/a/OrRKkO/kristersson-mp-aktivister-aventyrar-liv

[64] See BBC News, "Suella Braverman tells police to be firmer with 'extremist' protesters", 9 November 2022, https://www.bbc.co.uk/news/uk-politics-63573956

[65] See Politico, "UN expert 'alarmed' by UK politicians' attacks on green protesters," 23 January 2024, https://www.politico.eu/article/michel-forst-united-nations-expert-alarmed-uk-politicians-attacks-green-protesters/
The statement by the UN Special Rapporteur is available at Aarhus_SR_Env_Defenders_statement_following_visit_to_UK_10-12_Jan_2024.pdf (unece.org)

[66] See UN Special Rapporteur on environmental defenders under the Aarhus Convention, "State repression of environmental protest and civil disobedience: A major threat to human rights and democracy", February 2024, UNSR_EnvDefenders_Aarhus_Position_Paper_Civil_Disobedience_EN.pdf (unece.org)

[67] See post on X (in Slovenian), 21 May 2021, available at https://x.com/jjansasds/status/1395804170888925186?lang=ca;

[68] See Ground News, "In Ljubljana rally for Palestine, Janša and Hojs call for participants to be photographed", 2023, https://ground.news/article/in-ljubljana-rally-for-palestine-jansa-and-hojs-call-for-participants-to-be-photographed

[69] See Guardian, "Suella Braverman calls pro-Palestine demos 'hate marches'", 30 October 2023, https://www.theguardian.com/politics/2023/oct/30/uk-ministers-cobra-meeting-terrorism-threat-israel-hamas-conflict-suella-braverman

[70] See BBC News, "Protests descending into mob rule, Rishi Sunak warns police", 29 February 2024, https://www.bbc.co.uk/news/uk-politics-68429902

the "Arab and Muslim identity" of expected participants as groups that the authorities foresaw engaging in violence.[71] (for more details on crackdown on protests in solidarity with Palestine, see Chapter 4).

Women's rights groups and LGBTI groups have also faced vilifying labels. In **Poland**,[72] women's rights protests were triggered by a Constitutional Tribunal decision in 2022 that restricted the right to abortion. The leader of the Law and Justice Party described the protests as an "attack intended to destroy Poland and lead to the triumph of forces whose power will end the history of the Polish nation", and said that stopping them was "the duty of the state, but also our duty as citizens".[73] Meanwhile, protesters hanging the LGBTI rainbow flag on monuments were accused of "vandalism" and "barbarism" by the President.[74] The LGBTI community was further stigmatized by the authorities through statements such as "they are not people but an ideology"[75] from the President, and calls from the Minister of Education to:

> **"put an end to these discussions about the abominations of LGBT, homosexuality, bisexuality and Pride marches. Let's defend the family from this kind of corruption, depravity and absolutely immoral behaviour. We should defend ourselves against the LGBT ideology and stop listening to this nonsense about human rights or some equality. These people are not equal to normal ones and we should stop this discussion."[76]**

Furthermore, an increasing number of local governments in Poland have gradually adopted homophobic resolutions which arbitrarily ban Pride parades and Equality Marches; creating what are known as "LGBTI-free zones".[77] Although not legally binding, such actions are harmful and fuel the atmosphere of hostility towards LGBTI people living in those regions of Poland. In **Türkiye**, high-level public officials used discriminatory language that entrenches harmful gender-based stereotypes and institutional homophobia and transphobia.[78] The President spoke on a television programme in May 2023 saying, "LGBT is a poison injected into the institution of the family. It is not possible for us to accept that poison, especially in a country where 99% of its people are Muslim." Many high-level officials and politicians have also openly and routinely attacked LGBTI people by using harmful and discriminatory terms such as "LGBTI perversion" and "LGBTI terror," and by calling for a ban on "LGBTI propaganda" and closure of LGBTI organizations. In **Hungary**, for many years, government politicians regularly attacked and conducted smear campaigns against LGBTI communities, while the Propaganda Law introduced in 2021 curtails discussions and portrayals of LGBTI people, amongst others, in schools and in the media and has had a far-reaching negative impact on LGBTI individuals and groups in the country.[79]

In addition to the movements mentioned above, other groups have also been criticized and smeared by officials, including some high-level politicians. In **Greece**, people protesting in support of the hunger striker Dimitris Koufondinas and against police violence in February and March 2021 were referred to by authorities as a mix of 'hooligans', 'members of the left', 'anarchist groups' and 'liking terrorism'.[80] In **Hungary**, teachers who led demonstrations that continued throughout 2022 were discredited by the government and

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[71] Prohibition notice of the Berlin police of 12.05.2022, p. 9 (on file with Amnesty International Germany).
[72] See 'Kaczyński calls for war with women. The text of the statement, word by word (everyone is worse)' (in Polish), 27 October 2020, available at https://oko.press/kaczynski-wzywa-do-wojny-z-kobietami-tekst-oswiadczenia
[73] See 'Kaczyński calls for war with women. The text of the statement, word by word (everyone is worse)' (in Polish), 27 October 2020, available at https://oko.press/kaczynski-wzywa-do-wojny-z-kobietami-tekst-oswiadczenia
[74] In July 2020, a prosecutor initiated criminal proceedings against three protesters who hung rainbow flags on monuments in Warsaw on the night of 28 to 29 July 2020 in reaction to what they called "internalized homophobic attitudes". The legal basis was Article 261 of the Criminal Code, stipulating the crime of profanation of a monument. The rainbow flags with symbols of the anarchist movement were placed at the monuments of pre-war general Józef Piłsudski, the Warsaw Mermaid, Nicolaus Copernicus and the statue of Christ at a landmark church in Warsaw. See Amnesty International,
Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists (Index: EUR 37/5882/2022), 20 July 2022, https://www.amnesty.org/en/documents/eur37/5882/2022/en/
[75] See statement by President Andrzej Duda during the presidential campaign in 2020, 'You will not bring back the lives of young people by declaring that your statement was taken out of context' (in Polish), 15 June 2020, available at https://kobieta.onet.pl/wiadomosci/homofobiczne-slowa-politykow-pis-komentuja-osoby-lgbt/1rdh7w4
[76] See statement by Minister of Education in 2020, 'Przemyslaw Czarnek apologizes for homophobic statements about "LGBT ideology" on TVP and Radio Maryja' (in Polish), 29 September 2022, available at https://www.wirtualnemedia.pl/artykul/przemyslaw-czarnek-przeprosiny-homofobiczne-wypowiedzi-o-ideologii-lgbt-na-antenie-tvp-i-radia-maryja
[77] The administrative units that declared themselves as "LGBT-free zones" are included in the Atlas of Hatred, an interactive map documenting hostility towards LGBTI community, available at atlasnienawisci.pl
The Atlas of Hatred was prepared by LGBTQ activists Jakub Gawron, Paweł Prenta, Paulina Pająk and Kamil Maczuga, see https://www.letsgobytalking.eu/lgbtq-activists-have-developed-the-atlas-of-hate-in-poland
[78] Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters (Index: EUR 44/8049/2024), 17 May 2024, https://www.amnesty.org/en/documents/eur44/8049/2024/en/
[79] Amnesty International, Hungary: From Freedom to Censorship: The Consequences of the Propaganda Law (Index: EUR 27/7571/2024), 27 February 2024, https://www.amnesty.org/en/documents/eur27/7754/2024/en/
[80] See statement of the Ministry of Citizens' Protection of 15 March 2021, available at: https://bit.ly/3X0IZGk

government-aligned media.[81] A Roma organization protesting against the government's opposition to paying compensation to segregated Roma people in the town of Gyöngyöspata was denounced as a "foreign-funded organization".[82] In **Germany**, anti-fascist actions were described as "terror" by the Saxon Minister of Interior.[83] In the **Netherlands,** peaceful animal-rights protesters were defined as "extremists",[84] and a group calling for a ban on people dressing as "Black Pete" (*Zwarte Piet*) during the annual *Sinterklaasavond* festival were described as an "extreme leftist anti-racism group" by state officials.[85] In **Serbia**, Women in Black[86] and other peace protesters were routinely labelled as "enemies of the state" and "traitors" and were targeted by smear campaigns in pro-government tabloids.[87] For example, in 2021, the then Serbian Minister of Interior said that a prominent peace activist "deserves contempt" by the Serb people because of their views on the wars in former Yugoslavia.[88]

In **Slovenia**, protesters denouncing the blanket bans on demonstrations during the pandemic were called "pigs"[89] and accused by state officials of taking away state resources (in relation to the cost of policing) from schools and care homes.[90] In **Türkiye**, protesters who participated in the 2013 Gezi Park demonstrations were referred to as "marauders",[91] while student protesters were described as "terrorists",[92] "perverts"[93] and a "flock of insects and anarchists".[94] Participants in the Saturday Mothers/People demonstration – a long-standing protest against enforced disappearances of loved ones[95] – were criticized as "trying to create victimization out of the concept of motherhood in order to mask terrorism and polarize society".[96]

1.3.2 REPRESSIVE LEGISLATION UNDERPINNED BY STIGMATIZING NARRATIVES EMPLOYED BY STATE OFFICIALS

These negative narratives have not only permeated statements by politicians and other state officials but have also been relied upon in legislation, and as a justification for the enactment of anti-human rights provisions.

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[81] Gergely Gulyás (Minister leading the Office of the Prime Minister) on 13 October 2022, 'Teachers' salaries could increase by twenty-one percent instead of ten, and according to the PDSZ, this would only be an inflation-tracking increase' (in Hungarian), 13 October 2022, available at https://www.szabadeuropa.hu/a/januarban-10-helyett-21-szazalekkal-nohet-a-tanarok-bere-a-pdsz-vezetoje-szerint-ez-csak-inflaciokoveto-emeles-lenne/32080776.html; letter sent by Zoltán Maruzsa, MoI Secretary of State responsible for public education to the DTUE and to the Trade Union of Educators on 30 August 2022

[82] See 'Fidesz: Segregation is only an excuse for school affairs in Gyöongyöhttps://magyarnemzet.hu/belfold/2020/02/fidesz-a-gyongyospatai-iskolaugynek-a-szegregacio-csak-urugye See 'Fidesz: Segregation is only an excuse for school affairs in Gyöngyöspata' (in Hungarian), 17 February 2022, available at https://magyarnemzet.hu/belfold/2020/02/fidesz-a-gyongyospatai-iskolaugynek-a-szegregacio-csak-urugye#google_vignette

[83] See statement by Saxon Minister of the Interior, https://www.deutschlandfunk.de/linksextreme-gewalt-prozess-dresden-100.html

[84] See 'Minister Grapperhaus challenged over statements on stable occupiers Boxtel, Animal Rights pleased' (in Dutch), 10 July 2020. available at https://www.omroepbrabant.nl/nieuws/3228328/minister-grapperhaus-aangesproken-op-uitspraken-over-stalbezetters-boxtel-animal-rights-tevreden; Nationale Ombudsman, 'The Minister of Justice and Security states: does not de-escalate sufficiently' (in Dutch), October 2022, https://www.nationaleombudsman.nl/system/files/rapport/20220177%20De%20minister%20van%20Justitie%20en%20Veiligheid%20stelt%20zich%20onvoldoende%20de-escalerend%20op%20.pdf

[85] See 'NRC Checkt: 'Kick Out Black Pete in Terrorism Threat Assessment in the Netherlands'' (in Dutch), 16 November 2018, available at: https://www.nrc.nl/nieuws/2018/11/16/kick-out-zwarte-piet-in-dreigingsbeeld-terrorisme-nederland-a2755511; 'Rutte must speak out about Zwarte Piet demonstrations', 16 November 2018, available at: https://www.volkskrant.nl/columns-opinie/rutte-moet-zich-uitspreken-over-zwarte-piet-demonstraties~badb69b7/ ; 'Amnesty: 'Rutte must condemn violence during Sinterklaas arrival'' (in Dutch), 18 November 2018, available at: https://nos.nl/artikel/2259772-amnesty-rutte-moet-geweld-tijdens-sinterklaasintocht-veroordelen

[86] See Women's Feminist - Antimilitarist Peace Organization (in Serbian), available at: https://zeneucrnom.org/en/

[87] See Women's Feminist - Antimilitarist Peace Organization – File of attacks on Women in Black, in Serbian available at: https://zeneucrnom.org/sr/aktivnosti/bezbednost/20-aktivnosti/bezbednost/143-dosijea-o-napadima

[88] See 'Minister Vulin: Nataša Kandić deserves the contempt of the Serbian people' (in Serbian), 7 November 2021, available at: https://www.novosti.rs/vesti/politika/1015787/ministar-vulin-natasa-kandic-zasluzuje-prezir-srpskog-naroda

[89] See Aleš Hojs on X, 26 June 2021, in Slovenian, available at: https://x.com/aleshojs/status/1408565723484594176

[90] See Janez Janša on X, 28 September 2021, in Slovenian, available at: https://x.com/JJansaSDS/status/1442745586109849602

[91] See Amnesty International, "Gezi Park Protests: Brutal Denial of the Right of Peaceful Assembly in Türkiye", 2 October 2013, https://www.amnesty.org/en/documents/eur44/022/2013/en/

[92] See Al Jazeera, "Erdogan compares Turkish student protesters to 'terrorists'", 4 February 2021, https://www.aljazeera.com/news/2021/2/4/erdogan-compares-turkish-student-protesters-to-terrorists; Amnesty International, "University students released but allege torture" (Index: EUR 44/8565/2018), 8 June 2018, https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR4485652018ENGLISH.pdf

[93] See post on X by Turkish politician, https://x.com/suleymansoylu/status/1356498579662200833?lang=en. The tweet was deemed to be in breach of X's (formerly Twitter's) rules; however, it remains available to be viewed.

[94] See 'Boğaziçi statement from Bahçeli full of insults and conspiracy theories' (in Turkish), 1 February 2021, available at: https://www.evrensel.net/haber/424947/bahceliden-hakaret-ve-komplo-teorisi-dolu-bogazici-aciklamasi

[95] See Amnesty International, "Türkiye: Fully open Galatasaray square: Saturday Mothers/People" (Index: EUR 44/7419/2023), 2023, https://www.amnesty.org/en/documents/eur44/7419/2023/en/

[96] See 'Turkish government, opposition in a row over Saturday Mothers demonstrations', 27 August 2018, available at: https://www.hurriyetdailynews.com/terror-groups-exploit-saturday-mothers-turkeys-interior-minister-says-136184, Ulusal Kanal: Süleyman Soylu'dan 'Cumartesi Anneleri' açıklaması, 27 August 2018 https://www.youtube.com/watch?v=X5Ok4b85L4k (25-36 seconds)

For example, in **Italy** a new proposal for legislation was put forward in May 2023 by the Ministry of Culture which described its purpose in pejorative language as aiming to tackle "eco-vandals".[97] The proposal, concerning the offence of destroying or defacing cultural or landscape heritage, was adopted into law in January 2024, and provides for the extension of substantial sanctions against peaceful protesters.[98] The text was criticized by civil society organizations, including Amnesty International, for criminalizing protest actions and having a consequent chilling effect on environmental activism and those who carry out acts of peaceful civil disobedience as a tool of individual protest or in collective contexts.[99] (See more details on this law in Chapter 7 on civil disobedience.) The new law followed the so-called 'anti-rave decree', passed in 2022, which was approved under urgent procedures and also raised concerns of disproportionate restrictions being imposed on the right of peaceful assembly.[100]

In the **UK** in March 2024, against a backdrop of large-scale demonstrations to protest against a risk of genocide in Gaza, calls for accountability for Israel's violations of international law and the UK's possible complicity, the Prime Minister called for more restrictions on people's rights to protest peacefully.[101] More funding was also devolved to the 'Prevent' programme for counterterrorism. The Prevent programme, which has been criticized for its Islamophobic stereotyping, refers people to the police without them having committed any crime.[102] Proposals were put forward by ministers to ban members of the UK parliament and local councillors from engaging with groups such as the Palestine Solidarity Campaign, XR and Just Stop Oil, arguing that a "zero-tolerance approach" should be employed in relation to groups that use "disruptive tactics" or fail to stop "hate" on marches.[103] Amnesty International joined forces with 45 other groups to criticize the proposals and to call out what appeared to be another crackdown on the rights of peaceful assembly and freedom of expression.[104]

In **Germany**, discussions around a new assembly law in North-Rhine Westphalia – which entered into force in 2022 – reflected the trend of stigmatizing and criminalizing protesters. The explanatory remarks to the draft law – which has since been adopted[105] – depicted assemblies as a "threat to public safety and order", with the seeming assumption that assemblies are inherently dangerous and must be "contained". The remarks emphasized that the "resolute combating" of non-peaceful gatherings is a concern for society as a whole, as well as being the "central task of the administrative and judicial authorities". [106] Such assumptions are alarming from a human rights perspective, especially because they create and sustain possibilities for intervention against assembly participants.

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[97] See Ministry of Culture, 'Eco-vandal bill, Sangiuliano: "It's finally law, I thank the Parliament"' (in Italian), 18 January 2018, available at: https://www.beniculturali.it/comunicato/25792

[98] Law 6/2024 on "Sanctioning provisions regarding the destruction, deterioration, defacement, defiling, and unlawful use of cultural or landscape assets and amendments to Articles 518-duodecies, 635, and 639 of the Penal Code."

[99] The law punishes the same conduct already prosecuted by the Criminal Code (Article 518-duodecies), further aggravating the sanctioning system. In fact, the new legislation adds an administrative sanction to the prison sentence already provided for in the Criminal Code when the defacement is committed at events that take place in a public place or places open to the public. There are also specific penalties – imprisonment from one to six months or a fine of 300 to 1,000 EUR – for those who "deface or deface display cases, enclosures, and other structures used for the exhibition, protection, and conservation of cultural assets exhibited in museums, art galleries, and other exhibition venues of the state, regions, and other public territorial entities, as well as any other public entity and institution".

[100] In November 2022, Amnesty Italy had raised concerns in parliament on how the formulation of the new crime was vague and overbroad, allowing for the potential criminalization of a wide arrays of gatherings, and underlined that it was violating the principles of necessity and proportionality, see: https://www.amnesty.it/decreto-legge-rave-rischio-di-interpretazione-discrezionale-chiediamo-labrogazione-dellarticolo-5/. The decree law was adopted as law 199 on 30 December 2022 and introduced a new offence that punishes trespassing aimed at organizing a musical or other entertainment gathering deemed dangerous for public health and safety, see https://onelegale.wolterskluwer.it/normativa/legge-30-12-2022-n-199/10LX0000936894SOMM?docType=i9. Organizers of such gatherings face up to six years' imprisonment and a fine of up to 10,000 EUR. See also Amnesty International, "Amnesty International Report 2022/23: The State of the World's Human Rights", 27 March 2023, https://amnesty.org/en/documents/pol10/5670/2023/en/

[101] The proposals were announced in February 2024 and reiterated in the speech by the Prime Minister, see https://www.gov.uk/government/news/new-protest-laws-on-face-coverings-and-pyrotechnics

[102] Amnesty International UK, "UK: Prime Minister's speech about peaceful protests is 'deeply worrying'", 1 March 2024, https://www.amnesty.org.uk/press-releases/uk-prime-ministers-speech-about-peaceful-protests-deeply-worrying
Amnesty International has also extensively documented and criticized the Prevent programme as violating the most fundamental rights and freedoms, see most recent report from November 2023 at https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20(1).pdf

[103] See Guardian, "UK ministers consider ban on MPs engaging with pro-Palestine and climate protesters", 3 March 2024, https://www.theguardian.com/world/2024/mar/03/ministers-consider-ban-mps-engaging-pro-palestine-climate-protesters
The Sun, "We must stop thugs threatening democracy and ban MPs working with groups behind Palestine marches", 2 March 2024, https://www.thesun.co.uk/news/politics/26316330/lord-walney-ban-mps-palestine-marches-work/

[104] Letter undersigned by Amnesty International and 45 other groups is available at https://www.amnesty.org.uk/resources/open-letter-uk-government-must-stop-crackdown-freedom-expression

[105] New law available at https://www.rv.hessenrecht.hessen.de/bshe/document/jlr-VersammlFrhGHEpIVZ

[106] For a more detailed analysis of problematic provisions, see Amnesty International Germany, "Statement by Amnesty International on the law introducing a North Rhine-Westphalia Assembly Law Document 17/12423", 30 September 2021, available at https://www.amnesty.de/sites/default/files/2021-10/Amnesty-Stellungnahme-Einfuehrung-Versammlungsgesetz-NRW-September-2021.pdf

1.4 DISPROPORTIONATE AND DISCRIMINATORY RESTRICTIONS

Many people who organize and participate in protests experience discrimination in different ways. An individual may face discrimination on the basis of a single ground, or encounter discrimination on the basis of multiple grounds. Sometimes these grounds operate together, and their intersection produces a distinct form of disadvantage[107], making participation in protests much harder for some groups. Women, children, LGBTI people and gender non-conforming people, Black people, Arab people or people belonging to other racialized groups, and persons with disabilities face specific challenges to participation in protests and more generally in the civic space, as their rights are restricted by societies through different forms of intersecting racism, sexism, violence, marginalization, social norms and sometimes even legislation to repress them and to maintain a status quo dominated by patriarchy and heteronormativity. States must put in place effective protection, in legislation and in practice, that addresses these different intersecting forms of discrimination (whether direct or indirect), including the root causes of discrimination and any harmful stereotypes and prejudicial norms, values and practices that negatively impact on people's ability to exercise their right to protest.

All 21 countries examined for this report have codified the principle of equal treatment and non-discrimination in their legislation at various levels, primarily in their constitutions (or equivalent) and accompanying equality acts. For some countries, the principle is directly referenced in relation to the right of peaceful assembly; in other countries, it is inferred through its inclusion in fundamental rights legislation that applies to rights and freedoms.

This report does not include a detailed examination of the anti-discrimination legislation of each country to assess the specific wording of all provisions.[108] Nonetheless, some countries have received criticism from international and regional mechanisms, as well as from NGOs, regarding the fragmented and piecemeal nature of such legislation (which raises concerns for effective remedies when violations occur), and for failure to ratify key mechanisms to strengthen protection. For example, **Austria** received criticism from international bodies for its fragmented regulations,[109] as well as for its failure to ratify the freestanding prohibition of discrimination in Protocol 12 of the European Convention on Human Rights (ECHR). In another example, the Committee on Economic, Social and Cultural Rights raised concerns and called on **Ireland** to adopt comprehensive anti-discrimination legislation.[110]

According to international and regional human rights standards (in relation to laws protecting against discrimination), open-ended lists of protected characteristics – those that should not be used as a justification for restricting rights – are considered to be good practice.[111] In practice, an open-ended list involves listing, as protected characteristics: race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth, and the addition of "any other grounds" to enable and facilitate a more rounded interpretation of the protection afforded. It also allows for more effective protection against multiple/intersectional discrimination. For example, **Finland** recognizes that nobody should be treated differently on the grounds of "sex, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person".[112] **Hungary** prohibits "discrimination on the grounds of race, colour,

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[107] 'Intersectionality' is a way of examining how different forms of discrimination can overlap and interact with each other to create a unique and compounding experience of oppression for an individual. It examines how the discrimination that an individual experiences because they belong to a particular social identity group that suffers oppression because of their gender, sexual orientation, race, class, caste, disability, immigration status, religion, ethnicity, indigenous identity, or any other prohibited grounds makes a person's experience of oppression different from someone else's.

[108] The overview of recommendations and concluding observations by international treaty bodies and other mechanisms on discrimination (as well as other human rights concerns), for all countries, are available at https://uhri.ohchr.org/en/search-human-rights-recommendations?themes

[109] European Commission against Racism and Intolerance, Conclusions on the Implementation of the Recommendations in respect to Austria, CRI (2018)21, adopted on 21 March 2018; available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRPD%2FC%2FAUT%2FCO%2F1&Lang=en

[110] UN Committee on Economic, Social and Cultural Rights, Concluding Observations: Ireland, 20 March 2024, UN Doc. E/C.12/IRL/CO/4

[111] For example, the Human Rights Committee's (HRC) General Comment 18 states that "discrimination is any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms". HRC, General Comment 18: Non-discrimination, 10 November 1989, https://www.refworld.org/legal/general/hrc/1989/en/6268 para. 7.

[112] Finland, Constitution, Chapter 2, section 6. Despite the open-ended list in the Constitution and the fact that section 13 of the Constitution guarantees the right of peaceful assembly to everyone, it is of concern that Finland 's legislation on the right of peaceful assembly restricts the right of children to organize protests under the age of 15 (see Chapter 8 on children in protests). In addition, the Non-Discrimination Act (Chapter 3, section 8) specifically adds age to the protected characteristics. Furthermore, international treaty bodies and other mechanisms have issued several recommendations and concluding observations concerning discrimination, available at https://uhri.ohchr.org/en/search-human-rights-recommendations

sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status".[113]

Some of the countries focused on in this research, however, use a 'closed list' when listing the protected characteristics. In **Greece**, for example, the Constitution provides protection to everyone without "discrimination of nationality, race, language and religion or political beliefs",[114] while **Italy**'s Constitution mentions that "[a]ll citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinions, personal and social personal and social conditions".[115] Article 14 of **Spain**'s Constitution guarantees equal protection – to all Spaniards - before the law, without any discrimination on the grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.[116]

It is worth noting that in some of the countries examined for this report, these protective legal provisions stand in stark contrast to the treatment that some groups and individuals face in practice, both in relation to the right of peaceful assembly and also other rights and freedoms.[117] For example, in **Türkiye,** the authorities routinely discriminate and use violence against LGBTI people, employ blanket bans and other discriminatory restrictions on peaceful assemblies, including unnecessary and arbitrary use of force by law enforcement officials, in some cases constituting torture and other ill-treatment.[118]

1.4.1 DIFFERENTIAL TREATMENT OF 'CITIZENS' (NATIONALS) AND 'NON-CITIZENS' (NON-NATIONALS)

In most of the countries covered by this report, legislation governing the right of peaceful assembly confers protection of the right upon *everyone* rather than referring only to citizens or making other exceptions. However, in a few cases, the legislation guarantees protection only to citizens, or names the specific nationality groups that are protected. For example, in **Germany** and **Greece**, the protection is conferred in law only to "Germans" and "Greeks" respectively.[119] In **France**, **Ireland**, **Portugal** and **Serbia**, the protection is conferred upon "citizens" or "nationals".[120] While there is a long-standing practice and jurisprudence confirming that the use of "citizens" is not limited to nationals but is interpreted rather more comprehensively, in some countries, concerns and gaps remain.

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[113] Hungary, Fundamental Law, Article XV(2). "Sexual orientation" and "gender identity" are not explicitly included. However, authorities have argued that such protected characteristics are covered by "any other status". The Equality Treatment Act explicitly bans discrimination based on sexual orientation and gender identity. However, Hungary limits right of peaceful assembly to certain categories and, for example, a "refugee" would not be permitted to organize an assembly (but would be able to participate). Hungary has also been heavily criticized for the treatment of LGBTI individuals, women and ethnic minorities, by NGOs and international and regional bodies. See CEDAW, Concluding observations: Hungary, February 2023, UN Doc. CEDAW/C/HUN/CO/9. See AP News, "EU takes Hungary to highest court over LGBT, media rules", 15 July 2022, https://apnews.com/article/hungary-gender-identity-gay-rights-5a18372fabda636154783d5fd3557608; Euractiv, "15 governments join EU lawsuit against Orbán's anti-LGBT law", 7 Apr 2023, https://www.euractiv.com/section/eu-institutions/news/15-governments-join-eu-lawsuit-against-orbans-anti-lgbt-law/; Guardian, "EU parliament condemns Hungary's anti-LGBT law", 8 July 2021, https://www.theguardian.com/world/2021/jul/08/eu-parliament-condemns-hungary-anti-lgbt-law. See also overview of recommendations and concluding observations by international treaty bodies and other mechanisms on discrimination, available at https://uhri.ohchr.org/en/search-human-rights-recommendations

[114] Greece, Greek Constitution, Article 5. The overview of recommendations and concluding observations by international treaty bodies and other mechanisms on discrimination are available at https://uhri.ohchr.org/en/search-human-rights-recommendations

[115] Italy, Constitution, Article 3. However, see also the analysis regarding "non-citizens"/legislation in 1.4.1. The overview of recommendations and concluding observations by international treaty bodies and other mechanisms on discrimination are available https://uhri.ohchr.org/en/search-human-rights-recommendations

[116] Spain, The Spanish Constitution, available at https://www.boe.es/buscar/act.php?id=BOE-A-1978-31229

[117] See Amnesty International, "Hungary: Propaganda Law has 'created cloud of fear' pushing LGBTI+ community into the shadows", 27 February 2024, https://www.amnesty.org/en/latest/news/2024/02/hungarypropaganda-law-has-created-cloud-of-fear-pushing-lgbti-community-into-the-shadows/; Amnesty International, "Hungary: Women face stark increase in discrimination and job insecurity in the workplace due to COVID-19 crisis", 3 June 2020, https://www.amnesty.org/en/latest/news/2020/06/hungary-women-face-stark-increase-in-discrimination-and-job-insecurity-in-the-workplace-due-to-covid19-crisis/; Amnesty International, "Europe: Policing the Pandemic: Human Rights Violations in the Enforcement of COVID-19 Measures in Europe", 24 June 2020, https://www.amnesty.org/en/documents/eur01/2511/2020/en/; Amnesty International, Poland: "They Treated Us Like Criminals"; Amnesty International, https://www.amnesty.org/en/documents/eur37/5882/2022/en/; "Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters", 17 May 2024, https://www.amnesty.org/en/documents/eur44/8049/2024/en/

[118] See Amnesty International, "Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters", 17 May 2024, https://www.amnesty.be/IMG/pdf/20240517_briefing_turquie_prides.pdf

[119] Germany: Constitution, Article 8, states that "All Germans shall have the right to assemble peacefully and unarmed without prior notification or permission"; Greece: Constitution, Article 11, states that "1. Greeks have the right to assemble peacefully and without arms".

[120] France: Constitution, Article 1; Ireland: Constitution, Article 40.6.1 (note that the term "citizen" in the Fundamental Rights provisions of the Irish Constitution has been widely interpreted by the courts as applying to everyone within the territory of Ireland, not just those with Irish citizenship); Portugal: Constitution, Article 45; Serbia: Constitution, Article 54, says "Peaceful assembly of citizens is free", however the Law on Gatherings does not make a distinction between citizens and non-citizens.

For example, **Italy**'s legislation confers protection on "citizens" and foreigners "regularly residing in the territory of the State". This, however, leaves a potential gap regarding people who might not be legally residing there, such as undocumented migrants or stateless people.[121] In **Austria**, "foreigners" are prevented from acting as assembly organizers, stewards or leaders.[122] In **Hungary**, the legislation on the right of peaceful assembly provides a restricted list of who can organize an assembly, which excludes certain categories of people.[123] For example, a refugee would not be permitted to organize an assembly in Hungary, although they would be able to participate. In **Türkiye**, the Constitution enshrines protection for "everyone".[124] However, the specific legislation on the right of peaceful assembly introduces restrictions based on citizenship status by which foreign nationals must request authorization from the Ministry of the Interior to organize meetings, demonstrations or marches. Moreover, foreign nationals may only address groups in meetings and marches, or carry posters and other types of materials, if they inform the highest local administrative authority in the district where the meeting is to be held at least 48 hours before the meeting.[125] Accordingly, the obligation for foreign nationals to obtain authorization for any meetings, demonstrations or marches turns the right of peaceful assembly into a privilege that authorities may grant or not, in a manner that discriminates against foreign nationals.

1.4.2 DIFFERENTIAL TREATMENT OF OTHER GROUPS

Systemic discrimination, exclusion and marginalization are powerful barriers to people exercising their rights, including the right of peaceful assembly. Engaging in public protest can also trigger harsher repression for people who face other forms of discrimination, particularly so when these intersect; for example, for Black people, Arab people or people belonging to other racialized groups, people belonging to ethnic and religious minorities, people on the move, or people subject to discrimination based on their age, gender or sexual orientation. Public rhetoric, as illustrated above (section 1.4.2), with authorities and officials purposefully engaging in smear campaigns against specific groups or causes, adds to an increasingly hostile environment in which some groups are disproportionately affected in the enjoyment of their rights.

The possible discriminatory effect of the implementation of measures by states on Black people, Arab people or people belonging to other racialized groups, who experience discrimination and violence based on their race, ethnicity, religion and/or migration status, has received significant attention across the region, including in relation to protests. For example, in 2020, Amnesty International documented several cases across Europe in which law enforcement officials, in the context of identity checks, resorted to unlawful use of force to impose lockdown measures on people who did not offer resistance or constitute a significant threat, with an excessive impact on racialized groups.[126] Racialized groups were already subjected to human rights violations such as discriminatory identity checks, unlawful use of force, institutional racism and lack of accountability for violations prior to the pandemic, and this has continued since the Covid-19 pandemic ended. These events occurred in the context of widespread discrimination against racialized groups in Europe, as documented for almost two decades by Amnesty International.[127] In **France**, according to the Ombudsman[128], young men and boys perceived to be Black or of Arab descent are disproportionately more

[121] Italy, Constitution, Article 17, states that: "Citizens have the right to assemble peacefully and without arms." However, the Constitutional Court, in sentence No. 104/1969 clarified that the "principle of equality, while Article 3 of the Constitution refers to citizens, must be considered extended to foreigners when it comes to the protection of the inviolable rights of man, guaranteed to foreigners also in accordance with the international order". Furthermore, Articles 3 and 17 of the Constitution only mention "citizens". However, this right is also extended to 'non-nationals', whose "legal status is regulated by law in accordance with international norms and treaties" (Article 10, p. 2 of the Constitution). In particular, Article 2(2) of legislative decree No. 286/1998 (the so-called Immigration Consolidation Act) expressly provides that "a foreigner regularly residing in the territory of the State enjoys the civil rights attributed to an Italian citizen, except where international conventions in force and the present decree provide otherwise".
[122] See Versammlungsgesetz, section 8. "Foreigners" within the meaning of this provision are third-country nationals, but not-EU citizens.
[123] Hungary, ARA, Article 3(3), notes that an assembly organizer (i.e. the person who publicly calls for participation at and advertises, organizes and leads the assembly) may only be: a) a Hungarian citizen, b) a person who has the right to free movement within the EU, c) a person who falls within the scope of the Act on the Migration of Third Country Nationals and has temporary or permanent residency in Hungary, or d) a Hungarian legal person or other organization whose legal representative qualifies under the criteria in (a)-(c).
[124] Türkiye, Constitution of Türkiye, Article 34.
[125] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 3(2).
[126] See Amnesty International, "Europe: Policing the Pandemic: Human Rights Violations in the Enforcement of COVID-19 Measures in Europe", 24 June 2020, https://www.amnesty.org/en/documents/eur01/2511/2020/en/;
[127] See Amnesty International, "Austria: Victim or Suspect – A Question of Colour: Racial discrimination in the Austrian Justice System", 9 April 2009, https://www.amnesty.org/en/documents/eur13/002/2009/en/
Amnesty International, "Hungary: Violent Attacks Against Roma in Hungary: Time to Investigate Racial Motivation", 10 November 2010, https://www.amnesty.org/en/wp-content/uploads/2021/07/eur270032010en.pdf; Amnesty International, "Missing the Point: Lack of Adequate Investigation of Hate Crimes in Bulgaria", 9 February 2015, https://www.amnesty.org/en/documents/eur15/0001/2015/en/; Amnesty International, "Living in Insecurity: Germany is Failing Victims of Racist Violence", 9 June 2016, https://www.amnesty.org/en/documents/eur23/4112/2016/en/; Amnesty International, "Germany: Submission to the UN Committee on the Elimination of Racial Discrimination, 111th Session", November 2023.
[128] See Ombudsman, "Survey on Access to Rights: Relations Police/Public: the case of identity checks" (in French) 2017, https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=16064

likely to be subject to identity checks by police, while numerous reports documented the devastating impact of discriminatory policing, including on children as young as 12.[129] Reports and studies have also raised for years alarms around police violence and ethnic profiling against Black people, Arab people and people belonging to other racialized groups in **Austria**, **Belgium**, **Germany**, **Spain**, and the **UK.**[130] In **Portugal**, the UN Working Group of Experts on People of African Descent reported concerns around the prevalence of racial discrimination against, and the wider human rights situation of, people of African descent, stating that:

> **"People of African descent in Portugal experience systemic racism in similar ways despite varied individual circumstances. Following the murder of George Floyd, large anti-racism protests called for the revision of colonial narratives, consistent with global conversations on systemic racism in 2020. Civil society continues to drive the calls for racial justice in the country."[131]**

Children are also among the groups for whom concerns have been raised in relation to the disproportionate or discriminatory impact of measures related to the right of peaceful assembly. In the **UK**, for example, criticism of tactics employed to police the Black Lives Matter protests in 2020 focused on the enhanced vulnerability that children and other vulnerable people might face. Particular concern was raised in relation to the practice of 'kettling', where police enclose large numbers of protesters – many of whom were black or other racially minoritized protesters, including people under the age of 18 – in confined spaces for many hours and with limited or no access to food, water or toilets and the harms it inflicts on those it is imposed on.[132] (See more details on the practice of kettling and containment in Chapter 5.3.4, and in Chapter 8 which details the situation of children in protests)

Activists with disabilities have reported concerns relating to their treatment during assemblies. In the **UK**, the police were reported to have passed information related to activists with disabilities to the ministry responsible for social welfare, under the assumption that the activists must be fraudulently claiming disability welfare payments if they could participate in protests.[133] Organizations have warned about the chilling effect on the right of peaceful assembly that such actions might generate[134]. Protesters with disabilities have also reported degrading treatment by UK police at protests, including being tipped out of wheelchairs, and walking sticks being confiscated on the basis of being "potential weapons".[135] In **France**, organizations spoke to Amnesty International about constraints that affect the right of peaceful assembly for people with disabilities.[136] They include difficulties with transportation when arriving at and leaving a protest location; the itineraries and modalities of demonstrations often not being accessible for people with mobility difficulties or who cannot tolerate crowded areas; the absence of accessible toilets; and fear of violence as a deterrent from attending protests.

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[129] As a result, Amnesty International and other organizations have filed a class action lawsuit against France which has failed to take steps to prevent and remedy ethnic profiling. See Amnesty International, "France: Class action lawsuit against ethnic profiling filed over systemic racial discrimination", 22 July 2021, https://www.amnesty.org/en/latest/press-release/2021/07/france-class-action-lawsuit-against-ethnic-profiling-filed-over-systemic-racial-discrimination/. In October 2023, the highest administrative court (Conseil d'Etat) recognized discriminatory control practices from the police but denied being competent on the matter, see https://www.amnesty.fr/discriminations/actualites/controles-au-faciès-le-conseil-detat-reconnait-lexistence-du-probleme-mais-refuse-de-contraindre-letat-a-y-mettre-un-terme. See also the collective complaint submitted by Amnesty International France and other associations to the UN in April 2024, available at https://www.francetvinfo.fr/faits-divers/police/controles-au-faciès-en-france-cinq-associations-et-ong-deposent-plainte-aupres-de-l-onu_6480446.html

[130] See EU FRA, "Being Black in the EU: Experiences of people of African descent", 2023, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-being-black_in_the_eu_en.pdf; Ligue des Droits Humains, Police Watch Report: Police abuse and containment (in French), June 2020, https://www.liguedh.be/wp-content/uploads/2020/06/Rapport-Police-Watch-LDH-2020.pdf; Salto, 'Lavapiés, neighborhood of (racial) police violence' (in Spanish), 24 April 2023, https://www.elsaltodiario.com/racismo/uso-policial-perfil-racial-problema-endemico; SOS Racismo, 'SOS Racisme Catalunya: Racial profiling is part of police violence (in Spanish)', 15 June 2020, available at: https://sosracismo.eu/identificaciones-por-perfil-racial-entrada-a-violencia-policial/; Amnesty International Spain on X, 31 March 2022, available at: https://x.com/amnistiaespana/status/1509455714649055237?s=20; The Guardian, "Police abuse stop and search powers to target protesters, suggests data", 18 August 2022, https://www.theguardian.com/law/2022/aug/18/police-abuse-stop-and-search-powers-to-target-protesters-suggests-data. Amnesty International Belgium, "'You never know with people like you': Police policies to prevent ethnic profiling in Belgium" (Executive Summary), May 2018.

[131] Statement to the media by the UN Working Group of Experts on People of African Descent, on the conclusion of its official visit to Portugal (29 November-6 December, 2021), 6 December 2021, available at https://www.ohchr.org/en/statements/2021/12/statement-media-united-nations-working-group-experts-people-african-descent

[132] Netpol, "Britain is Not Innocent", 2020, https://netpol.org/wp-content/uploads/2020/11/Britain-is-not-innocent-web-version.pdf

[133] See Disability News Service, "Concerns grow over police force that shares info on protesters with DWP", 5 September 2019, https://www.disabilitynewsservice.com/concerns-grow-over-police-force-that-shares-info-on-protesters-with-dwp/

[134] See Disability News Service, "Concerns grow over police force that shares info on protesters with DWP", 5 September 2019, https://www.disabilitynewsservice.com/concerns-grow-over-police-force-that-shares-info-on-protesters-with-dwp/

[135] See Disability News Service, "'Kicked, punched, knocked unconscious, tipped out of wheelchairs': Campaigners describe repeated police targeting of disabled anti-fracking protesters", 13 December 2018, https://www.disabilitynewsservice.com/kicked-punched-knocked-unconscious-tipped-out-of-wheelchairs-campaigners-describe-repeated-police-targeting-of-disabled-anti-fracking-protesters/. The Guardian, "Met police accused of 'degrading' treatment of disabled XR activists", 29 October 2019, https://www.theguardian.com/uk-news/2019/oct/29/met-treatment-of-disabled-xr-activists-branded-degrading-and-humiliating

[136] Amnesty International interviewed three organizations between January and February 2023.

For some groups, for example sex workers, freely and peacefully assembling to articulate demands or join protests is particularly difficult. For example, in **Ireland** the ability to freely assemble is hindered by the criminalization of certain aspects of sex work. While it is not an offence to sell sex, acts such as purchasing sex and third-party offences including "brothel keeping" are criminalized.[137] Such laws, together with the wider government policy on sex work, is creating a chilling effect on sex workers' ability to exercise their right of peaceful assembly.[138] In **Italy**, sex workers have been subjected to restricting on their access to certain locations, under so-called DASPO orders,[139] as well as to a number of municipal anti-prostitution orders.[140] These actions represent state repression and stigmatization of sex workers and those who are victims of exploitation, increasing their invisibility and isolation. In 2022, the Court of Cassation declared such municipal orders to be illegitimate.[141] In **France**, sex workers who spoke to Amnesty International highlighted that the main barriers they face when wanting to engage in protests are self-censorship for fear of being recognized, and the stigmatization and criminalization of sex workers.[142] They stated that, by its very nature, criminalization engenders a difficult relationship with law enforcement agencies, which can deter them from participating in a demonstration. This fear is even more acute for people who are non-nationals, asylum seekers and undocumented migrants. Sex workers highlighted that law enforcement's taking of photos at demonstrations is an additional concern, as they do not know how such images may be used. They feared that, if they were recognized and "outed", they could face repercussions, such as their landlords being contacted, resulting in them losing their homes. To prevent being recognized, some sex workers told Amnesty International that they use face masks, even though covering one's face during protests is an offence in France.[143] (See more details regarding face coverings in Chapter 9)

Concerns are set out in the report about particular obstacles and restrictions experienced by groups wishing to demonstrate in favour of anti-racism, anti-fascism, anti-government and anti-war groups across the region. A wide range of obstacles and restrictions were placed across the region on protests in support and solidarity with Palestinians, and these are detailed in Chapter 4. A number of further examples are documented here.

In the **Netherlands**, a group called We Promise reportedly faced numerous restrictions on their protests against a colonial statue in the city of Hoorn. One of their protests was ended by the municipal law enforcement "because their safety could no longer be guaranteed" due to "angry reactions from the public".[144] Following a complaint from the group, the mayor apologized to We Promise on behalf of the municipality.[145] Similarly, anti "Black Pete" protesters (see Chapter 1.3.1 above) face numerous restrictions, many of which seem to originate in a fear of public order disturbances, where the authorities almost systematically fail to distinguish between peaceful protesters and the violent reactions that they face from members of the public. Instead of facilitating and protecting the protests from threats and violence,

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[137] Ireland, Criminal Law (Sexual Offences), Act 2017, part 4.
[138] See Amnesty International, "We Live Within a Violent System': Structural Violence against Sex Workers in Ireland", https://www.amnesty.org/en/documents/eur29/5156/2022/en/
[139] DASPO is an administrative measure enacted by Law No. 401 of 13 December 1989 prohibiting access to a sport event. It was originally created to prevent persons deemed threats to public order and safety from attending such events. Through legal amendments, this provision has been extended into the 'DASPO urbano' so that it can be applied more generally to prohibit access to a specific place for reasons of public order, by order of the *Questore* [chief of police], for a period from 48 hours up to two years. More details on the use of DASPO orders are available in Chapter 7.4.
[140] See 'Sanctions and punishment for prostitutes. The opposition: «A leap back decades»', in Italian, 17 May 2019, available at: https://nuovavenezia.gelocal.it/venezia/cronaca/2019/05/17/news/sanzioni-e-daspo-alle-prostitute-l-opposzione-un-salto-indietro-di-decenni-1.32641615; Ordinance of the Mayor of Rimini, 'Contingent and urgent order to prevent and counter serious dangers caused by conduct connected the exercise of prostitution on the public street', in Italian, June 2021, available at https://www.comune.rimini.it/sites/default/files/2021-06/ord_antiprost_giugno21.pdf
[141] The Cassation Court (sentence No. 4927/2022) declared the illegitimacy of such municipal orders, highlighting that: "the activity of prostitution is not unlawful and, indeed, falls within economic activities, and its exercise cannot be prohibited if not through a state regulation."
[142] In France, while the sale of sexual services is not explicitly illegal, Article 611-1 of the French Penal Code prohibits soliciting, accepting or obtaining sexual relations from a sex worker in exchange for remuneration. This contravention is punishable by a 5th-class fine. Article 225-5 of the French Penal Code defines pimping as aiding, assisting or protecting the prostitution of others; profiting from the prostitution of others, sharing the proceeds or receiving subsidies from a person who habitually engages in prostitution; hiring, training or diverting a person with a view to prostitution, or pressuring them to engage in or continue prostituting themselves. Pimping is punishable by seven years' imprisonment and a fine of 150,000 EUR.
[143] Amnesty International carried out two interviews with sex workers in December 2022 and January 2023 respectively.
[144] See We Promise on Facebook, 'Mass murder does not deserve a statue', in Dutch, 22 January 2022, available at: https://www.facebook.com/watch/live/?extid=NS-UNK-UNK-UNK-IOS_GK0T-GK1C&ref=watch_permalink&v=353973069562244
[145] See 'Mayor Nieuwenburg apologizes after canceling demonstration against JP Coen', in Dutch, 26 January 2022, available at: https://www.nhnieuws.nl/nieuws/298467/burgemeester-nieuwenburg-biedt-excuses-aan-na-afkappen-demonstratie-tegen-jp-coen?fbclid=IwAR1YeCS8XmR9aEXPoKF8MAU2rC4_N5T19DH-OSqqSeybKNYO1xdqDzb96j8

authorities restrict or cancel anti "Black Pete" protests based on "safety concerns"[146] or fail to adequately investigate and sanction violence against peaceful protesters.[147]

In **Serbia**, there have been occasions where gatherings announced and organized by civil society groups to discuss war crimes committed during the conflict in Former Yugoslavia in the 1990s have been prohibited. For example, in 2021 the Ministry of the Interior prohibited an announced gathering by the Youth Initiative for Human Rights, which wanted to remove a mural of the convicted war criminal Ratko Mladić from a building in the centre of the city of Belgrade. The Ministry cited the risk of counter demonstrations and potential violence between the two groups as a reason for withholding the permit.[148] In **Slovenia**, until the change of government in 2023, anti-government protesters experienced what has been deemed as harsh treatment – and rhetoric – from the authorities.[149] In the **UK**, civil society organizations documented institutional racism in the policing of Black Lives Matter protests during June 2020, with evidence of excessive use of force, failures in the police duty of care towards protesters, and racial discrimination.[150] According to a report by the police monitoring organization Netpol and Article 11 Trust, during the COP26 climate change conference in Glasgow in 2021, legal observers and protesters provided evidence of discriminatory policing, including racial profiling incidents, and specific surveillance of people of colour and people perceived to be Muslim.[151]

Reports about state measures targeting and disproportionately affecting social and environmental activists arose across the region. For example, in **Italy**, activists reported facing challenges resulting from the application of measures aiming to limit their freedom of movement. This includes the use of orders banning presence, such as DASPO orders and 'foglio di via', as retaliation against environmental and other activists or as a tool to prevent them from exercising their right of peaceful assembly.[152] (See more details in Chapter 7.4). In the **Netherlands**, concerns were raised, including by academics, regarding the perceived differential treatment applied by the authorities to climate protesters – for example mass arrests carried out before and after peaceful actions, including peaceful acts of civil disobedience – compared to the treatment of protesting farmers.[153] Similar concerns were raised also in Italy.[154] In **Portugal**, following an "*Em Chamas*" (Burning) action on 2 June 2021 and the arrest of several of the activists, the groups Climáximo and XR accused the police of differentiated and discriminatory treatment of women activists. The women claim to have been forced by police officers to undress completely and to crouch down so that officers could see if they were carrying dangerous objects.[155] In **Serbia**, environmental activists protesting against exploitation of

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[146] See 'Amnesty: 'Rutte must condemn violence during Sinterklaas arrival'' (in Dutch), 18 November 2018, available at: https://nos.nl/artikel/2259772-amnesty-rutte-moet-geweld-tijdens-sinterklaasintocht-veroordelen; Inspectorate critical of police actions at intended demonstration in Staphorst' (in Dutch), 2 November 2023, available at: https://www.inspectie-jenv.nl/actueel/nieuws/2023/11/02/inspectie-kritisch-op-politieoptreden-bij-beoogde-demonstratie-staphorst

[147] See 'KOZP files a report after explosion of violence in Volendam against peaceful demonstrators' (in Dutch), 17 December 2021, available at: https://www.prakkendoliveira.nl/nl/nieuws/2021/kozp-doet-aangifte-na-volendamse-geweldexplosie-tegen-vreedzame-demonstranten

[148] See 'YIHR: Serbia's MUP defends the criminal Mladic in the 9 November ban on the 9 November rally' (in Serbian), 5 November 2021, available at: https://www.aa.com.tr/ba/balkan/yihr-zabranom-skupa-za-9-novembar-mup-srbije-brani-zlo%C4%8Dinca-mladi%C4%87a/2413254

[149] See Janez Janša on X, 27 May 2021, available at: https://twitter.com/jjansasds/status/1397992508823572492?lang=ha; Janez Janša on X, 27 May 2021, available at: https://mobile.twitter.com/jjansasds/status/1397990137104146432?lang=ar-x-fm; Janez Janša on X, 28 September 2021, available at: https://x.com/JJansaSDS/status/1442745586109849602

[150] See CIVICUS, Peaceful assembly under threat: Crackdown on environmental and BLM protesters", 15 December 2020, https://monitor.civicus.org/explore/peaceful-assembly-under-threat-crackdown-environmental-and-blm-protesters/

[151] See Netpol and Article 11 Trust, "Respect or Repression: An Independent Report on Operation Urram (Respect), the Policing of CPO26 Climate Conference in Scotland", December 2021, https://netpol.org/wp-content/uploads/2022/01/Respect-or-Repression-report-web-version.pdf

[152] In January 2019, 13 environmental activists of the No-TAV movement were prevented from accessing certain areas of the town of Lonato, in Lombardy region, for two days, see 'Lonato, no TAV activists appeal against Daspo' (in Italian), 25 February 2019, available at: https://www.giornaledibrescia.it/garda/lonato-attivisti-no-tav-ricorrono-contro-i-daspo-ji0v5h30
In December 2023, three XR activists were prevented from accessing the city of Venice for 48 hours (through a DASPO order), while five other XR members were expelled from the city for four years and two further XR members for one year (through "*foglio di via*"). The expulsions followed an environmental action in which the waters of the Grand Canal were turned green. See Extinction Rebellion Italia, 'Venice: Two more people expelled for the grand canal action' (in Italian), 2 January 2024, available at: https://extinctionrebellion.it/press/2024/01/02/altre-due-persone-espulse-da-venezia/

[153] See 'RUG lecturer sees climate activist being dealt with more harshly than farmer: 'I have doubts about this'' (in Dutch), 27 January 2023, available at: https://www.ad.nl/groningen/docent-rug-ziet-klimaatactivist-harder-aangepakt-worden-dan-boer-ik-zet-hier-vraagtekens-bij~ae067d97/?cb=068fcdfa9a305149942b506205894d11&auth_rd=1&referrer=https%3A%2F%2Fwww.mensenrechten.nl%2F; 'Are climate demonstrators dealt with more harshly than farmers?' (in Dutch), Worden klimaatdemonstranten harder aangepakt dan boeren? (nos.nl) See 'RUG lecturer sees climate activist being dealt with more harshly than farmer: 'I have doubts about this'' (in Dutch), 27 January 2023, available at: https://www.ad.nl/groningen/docent-rug-ziet-klimaatactivist-harder-aangepakt-worden-dan-boer-ik-zet-hier-vraagtekens-bij~ae067d97/?cb=068fcdfa9a305149942b506205894d11&auth_rd=1&referrer=https%3A%2F%2Fwww.mensenrechten.nl%2F; 'Are climate demonstrators dealt with more harshly than farmers?' (in Dutch), 30 January 2023, available at: https://nos.nl/artikel/2461879-worden-klimaatdemonstranten-harder-aangepakt-dan-boeren

[154] See 'Of tractors, speed cameras, environmentalists and students' (in Italian), 26 January 2024, available at: https://www.repubblica.it/tecnologia/blog/stazione-futuro/2024/01/26/news/di_trattori_autovelox_ambientalisti_e_studenti-421990513/

[155] See 'Climate activists forced to undress file criminal complaint against PSP' (in Portuguese), 20 July 2021, available at: https://rr.sapo.pt/noticia/pais/2021/07/20/ativistas-do-climaximo-obrigadas-a-despir-se-avancam-com-queixa-crime-contra-psp/246804/

natural resources are increasingly facing heavy-handed policing, fines and dispersal orders.[156] Climate activists in the **UK** have been repeatedly targeted in recent years and publicly vilified (see Chapter 1.4.1 above). Following recent actions, hundreds of protesters have been arrested. Some have received long custodial sentences, and many prosecutions remain pending. Following his visit to the UK in January 2024, the UN Special Rapporteur on environmental defenders warned that environmental activists face a "severe crackdown" due to the repressive legislative framework and introduction of new criminal charges that allow, among other things, prosecutions, convictions and custodial sentences of up to 10 years; civil injunctions to ban protesters from certain areas; and harsh bail conditions preventing participation in protests or association with other protesters.[157] (See also Chapter 7 on states' response to peaceful acts of civil disobedience.) In February 2024, the Special Rapporteur argued that in "many [European] countries, the State response to [climate-related] protests, and to environmental activism more broadly, is disproportionate".[158] In addition to the UK, the Special Rapporteur undertook visits to several other European countries and gathered information from national authorities and/or other sources in relation to the situation of environmental defenders in **France**, **Italy**, the **Netherlands**, **Portugal**, **Spain** and **Switzerland**.[159] In **Spain**, in recent years, the response of authorities towards climate-related actions has intensified, with several cases of criminalization pending. For example, 15 activists from the group Scientist Rebellion are on trial and facing penalties of up to two years imprisonment after having thrown washable paint on the Parliament's steps; activists from the 'Futuro Vegetal' group are facing investigations as a 'criminal organization'[160] (see details of the cases in Chapter 7).

Concerns regarding the specific targeting of, or disproportionate impact of limitations on the right of peaceful assembly on groups and individuals active in the LGBTI community were found in a number of countries across the region. A comprehensive analysis of the situation in **Poland** was published in 2022 by Amnesty International, detailing instances in which the right of peaceful protest of members of the LGBTI community was seriously undermined.[161] In **Serbia**, the 2022 EuroPride march (which was to be hosted in the capital, Belgrade) was banned by the Ministry of the Interior citing security risks. As a result of international pressure, the march eventually took place, under heavy police protection. However, its route was significantly restricted. Following several previous Belgrade Pride marches that were either banned or took place in an extremely hostile environment, annual Pride events have taken place in Belgrade regularly and without major incidents over the past decade. The 2022 situation is a part of the recent trend of increasing restrictions on the right of peaceful assembly and a reflection of growing negative rhetoric against LGBTI people, often encouraged by authorities and the religious leaders.[162]In **Türkiye**, since 2015, Pride marches have been subjected to routine and generalized bans, and to excessive use of force by police when LGBTI activists and their supporters defy the bans on peaceful marches. Scores of people have been detained and

[156] Amnesty International, "Serbia: Submission for European Union Enlargement Package/Opinion*",* 17 April 2023, https://www.amnesty.org/en/documents/eur70/6688/2023/en/

[157] UN Special Rapporteur on environmental defenders under the Aarhus Convention, "End of mission statement following visit to London, United Kingdom of Great Britain and Northern Ireland, 10-12 January 2024", available at 23 January 2024, https://unece.org/sites/default/files/2024-01/Aarhus_SR_Env_Defenders_statement_following_visit_to_UK_10-12_Jan_2024.pdf

[158] See UN Special Rapporteur on environmental defenders under the Aarhus Convention, "State repression of environmental protest and civil disobedience".

[159] France: UN Special Rapporteur on environmental defenders under the Aarhus Convention, "End of mission statement following visit to France", 29 February 2024, https://unece.org/sites/default/files/2024-02/UNSR_EnvDefenders_Aarhus_De%CC%81claration_fin_mission_Tarn_29.02.2024_FR.pdf; Italy: See UN Special Rapporteur on environmental defenders under the Aarhus Convention, "Perché l'Italia sbaglia a criminalizzare chi protesta per difendere l'ambiente" (opinion piece published while on visit in Italy), in Italian, 11 April 2023, https://www.editorialedomani.it/ambiente/perche-litalia-sbaglia-a-criminalizzare-chi-protesta-per-difendere-lambiente-ilx99l7v; The Netherlands: See "Response by the Government of the Kingdom of the Netherlands to the letter from the Aarhus Special Representative concerning Extinction Rebellion (article 3, para 8 of the Aarhus Convention)", April 2024, https://unece.org/sites/default/files/2024-04/KNL_Response_to_ACSR.C.2023.16_17.04.2024.pdf; Portugal: See UN Special Rapporteur on environmental defenders under the Aarhus Convention, "State repression of environmental protest and civil disobedience", February 2024, https://unece.org/sites/default/files/2024-02/UNSR_EnvDefenders_Aarhus_Position_Paper_Civil_Disobedience_EN.pdf; Spain: See Euractiv, "UN rapporteur: Climate activists in Europe under increasing pressure", 3 October 2023, https://www.euractiv.com/section/politics/news/un-rapporteur-climate-activists-in-europe-under-increasing-pressure/; Switzerland: See letter sent to the Swiss authorities by the UN Special Rapporteur on environmental defenders under the Aarhus Convention, January 2024, https://amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2024/uno-weist-auf-versaeumnisse-der-schweiz-hin

[160] See 'Protesting is not a crime, it is called democracy for the climate' (in Spanish), 19 March 2024, available at: https://elpais.com/opinion/2024-03-19/protestar-no-es-un-crimen-se-llama-democracia-por-el-clima.html

[161] Amnesty International, *Poland: "They Treated Us Like Criminals",* July 2022, https://www.amnesty.org/en/documents/eur37/5882/2022/en/

[162] ILGA-Europe, "Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Serbia, January-December 2022*"*, 2023, https://www.ilga-europe.org/sites/default/files/2023/serbia.pdf; Deutche Welle, "Serbian police, right-wing clash in EuroPride Protest", 17 September 2022, https://www.dw.com/en/serbian-police-clash-with-right-wingers-protesting-europride-march/a-63159622

prosecuted, primarily for participation in unlawful assemblies and marches" and "refusal to disperse despite warning".[163]

Kurdish rights-related protests appear to be targeted in some countries in the region. In **Finland**, police prohibited the displaying of flags of the PKK (Kurdistan Workers' Party) and of other Kurdish organizations in the capital, Helsinki, during an anti-fascist march in December 2022,[164] but permitted the use of PKK flags at a march in the city of Oulu.[165] In March 2023 in Helsinki, police seized an effigy depicting the President of Türkiye pre-emptively, suspecting defamation. The National Police Board investigated the incidents and stated that Helsinki police had no lawful grounds to seize the effigy.[166] As for the PKK flags, it was stated that the decision of the Oulu police did not warrant any action. National Police Board took no position on the removal of flags in Helsinki, as the Helsinki administrative court had ruled that Helsinki police had acted within the limits of its discretion.[167] In **Türkiye**, protests demanding Kurdish rights and prisoners' rights, which are mostly organized by Kurdish activists, have been targeted routinely by police using excessive force and detentions.[168]

Women protesters have also seen a heightened crackdown on their participation in protests. For example, in **Poland**, many were arrested in 2022 for taking part in peaceful assemblies denouncing a Constitutional Tribunal decision restricting the right to safe abortion.[169] In the **UK**, broad concerns arose regarding police intimidation of women during protests. London's Metropolitan Police received heavy criticism for their policing of a spontaneous vigil[170] in March 2021 after the kidnap, rape and murder of Sarah Everard by a Metropolitan Police officer.[171] One woman was left exposed in her underwear while being carried away by police officers during the 2021 "Kill the Bill" protest in the city of Manchester.[172] In its 2022 research on the treatment of protest observers by police, the NGO Article 11 Trust found that 56% of the legal observers it interviewed had faced gender-based discrimination from the **UK** police, ranging from patronizing comments to sexual assault.[173] In **Greece**, women's rights activists including an Amnesty International member of staff were arbitrarily arrested and prosecuted simply for staging actions against gender-based violence on 25 November 2020.[174]The case against the activists was discontinued a year and a half later. Female protesters also reported cases where they were transferred to police stations for identity checks, cases of unlawful use

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[163] See Sosyal Politika, Cinsiyet Kimliği ve Cinsel Yönelim Çalışmaları Derneği, "Bans from 2015 to the Present", in Turkish, December 2022, 2015ten-Gunumuze-Yasaklarla-Istanbul-LGBTI-Onur-Yuruyusu.pdf (spod.org.tr)
Amnesty International, *Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters*.

[164] Amnesty International's national office was present and observing at this event. A report from the observation is available at https://www.amnesty.fi/uploads/2023/02/raportti_mielenosoitustarkkailu.pdf p. 15.

[165] See 'The Helsinki police removed the flags of Kurdish organizations during the demonstration, in Oulu the flags were allowed to be kept' (in Finnish), 7 December 2022, available at: https://www.hs.fi/kotimaa/art-2000009251510.html; 'The police removed the Kurdish organization's flags from the demonstrators in Helsinki, the Oulu police did not - the Police Board investigates the different policies' (in Finnish), 9 December 2022, available at: https://www.mtvuutiset.fi/artikkeli/poliisi-poisti-kurdijarjeston-liput-mielenosoitajilta-helsingissa-oulun-poliisi-ei-poliisihallitus-selvittaa-erilaiset-linjaukset/8588746#gs.2g8fm2

[166] National Police Board decision POL-2023-41185, ID-24323298, 17 May 2024, available at https://poliisi.fi/en/-/national-police-board-effigy-of-turkish-president-should-not-have-been-seized

[167] Helsinki administrative court ruling HAO 6975/2023, journal numbers 86/03.04.04.04.07/2023, 30 November 2023.

[168] See TIHV, *Human Rights Violations in Türkiye in 2022 with Data (in Turkish),* December 2022, available at: https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/verilerle-2022-yilinda-turkiyede-insan-haklari-ihlalleri/
Amnesty International, *Türkiye: Hunger Strikes: Rights Violations Faced by Prisoners on Hunger Strike and Those Protesting in Solidarity* (Index: EUR 44/0835/2019), 6 August 2019, https://www.amnesty.org/en/documents/eur44/0835/2019/en/

[169] See Amnesty International Poland, *The police must explain abuses against peaceful protesters (in Polish),* 4 February 2021, available at: https://www.amnesty.org.pl/policja-musi-wyjasnic-naduzycia-wobec-pokojowych-demonstrantow/

[170] A planned protest, initially organized in South London following the kidnap, rape and murder of Sarah Everard, was cancelled by the organizers (founders of Reclaim these Streets group) after the Metropolitan Police said in advance that it would be illegal under the lockdown laws and threatened fines and possible prosecution. Despite the cancellation, hundreds of people spontaneously gathered at Clapham Common to hold a vigil. The organizers took the case to court and, in March 2022, the High Court ruled that the Metropolitan Police breached the rights of the vigil organizers. See BBC News, "Sarah Everard: Met Police breached rights of vigil organizers", 11 March 2022, https://www.bbc.co.uk/news/uk-england-london-60707646
One of the women arrested during the vigil was awarded damages by a court after she initiated proceedings against the Metropolitan Police for breach of rights and false imprisonment. See BBC News, "Sarah Everard vigil: Met Police pays £10K damages to attendee", 14 March 2024, https://www.bbc.co.uk/news/uk-england-london-68556998

[171] See BBC News, "Sarah Everard vigil: Met Police pays £10K damages to attendee"; The Independent, "Sarah Everard vigil: Arrests as protesters march through central London", 15 March 2021, https://www.independent.co.uk/news/uk/home-news/sarah-everard-vigil-news-latest-police-b1817162.html
Liberty, "Liberty condemns policing of Reclaim These Streets vigil", 13 March 2021, https://www.libertyhumanrights.org.uk/issue/liberty-condemns-policing-of-reclaim-these-streets-vigil/
Amnesty International UK, "UK: Met's action at Clapham a sharp reminder to MPs to resist temptation to give police more powers", 14 March 2021, https://www.amnesty.org.uk/press-releases/uk-mets-action-clapham-sharp-reminder-mps-resist-temptation-give-police-more-powers

[172] See BBC News, "Manchester 'Kill the Bill' protest: Arrested woman left exposed in underwear", 30 March 2021, https://www.bbc.co.uk/news/uk-england-manchester-56565865

[173] See Byline Times, "Groped, taunted and followed home: The legal observers of protests targeted by officers for peacefully policing the police", 24 May 2022, https://bylinetimes.com/2022/05/24/groped-taunted-and-followed-home-the-legal-observers-of-protests-targeted-by-officers-for-peacefully-policing-the-police/

[174] Amnesty International, *Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of Covid-19*.

of force including misuse of chemical irritants by police during protests related to women's rights as well as the frequent use of sexist and abusive language by law enforcement officials against female protesters. In addition, in May 2023, Amnesty International expressed its deep concerns about the prosecution of two Amnesty International female activists indicted on several misdemeanour charges following their arrest by police after a protest in November 2022.[175]

1.5 CONCLUSIONS AND RECOMMENDATIONS

Despite each of the 21 European countries analysed in this report having ratified the key human rights instruments protecting the right of peaceful assembly, there is much variation across the region in terms of people's ability to exercise this right. This derives in part from failures in some countries to fully adopt international and regional protections into domestic law. In addition, in some states with federal systems, the right of peaceful assembly is upheld to different degrees in different regions.

Not all 21 states explicitly allow all citizens and non-citizens alike to organize or participate in assemblies, leading to the potential for discrimination. Moreover, authorities often treat protest participants differently on the basis of their protected characteristics or the nature of their cause and/or demands. Discrimination based on protected characteristics is banned in every one of the countries surveyed; yet, once again, variations in the wording of anti-discrimination legislation leaves gaps that can be exploited by authorities wishing to crack down on certain groups and individuals.

Differential treatment of protesters includes negative rhetoric by officials, which stigmatizes people seeking to peacefully assemble, and singles out certain groups as less deserving of protection and characterizes certain movements and causes as illegitimate, violent or extremist. The result is an uneven landscape where some protests and movements are permitted and others are restricted – sometimes forcefully – or banned outright, despite the peaceful nature of the assembly. This report signposts worrying patterns across the region if disproportionate and discriminatory impacts faced by specific individuals, groups or collectives which merit further, more in-depth, research.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- Ensure that the right of peaceful assembly is explicitly guaranteed in legislation to everyone under the jurisdiction of participating states, - equally and without discrimination - including 'non-citizens', children, persons with disabilities and others.
- Not limit the guarantee of the right of peaceful assembly only to citizens, but explicitly extend the right to non-nationals, including stateless persons, refugees, foreign nationals, asylum seekers, migrants and visitors.
- Commit to and adopt National Action Plans for the protection and facilitation of assemblies and, where these are absent, adopt guidelines for the protection and facilitation of assemblies and ensure they are publicly available.
- Amend the list of prohibited grounds for discrimination to include an open-ended clause which allows additional discriminatory situations to be tackled, along with intersectional discrimination, where this is not already recognized in law.
- Stop all stigmatizing discourse and rhetoric, fuelling harmful stereotypes and portraying peaceful protesters in a way that is likely to foster hostility and division in society. This includes characterizing protesters as "criminals", "terrorists", threats to public order and security, or a nuisance to be crushed.
- Undertake regular and systematized data collection and reporting on restrictions imposed by authorities, including law enforcement, with a view to identifying the potentially disproportionate, racist and discriminatory impact of restrictions on the right of peaceful assembly for specific groups. Such groups include, but are not limited to, those protesting for the rights of women, LGBTI rights, Palestinian solidarity and climate justice; those with anti-racism, anti-fascism, anti-war or anti-government calls; and those who experience heightened barriers to participation, including sex workers, foreign nationals, people with disabilities, children and older people, among others.

[175] Amnesty International, "Greece: Concerns about Prosecution of Amnesty International Activists", 9 May 2023, https://www.amnesty.org/en/documents/eur25/6364/2023/en/

2. NOTIFICATION AND AUTHORIZATION REQUIREMENTS, AND PROTECTION OF SPONTANEOUS ASSEMBLIES

2.1 INTRODUCTION

The ability to freely organize and participate in public protests is a key element of the right of peaceful assembly. The authorities must treat protest as a right, not a privilege. The organization and conduct of a protest should only be subject to procedural requirements which support the authorities' facilitation of protests and protect the rights and freedoms of others.[176]

The advance requirements commonly imposed on the organizers of public assemblies generally take the form of either a notification requirement (where the organizer must simply inform the authorities of their intention to hold an event) or an authorization requirement (where the organizer must apply for permission to be able to hold – and in some cases, even to publicize – an event). This chapter illustrates how the distinction between notification and authorization can become blurred in practice – and what a state describes as a notification requirement may in fact more closely resemble an authorization requirement.

Given that such procedural requirements – even a requirement simply to notify the authorities of a planned assembly – constitute an interference with the right of peaceful assembly, they must always be justified within a human rights framework.[177] States must therefore be able to show that any notification requirement is the least intrusive measure needed to achieve a legitimate aim[178] in relation to the particular forms of assembly that are subject to it.

This chapter will examine the various systems and procedural requirements in advance of an assembly that have been established by the authorities in both law and in practice. It will assess their compliance with international human rights standards (summarized in 2.2 below) and make recommendations for.

[176] HRC, General Comment 37, para. 36.
[177] HRC, General Comment 37, para. 70: 'At the same time, this requirement must not be misused to stifle peaceful assemblies and, as in the case of other interferences with the right, must be justifiable on the grounds listed in article 21' [emphasis added]; Venice Commission Guidelines (2020), para. 25.
[178] The grounds listed in article 21 ICCPR ('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').

2.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW AND STANDARDS

The starting point for assessing the human rights compatibility of any regulatory framework governing the right of peaceful assembly is the state's *negative* obligation not to interfere with the right. Many types of assembly should be enjoyed without any form of regulation at all, and therefore should not be subjected to a requirement that the authorities be notified in advance.[179] Notification regimes should thus exclude assemblies where 'the impact of a gathering on others can reasonably be expected to be minimal, due to the assembly's nature, location or limited size or duration.'[180]

Furthermore, the enjoyment of the right of peaceful assembly is not compatible with authorization regimes,[181] including de facto authorization requirements[182] (purported 'notification' procedures that, nonetheless require the organizer to obtain some form of advance approval of their assembly plans).[183] Various human rights mechanisms, including the Human rights Committee (HRC), have affirmed that "[h]aving to apply for permission from the authorities undercuts the idea that peaceful assembly is a human right".[184] While some authorization procedures might sometimes operate as a system of notification in practice, having to obtain approval from the authorities to go ahead with a planned assembly, even if only as a formality, subverts this freedom and makes its exercise conditional on gaining the permission of the very authorities that may potentially be the target of protest activity. As such, any stipulation that operates as a system of prior authorization will generally constitute a violation of the right of peaceful assembly and should be repealed.

It should always be possible for an assembly organizer to voluntarily inform (notify) the authorities about plans to hold an assembly. Indeed, some protest organizers may be keen to do so because they wish to avail of the assistance of the authorities – for example, in redirecting traffic or providing protection from counter demonstrators (obligations that should sit fully with the authorities and not be devolved or delegated to organizers and/or participants – see also detailed analysis on this in Chapter 3/liability of organizers). Telling the authorities in advance about plans to hold an assembly may, in some circumstances, provide organizers with support that they would not otherwise obtain.

However, the notification requirements in the examined countries, as described in this chapter, are generally mandatory (with organizers, and sometimes even participants, often facing penalties for non-compliance). Notification should only ever be *required* in as much as such an interference is necessary to aid the protection and facilitation of an assembly or the rights of those affected by it.[185] Moreover, any such mandatory requirement should not be used as a means to control protests; instead, they should be understood merely as a means of providing information that a protest will be taking place.[186] The procedure must be provided for in domestic law and be transparent, free of charge and easily accessible. The demands on organizers should be minimal and proportionate to the potential impact of the assembly; that is, they should not lead to burdensome or excessive obligations on organizers.

In addition, and in order to avoid unwarranted interferences, states should seek to expand the range of assemblies that are subject only to a voluntary notification scheme – and to consider how voluntary

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[179] Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Joint report on the proper management of assemblies (A/HRC/31/66), 4 February 2016, para. 21: 'Notification should not be expected for assemblies that do not require prior preparation by State authorities, such as those where only a small number of participants is expected, or where the impact on the public is expected to be minimal.'

[180] HRC, General Comment 37, para. 72.

[181] UN Special Rapporteur on the rights to freedom of assembly and association, the InterAmerican Commission for Human Rights (IACHR) and its Special Rapporteur on freedom of Expression, Special Rapporteur on human rights defenders and focal point for reprisals in Africa of the African Commission on Human and Peoples' Rights (ACHPR), and the OSCE Office for Democratic Institutions and Human Rights (ODIHR), Joint Declaration on the Right to Freedom of Peaceful Assembly and Democratic Governance, 9 December 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/FAssociation/joint-declaration-democratic-governance/declaration-en.pdf

[182] Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions, Joint report on the proper management of assemblies (A/HRC/31/66), 4 February 2016, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/018/13/PDF/G1601813.pdf?OpenElement, para. 21: 'Any notification procedure should not function as a de facto request for authorization …'

[183] The joint report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions - which states that the exercise of the right 'should not be subject to prior authorization by the authorities' (para. 21) and that 'any notification procedure should not function as a de facto request for authorization'.

[184] HRC, General Comment 37, para. 70. See also UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), Report, 21 May 2012, para. 28: "Such a notification should be subject to a proportionality assessment, not unduly bureaucratic and be required a maximum of, for example, 48 hours prior to the day the assembly is planned to take place"; UN High Commissioner for Human Rights, A/HRC/22/28, Report, 'Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests', 21 January 2013, para. 32.

[185] HRC, General Comment 37, para.70.

[186] HRC, General Comment 37, para. 70.

notification might be encouraged (while fulfilling their obligations in relation to assemblies that are not notified).

In this regard, not giving advance notification, or failure to meet other administrative requirements, should not result in the imposition of any criminal sanction or any other undue sanctions on *organizers* of peaceful assemblies. Indeed, no sanctions should be imposed on *participants* in peaceful assemblies for lack of notification. Importantly, '[t]he enforcement of notification requirements must not become an end in itself.'[187] This implies that mandatory notification requirements must not be enforced unless enforcement is itself strictly necessary and proportionate to achieve one or more of the legitimate aims for which notification requirements may be introduced.[188]

Furthermore, non-notification should not be used as a basis to disperse an assembly or arrest its participants.[189] The protections of international human rights law apply to all *peaceful* assemblies (not only to 'lawful' assemblies). Thus, even if there is some question about the legality of an assembly under domestic law, it will still fall within the protective scope of the right so long as it remains peaceful. Non-compliance with notification requirements does not absolve the authorities from their obligations to facilitate the assembly nor to protect its participants,[190] and the authorities should make efforts to ensure the assembly can take place without restrictions.[191]

2.3 NOTIFICATION AND AUTHORIZATION PROCEDURES IN DOMESTIC LAW

2.3.1 THE SCOPE OF NOTIFICATION AND AUTHORIZATION REQUIREMENTS

Across the 21 countries covered in this report, although with some variations in the specific wording, assemblies are generally defined as a gathering of persons for the purpose of expressing opinions on issues of common importance in open or closed spaces where access is open to anyone.[192]

However, domestic legal frameworks in the countries examined generally seek to define the types or categories of public assembly that are subject to notification (or authorization) regimes based on their anticipated impact on others and what state authorities may be required to do to discharge their corresponding obligations. As such, legislation does not attempt to comprehensively define all possible forms of assembly. Rather, different requirements may apply depending on whether an assembly will be static or moving (for example, Czechia, Ireland, Italy, Portugal and the UK). Domestic legislation at times also includes a numerical threshold for the number of participants below which notification is not required.

Sometimes, certain categories of assembly are defined so as to exclude them from the notification requirement (or to subject them to a different regulatory regime altogether), such as sporting, cultural or religious events. For example, in Austria, the legislation exempts from notification assemblies of voters to have discussions amongst themselves or with elected MPs, if held around official elections, and not outdoors,[193] as well as "public merriments, wedding processions, customary events or processions, funeral services, pilgrimages, and other assemblies or processions to exercise a legally permitted cultus, if they take place in the traditional manner".[194] Categories such as sporting, cultural or religious events and definitions deserve close scrutiny since they ultimately serve to privilege certain types of assembly over others. Exempting certain categories of assembly – and not others – from any notification requirement or creating narrowly defined categories seeking to regulate very specific types of events may be arbitrary, discriminatory and/or impermissibly focused on the content of the message such events promote. On the other hand, vague

[187] HRC, General Comment No. 37, para. 70.
[188] HRC, General Comment, para.70 emphasizes two such purposes: 'Notification systems … are permissible to the extent necessary to assist the authorities in facilitating the smooth conduct of peaceful assemblies and protecting the rights of others.'
[189] HRC, General Comment 37, para. 71. See also, Joint report of the Special Rapporteurs, (A/HRC/31/66), 4 February 2016, para. 23.
[190] HRC, General Comment 37, para. 71.
[191] Venice Commission Guidelines (2020), para. 128.
[192] For example, in Poland, '[a] gathering is a grouping of persons in an open space accessible to persons not specified by name in a specific place for the purpose of holding joint deliberations or for the purpose of expressing a common position on public matters' (article 3, Law on Assemblies available at https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/prawo-o-zgromadzeniach-18226487); in Portugal, article 1 of the Decree 406/74 states that 'all citizens are guaranteed the free exercise of the right to assemble peacefully in public places, open to the public and private individuals, regardless of authorization, for purposes not contrary to the law, morality, the rights of natural or legal persons and order and public tranquillity';
[193] Austria, Assembly Act, para. 4.
[194] Austria, Assembly Act, para. 5.

or overly broad definitions may also unnecessarily place certain types of assembly within the ambit of restrictive regulation.

For example, in **Poland** a restrictive amendment to the law on assemblies, adopted in December 2016,[195] created a hierarchy of public demonstrations under which priority is afforded to so-called 'cyclical' assemblies.[196] Under the law, a 'cyclical' assembly is defined as one which occurs at least four times a year or on an important national day, has taken place for at least three years, and is "aimed at celebrating events of a high importance in Polish history". The law stipulates that no other assembly can be held at the same time and in the same location where a cyclical assembly has been organized.[197] The law has been criticized for being used to silence critical voices and being primarily intended to serve as a basis for bans on any counter assemblies occurring in the vicinity of pro-governmental 'cyclical' rallies.[198] In particular, the law sought to protect annual Independence Marches held on 11 November,[199] and marches to commemorate the 2010 Smoleńsk air crash in which 96 people were killed, including the president, Lech Kaczyński, and other Polish officials. The provision was widely criticized for imposing arbitrary restrictions, as well as being incompatible with provisions of the European Convention of Human Rights (ECHR) and lacking an effective remedy.[200] A complaint challenging the provision before the European Court of Human Rights (ECtHR) was settled between the parties in 2022, with the Court not commenting on the provisions of the law.[201]

2.3.2 A VOLUNTARY OR MANDATORY NOTIFICATION REQUIREMENT?

Most countries examined in this report have mandatory notification regimes for some types of assembly in national law at federal and/or state or canton level. Only in **Ireland** is notification voluntary for all forms of assembly.[202] Organizers in Ireland can submit a notice of intent so that police and organizers can ensure the best route or location and that sufficient police are present or on standby to "ensure the preservation of peace and public order".[203] In Northern Ireland, one of the three jurisdictions of the **UK**, notification is required for public processions and for protest meetings that are related to a public procession (in other words, for counter-protests).[204] Elsewhere in the **UK** (in England and Wales, and in Scotland) notification is not for the most part required for static assemblies.[205]

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[195] The amendment to the Law on Assemblies was adopted in December 2016. It entered into force in April 2017, after the Constitutional Tribunal declared it was compatible with the Constitution. Following international and domestic criticism of the amendment, the President of Poland had referred it to the Constitutional Tribunal in December 2016.

[196] Poland, Law on Assemblies, Article 14.3

[197] The law gives priority to such assemblies over others and requires a mandatory distance of at least 100 metres between two or more assemblies taking place simultaneously.

[198] See, for example, Wojciech Sadurski, Poland's Constitutional Breakdown (OUP: 2019), 151–2.

[199] Independence March is an annual event, organized since 2010, to mark Poland's independence. In the last few years, it had been tainted by the presence of nationalist groups advocating "Europe will be white or deserted," displaying racist and fascist symbols, while marching holding flares and throwing firecrackers on the streets of Warsaw. See Amnesty International, 'The day justice was finally served in Poland for vindicated anti-fascist campaigners', 30 January 2020, available at https://www.amnesty.ie/the-day-justice-was-finally-served-in-poland-for-vindicated-anti-fascist-campaigners/; 'Polish activists are under attack for standing up to hate', 1 December 2018, available at https://www.aljazeera.com/opinions/2018/12/1/polish-activists-are-under-attack-for-standing-up-to-hate; 'Euronews: View: Independence Day in Poland was no 'beautiful sight'', 17 November 2017, available at https://www.euronews.com/2017/11/17/view-independence-day-in-poland-was-no-beautiful-sight; Amnesty International, 'Poland: Police must not repeat mistakes of last year and must protect all peaceful protesters at Independence Day Marches', 9 November 2018, available at https://www.amnesty.org/en/latest/press-release/2018/11/police-must-not-repeat-mistakes-of-last-year-and-protect-all-peaceful-protesters-at-polands-independence-day-marches/.

[200] Public Information Bulletin of the Ombudsman, 20 October 2021, available at The ECtHR will examine the so-called cyclical assemblies. CHR: this is a violation of the right of other citizens to demonstrate (brpo.gov.pl); Statement by the Human Rights Commissioner of the Council of Europe and the Director of the OSCE Office for Democratic Institutions and Human Rights, December 2016, available at European human rights officials voice serious concerns over changes to Polish laws on freedom of assembly | OSCE; Amnesty International, 'Poland: On the streets to defend human rights, harassment, surveillance and prosecution of protesters', October 2017, EUR 37/7147/2017, available at Poland: On the streets to defend human rights, harassment, surveillance and prosecution of protesters - Amnesty International.

[201] See, European Court for Human Rights (ECtHR), Kornacki v Poland (struck out, decision of 25 August 2022).

[202] An Garda Síochana, Statement on City Centre Protests, Dublin 10th October 2020, available at https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/october/city-centre-protests-dublin-10th-october-2020.html; An Garda Síochana, Statement on City Centre Protests, Dublin 10th October 2020, available at https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/october/city-centre-protests-dublin-10th-october-2020.html see also Irish Council for Civil Liberties, Know Your Rights – The Right to Protest, December 2019, available at https://www.iccl.ie/wp-content/uploads/2020/01/Know-Your-Rights-Protest.pdf;

[203] An Garda Síochana, Statement on City Centre Protests, Dublin 10th October 2020, https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/october/city-centre-protests-dublin-10th-october-2020.html; see also Irish Council for Civil Liberties, Know Your Rights – The Right to Protest, December 2019, available at https://www.iccl.ie/wp-content/uploads/2020/01/Know-Your-Rights-Protest.pdf;

[204] Public Processions (Northern Ireland) Act 1998, sections 6 and 7

[205] Metropolitan Police, 'Tell us about a procession or event', https://www.met.police.uk/tua/tell-us-about/eo/af/events-processions/static-event-public-place/?tid=16596&lid=&cid=&rid=&stepid=1; see also Public Order Act 1986, section 11.

In many countries including **Belgium**, **Germany**, the **Netherlands**, **Portugal** and **Switzerland**, national law or regulations mandate local authorities to receive and process assembly notifications,[206] and the approach of these different bodies can vary greatly. For example, in **Portugal**, in large municipalities like Lisbon and Porto, the process is relatively simple. However, in all provincial capitals (except Setúbal), as well as in most municipalities in the Lisbon metropolitan area, information on how to organize a protest is limited, procedures are unclear, or there is conflicting information provided.[207]

2.3.3 SPECTRUM OF INFORMATION THAT MUST BE PROVIDED TO THE AUTHORITIES

All countries with mandatory notification impose certain formal requirements. Most often, notification needs to be in writing and requires completing an online form where organizers must provide their identification and contact details, the place and time of the assembly, and the proposed route (if relevant). Forms and related information are rarely available in languages other than the country's official language(s).[208]

Many countries offer both online and offline notification options. However, in countries where only one or other option is available (either online or offline), this can constitute a barrier for certain groups of people. For example, some municipalities in the **Netherlands** require a digital passport to log a notification, which prevents people without a residence permit from doing so.[209] In **Luxembourg** (under the draft law) and **Slovenia**, there is no in-person assistance available, and in **Germany**, online access is limited in certain municipalities.[210]

All countries that have a notification regime stipulate certain time limits within which notice must be given, ranging from 24 hours in **Finland** and some municipalities in the **Netherlands**, to 28 days (for public processions) in **Northern Ireland** and **Scotland**,[211] (and some jurisdictions, such as the Geneva canton in Switzerland, establish even longer time frames – 30 days – for prior authorization – see 2.3.4 below). A time limit of several days is most common elsewhere.[212]

Several countries have in place additional and more burdensome requirements which could constitute barriers to the exercise of the right of peaceful assembly. For example, in **Türkiye**, the authorities require a

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[206] Belgium: The Belgian Constitution stipulates at article 26 that demonstrations in 'open air' remain fully subject to police laws, which can put in place measures, to regulate assemblies. Every municipality may or may not stipulate this in their local police law. The city/municipality has the competence to regulate protests and local authorities can choose if they want to establish notification or authorization procedures for gatherings in open air (as foreseen in local police legislation or municipal legislation). The mayor is responsible for maintaining public order and for the (local) police; Germany: In some federal states the police functions as assembly authorities otherwise carried out by designated city or municipality authorities; the Netherlands: local authorities have the power to establish their own notification procedures, and the mayor is the competent authority when it comes to regulating assemblies. Portugal: responsibility is shared between the mayor, municipalities and law enforcement, see Legal Opinion of the Advisory Council of the Attorney General's Office, p. 79, https://www.ministeriopublico.pt/sites/default/files/documentos/pdf/pp2021011.pdf and Decree-law 406/74 (which guarantees and regulates the right to assembly) https://diariodarepublica.pt/dr/detalhe/decreto-lei/406-1974-424767. Municipalities are responsible for receiving and acknowledging the prior notification. In turn, the mayor, as the only public administration body with access to the content of the prior notification can, for example, prohibit an assembly that is considered unlawful or disorderly. Law enforcement officials are responsible for maintaining order and guaranteeing the security of the assembly; however, it is up to municipalities to coordinate with law enforcement the place and the route where each assembly takes place. Switzerland – Swiss Federal Constitution, Article 3 and 57.

[207] A search of the websites of 23 municipalities involved in this research revealed that only four provided information for citizens wishing to notify authorities about holding a public meeting or demonstration. See Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, available at https://www.amnistia.pt/a-liberdade-como-bandeira/

[208] Some authorities provide information in English, for example Berlin: https://www.internetwache-polizei-berlin.de and/or in simple language https://www.berlin.de/polizei/allgemeine-seiten/leichte-sprache/artikel.863348.de-plain.php.

[209] See, for example Maastricht: https://eloket.gemeentemaastricht.nl/f/40/login; Leiden: the button 'melden' leads to the DigiD page: https://gemeente.leiden.nl/inwoners-en-ondernemers/melding-klacht-overlast/melding/demonstratie-of-betoging-houden/#:~:text=Regels%20tijdens%20de%20demonstratie&text=Bevelen%20van%20de%20politie%20in,gebouwen%20mogen%20niet%20geblokkeerd%20worden; Hoorn: https://formulieren.hoorn.nl/formulier/nl-NL/DefaultEnvironment/scEvenementenvergunningWebODB.aspx/scIntroPB/fInlogmethodeSelecteren. The Netherlands comprises 342 municipalities, which makes obtaining a comprehensive overview of all municipalities' processes for notification difficult.

[210] Luxembourg, Draft law that Amnesty International examined in 2023, Article 3(3); In Slovenia, people can report a rally in person at a police station, by post or electronically. On the form, the organizer writes a telephone number and the police will call if they need further information; Germany, for example, in Hesse it's only partially possible online https://verwaltungsportal.hessen.de/leistung?leistung_id=L100039_8966560&regschl=070000000000

[211] Finland, Assembly Act 1999, section 7, https://finlex.fi/en/laki/kaannokset/1999/en19990530_20020824.pdf; the Netherlands, for example in Amsterdam https://www.amsterdam.nl/veelgevraagd/meld-uw-demonstratie-6a495-kp and Utrecht: https://loket.digitaal.utrecht.nl/nl/products/demonstratie-melden; UK, Civic Government (Scotland) Act 1982, section 62(2), https://www.legislation.gov.uk/ukpga/1982/45/part/V; and Public Processions (NI) Act 1998, section 6(2) https://www.legislation.gov.uk/ukpga/1998/2/section/6.

[212] Time limits are: 48 hours in Austria, Germany, Greece, Portugal (2 'working' days) and Türkiye; three days in France and Slovenia; five days in Czechia and Serbia, six days in Poland, and 10 days in Spain. Some countries also have shorter periods for urgent cases.

copy of the organizers' criminal records.[213] In **Italy**, the identity of those designated to speak is required in addition to organizers' details. The Italian authorities also stipulate that "the way in which the events are to be held cannot be changed from what was declared in the notice, except in compliance with the legal time limits (3 days) and subject to a new communication to the *Questore* [chief of police]."[214] In the **Netherlands**, local requirements include presenting information on the way in which participants will be arriving to the assembly (Amsterdam), the names of speakers (Heerlen), the goal of the assembly (Eindhoven), and what protesters will bring to the assembly in terms of banners and/or sound amplifiers (Utrecht).[215] In **Hungary**, organizers must wait 48 hours after submitting the notification before they can publicly advertise the assembly, limiting the time available to mobilize participants.[216]

Many countries also require information about security or facilitation arrangements even though "[r]equirements for participants or organizers either to arrange for or to contribute towards the costs of policing or security… or other public services" are not compatible with the right of peaceful assembly.[217] In several of the countries examined, organizers are obliged to maintain order or provide security for the assembly (see more details on this in Chapter 3.3.3). In **Hungary**, the leader of an assembly is responsible for "maintaining the peaceful nature of the assembly, and meeting the conditions, if any, set by the police".[218] They must designate persons to assist in maintaining order or securing the assembly.[219] They must also "close the assembly after the end, and [call on] the participants to leave the assembly",[220] and "dissolve the assembly as required by the law".[221] In some countries, notification requires providing information on the safety measures the organizers plan on taking (the **Netherlands, Serbia**, **Spain** and the **UK** (Northern Ireland)); measures to guarantee its peaceful character (**Poland**); or its taking place in accordance with the law (**Czechia**).[222]

Such additional requirements impose excessive burdens on assembly organizers, including by appearing to delegate the core positive obligations of the state to protect and actively facilitate assemblies onto organizers. They may thereby amount to an unnecessary or disproportionate interference with the right of peaceful assembly. In addition, having to comply with such requirements may disproportionately affect smaller and/or marginalized groups.

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[213] In Türkiye, the legislation states that an assembly must have an organizing committee consisting of at least seven individuals over the age of 18 years, Law No. 2911 on Meetings and Demonstrations adopted on 6 October 1983, https://www.mevzuat.gov.tr/mevzuatmetin/1.5.2911.pdf, Article 9. Although a notification regime is in place, non-Turkish nationals, are required to seek authorization from authorities for assemblies, Article 3.2, Law 2911 on Meetings and Demonstrations.

[214] Italy, Regulation for the execution of the Consolidated Law on Public Security Laws (TULPS), Royal Decree No. 635/1940, Article 19.

[215] In Amsterdam, Eindhoven, and Utrecht, this is visible upon filling out the form (see: https://formulieren.amsterdam.nl/TriplEforms/DirectRegelen/formulier/nl-NL/evAmsterdam/KennisgevingDemonstratie.aspx/Inleiding and https://www.eindhoven.nl/manifestatie-melden, Utrecht - https://loket.digitaal.utrecht.nl/nl/products/demonstratie-melden; in Herleen, the Limburg District Court ruled that half of the restrictions on the 2021 Klimaatalarm demonstration, including the obligation to provide the names of speakers in a timely manner, were unlawful - https://pilp.nu/en/climate-movement-wins-lawsuit-against-heerlen-municipality-the-right-to-demonstrate-is-a-great-thing/;

[216] Hungary, Act LV of 2018 on the Right of Assembly (ARA), Article 10 (1) - https://net.jogtar.hu/jogszabaly?docid=a1800055.tv. For example, an environmental activist interviewed described that when they want to hold a demonstration within 3-4 days, they have to announce it to the police on Day X, have to wait two days (Day X+2) before they can start advertising it, and the demonstration is held on Day X+4, which means they lose half of the time before they can advertise it.

[217] HRC, General Comment 37, para. 64.

[218] Hungary, ARA, Article 4(2).

[219] Hungary, ARA, Article 5 (1) and Article 10 (4).

[220] Hungary, ARA, Article 4(1).

[221] Hungary, ARA, Article 17.

[222] The Netherlands, for The Hague, see https://www.denhaag.nl/nl/vergunningen-en-ontheffingen/demonstratie-melden/; for Rotterdam, see https://www.rotterdam.nl/demonstratie-herdenking-of-stille-tocht-melden; Poland, Law on Assemblies, Article 10, https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/prawo-o-zgromadzeniach-18226487; Serbia, Law on Public Gathering (adopted in January 2016), Article 14 (5), https://pravno-informacioni-sistem.rs/eli/rep/sgrs/skupstina/zakon/2016/6/3/reg; Spain, Ministry of the Interior, Requirements to hold demonstrations, https://www.interior.gob.es/opencms/es/servicios-al-ciudadano/participacion-ciudadana/derecho-de-reunion/requisitos-para-celebrar-manifestaciones/; UK, Public Processions (Northern Ireland) Act 1998, s6 and s7; Czechia, Act Nr. 84/1990 on Freedom of Assembly, Section 5(3)(c), https://www.zakonyprolidi.cz/cs/1990-84.

2.3.4 AUTHORIZATION, AND NOTIFICATION AMOUNTING TO AUTHORIZATION

Out of the 21 countries examined, **Belgium**,[223] **Luxembourg**,[224] **Sweden**[225] and **Switzerland**[226] currently have what most closely resembles an authorization regime, at least for some types of events. This requires organizers to make an application for a permit to hold an assembly.

Slovenia has a mandatory notification regime in place for most types of events. However, under the law on assemblies, the administrative unit[227] still requires authorization in some circumstances including "if an assembly to be held on a public road presented an exceptional use of that road", or if the assembly is expected to exceed 3,000 participants.[228] Where authorization is required, there is an implicit presumption of granting an assembly; "if the competent authority does not serve or orally issue the organizer the [prohibition] decision within the prescribed period, the assembly or event shall be considered permitted".[229]

In **Belgium**, according to the Constitution, demonstrations in the open air are within the purview of police laws, which means law wnforcement can put in place preventive measures such as prior authorization to be granted by the mayor.[230] In the major cities examined for this research – Antwerp, Brussels, Ghent, Liège and Namur – an authorisation regime is in place; this is also the case in all other municipalities of the Brussels Capital Region.[231] Two Flemish municipalities, Zelzate[232] and Lier[233] appear to have a notification regime in place. In the municipalities examined for this research, rather than having a presumption to grant authorization, police laws are framed in a way that assumes any demonstration to be forbidden unless authorized through prior written permission from the competent authority.[234]

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[223] In the major cities and the capital, where most of the demonstrations in open air take place, as well as in most municipalities Amnesty International has examined, an authorization regime is in place. However, Amnesty International is aware that at least the municipality of Zelzate and Lier have a notification regime (Zelzate :Art 7.0.1 https://www.zelzate.be/data/content/file/pol3.pdf, and Lier: Articles 194 and 195 https://www.politie.be/5360/sites/5360/files/files/2023-11/ABP%20Lier%20GECOORDINEERD%202023-11-01.pdf

[224] During the period examined, open air, political, religious or other meetings were subject to police legislation and rules requiring authorization by the mayor to hold an assembly in open air, in a place open to the public. See Constitution of Luxembourg, https://data.legilux.public.lu/filestore/eli/etat/leg/constitution/1868/10/17/n1/consolide/20200519/fr/pdf/eli-etat-leg-constitution-1868-10-17-n1-consolide-20200519-fr-pdf.pdf, Article 25, and amendment to the Constitution (https://data.legilux.public.lu/filestore/eli/etat/leg/loi/2023/01/17/a28/jo/fr/pdfa/eli-etat-leg-loi-2023-01-17-a28-jo-fr-pdfa.pdf

[225] Sweden, Public Order Act (1993:1617), Chapter 2, Article 4, https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/ordningslag-19931617_sfs-1993-1617

[226] In Switzerland, responsibility for facilitating freedom of peaceful assembly falls within the competence of cantons. Amnesty International has examined laws and regulations, where available, in the cantons of Berne, Basel City, Vaud, Geneva, Zurich, as well as partially in Lugano/Bellinzona (Ticino)), Lucerne and Graubünden. These have been selected for their political, economic or societal importance in Switzerland and with the aim of providing a regional balance of examples. All of these require authorization for assemblies: Basel-City, Road Traffic Regulations (Strassenverkehrsverordnung, StVO), Article 14, https://www.lexfind.ch/fe/de/tol/3829/de; Berne, Regulations on demonstrations on public property (Demonstration Regulations, KgR), Articles 2, 3, https://stadtrecht.bern.ch/lexoverview-home/lex-143_1?effective-from=20220701#fn10; Zurich, Regulations on the use of public land, Article 2, https://www.stadt-zuerich.ch/content/dam/stzh/portal/Deutsch/AmtlicheSammlung/Erlasse/551/210/551.210%20Benutzungsordnung%202022_V8.pdf; Lausanne, General Police Regulations of the Municipality of Lausanne, Articles 41, 43, 44, 45, https://www.lausanne.ch/apps/actualites/Next/serve.php?id=141&kind=recueil; Geneva, Regulations implementing the law on demonstrations in public domain (RMDPu), Article 2, https://www.lexfind.ch/fe/de/tol/31797/versions/231795/fr

[227] Administrative units are established to perform the tasks of state administration, which must be organized and carried out in any of the total of 58 administrative units around the country in a uniform manner. The areas of administrative units are therefore determined in such a way as to ensure the rational and efficient performance of administrative tasks. As a rule, the area of an administrative unit comprises the area of one or more local communities. (as defined here: https://www.gov.si/drzavni-organi/upravne-enote/).

[228] Slovenia Public Assembly Act, Article 13 (1) and (4), available at http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1455, A rally or event constitutes an "exceptional use of a public road" if traffic is obstructed by an unusually large number of road users, or by the use of the public road in such a way that users take up more space than normal, or by their behavior in traffic which is not in accordance with the road traffic regulations.

[229] Slovenia, Public Assembly Act, Article 21, para 3.

[230] Constitution, Article 26. See also Point 14, p. 152, Ministerial Circular OOP 41 on the Operationalization of the reference framework CP4 on the negotiated management of public space following events affecting public order, available at https://www.ejustice.just.fgov.be/mopdf/2014/05/15_2.pdf#Page150

[231] See Police Regulations in Antwerp available at https://www.antwerpen.be/nl/info/politiecodex; Police regulations in Brussels and Etterbeek available at https://www.brussel.be/sites/default/files/bxl/Reglement_de_police_-_Politiereglement.pdf; Police regulations in Ghent available at https://apidg.gent.be/supporting/dss-public/v1/sharedfiles/ae085ab0-18a8-4287-90d1-81cbef3d9c83; Police regulations in Liege available at https://www.liege.be/fr/vie-communale/services-communaux/securite/bureau-de-police-administrative/reglements/reglement-de-police-relatif-a-lorganisation-de-manifestations-ou-corteges-sur-la-voie-publique-et-manifestations-en-salle-ou-en-plein-air; https://www.liege.be/fr/vie-communale/services-communaux/securite/securite-et-salubrite-publique/manifestations; Police regulations in Namur available at https://www.namur.be/fr/ma-ville/administration/services-communaux/service-juridique-general/reglements/reglement-general-de-police-rgp#:~:text=Afin%20de%20prot%C3%A9ger%20la%20faune,apr%C3%A8s%20le%20lever%20du%20soleil;

[232] See regulations for Zelzate (Article 7.0.1, p. 45 - Werkgroep politionele aangelegenheden (zelzate.be))

[233] See regulations for Lier (Article 194 & 195, p. 34 - Titel 1 – Algemene bepalingen (politie.be))

[234] Belgium, Namur: 'Any demonstration on the public highway is forbidden, except with written authorization from the Mayor', available at https://www.namur.be/fr/ma-ville/administration/services-communaux/service-juridique-general/reglements/reglement-general-de-police-

Luxembourg is currently considering reviewing[235] its legislation on assemblies. The draft law proposed in 2023 presented its system for assemblies as a notification regime (with sanctions for lack of compliance).[236] However, it would de facto continue to operate as an authorization regime due to a provision requiring a mandatory meeting between the organizer, the mayor and the police.[237] HRC has repeatedly criticized Luxembourg for its existing authorization regime.[238]

Sweden requires an application to the police in writing, if possible one week prior to the assembly.[239] There is no explicit presumption in favour of granting the assembly but not permitting an assembly is the exception.[240]

In **Switzerland,** generally, a system requiring authorization for public assemblies is in force in all major cities.[241] Spontaneous assemblies are mostly exempt from authorization (see below). The rules and conditions of the authorization regime vary from city to city, however generally, as a minimum, the date, time, locations and/or the route envisaged for an assembly, the estimated number of people expected to attend it and the details of the organizers must be provided. In Geneva, in principle, an authorization request has to be filed 30 days before the demonstration. Under exceptional circumstances, a request 48 hours before an event is admitted.[242] In Basel the request has to be submitted minimum 2 weeks before an assembly.[243] In the city of Zurich, on the other hand, an authorization is no longer required for small and medium-sized political rallies and demonstrations, that only need to be notified.[244]

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rgp#:~:text=Afin%20de%20prot%C3%A9ger%20la%20faune,apr%C3%A8s%20le%20lever%20du%20soleil); Brussels and Etterbeek stipulate in Article 41 of the police law that: "Unless authorized by the competent authority, it is forbidden...", available at https://www.brussel.be/sites/default/files/bxl/Reglement_de_police_-_Politiereglement.pdf); Antwerp**:** Article 102 "It is prohibited to set up public meetings and demonstrations outdoors and/or on public spaces, without written and prior permission from the mayor...." available at https://www.antwerpen.be/assets-proxy/84d4cbc5-b2ff-4390-b742-64008cf05296; Ghent: Article 1(1) "an open-air public meeting can only take place after a prior authorization from the mayor..." available at https://apidg.gent.be/supporting/dss-public/v1/sharedfiles/ae085ab0-18a8-4287-90d1-81cbef3d9c83; Liège: Article 2 'prior authorisation is required..." (https://www.liege.be/fr/vie-communale/services-communaux/securite/bureau-de-police-administrative/reglements/reglement-de-police-relatif-a-lorganisation-de-manifestations-ou-corteges-sur-la-voie-publique-et-manifestations-en-salle-ou-en-plein-air)

[235] A draft law proposal was shared in 2023 by authorities with Amnesty International. The analysis in this report is based on the provisions included in the 2023 draft. However, In June 2024, the authorities released a new version of the draft law, which was open for input until 26 June 2024. Amnesty International Luxembourg provided written comments to the authorities on the most recent version of the law, however those are not reflected in this report. Many of the concerns raised in relation to the draft law opened for input in 2023, remain valid also in relation to the June 2024 version of the draft Amnesty International reviewed. The organization hopes that the authorities will use the analysis provided in this report, as well as of the comments submitted in June 2024, to ensure full compliance of any upcoming legislation on assemblies.

[236] A person who participates to an assembly "forbidden under the conditions of the law" can receive a fine of 251 EUR to 2500 EUR (Article 12). A person who organizes an assembly without having previously declared it under the conditions of the law, or who organizes an assembly "forbidden under the conditions of this law" or who makes an incomplete or an exact declaration to cheat on the object or conditions of a projected assembly, or does not respect the conditions imposed by the bourgermestre can be punished with a fine of 500 EUR to 7500 EUR (Article 14). Persons who are found guilty of the infractions included in the law can also be punished with an additional penalty of prohibition to attend assemblies of a maximum of five years (Article 19(1). The violation of this new rule could lead to penalty of imprisonment of eight days to two years and a fine of 251 euros to 5000 euros.

[237] Luxembourg, draft law, Article 4. The draft law is not public; however, the previous government shared it with some actors of the civil society and the national human rights institution. AI Luxembourg had access to the text of the draft.

[238] HRC, Concluding Observations, 14 September 2022, UN Doc. CCPR/C/LUX/CO/4, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FLUX%2FCO%2F4&Lang=en, paras 25-26; HRC, Concluding Observations (A/41/40, para. 72. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A%2F41%2F40&Lang=en,

[239] Public Order Act, Ch. 2, Article. 6.

[240] Sweden, Public Order Act, Chapter 2, Art. 10, states that "a permission of a organizing a public assembly can only be denied if (a) it is necessary with regard to the order or safety of the assembly, or (b) as a direct consequence of it, in its immediate surroundings or with regard to traffic or to prevent epidemics. POA Chapter 2, Article 5, para. 4: the organizer of certain kind of public assemblies may be exempted from the notification requirement "if it can take place without the danger of order and safety or to traffic…". Swedish Constitution, Chapter 2, Art 24: Freedom of assembly and freedom to demonstrate may be limited in the interests of preserving public order and public safety at a meeting or demonstration, or with regard to the circulation of traffic. These freedoms may otherwise be limited only with regard to the security of the Realm or in order to combat an epidemic; Swedish Police Authority: "only in exceptional circumstances may the police deny permissions of organising public assemblies, if it is necessary with regard to the order or safety of the assembly."

[241] Basel: Article 14 para. 1 of the Ordinance on road traffic https://www.gesetzessammlung.bs.ch/app/de/texts_of_law/952.200; Berne: Article 2 of the regulations on rallies on public property (Municipal law (bern.ch); Geneva: Article 3 of the Law on demonstrations in the public domain (LMDPu) https://www.lexfind.ch/fe/fr/tol/31796/fr;

[242] Art. 2 Para. 1 and 2 Implementing regulations for the law on events in the public domain public domain (RMDPu) https://www.lexfind.ch/fe/fr/tol/31797/fr

[243] Article 14 Para. 2 of the Ordinance on road traffic, https://www.gesetzessammlung.bs.ch/app/de/texts_of_law/952.200 indicated 3 weeks. However, in a letter received by Amnesty International on 25 June, following the invitation sent to authorities to provide comments on the findings of the report, the Basel-City cantonal Police indicated that " [s]ince the end of May, applications for authorization must be submitted two weeks before the announcement. The shortening of the deadline is the result of [a] motion. The shortened submission deadline has already been publicized on the cantonal police homepage and on the information flyer and is already being implemented in practice. The Road Traffic Ordinance still needs to be formally amended accordingly."

[244] The legislation in the city of Zurich is currently under review. On 15 September 2021, the municipal council instructed the city council with a motion to replace the authorization requirement with a notification procedure. In November 2022, the City Council amended the General Police Ordinance (APV) for small and medium-sized rallies and demonstrations (up to 100 participants) and submitted it to the

2.3.5 FINANCIAL COSTS FOR NOTIFICATION AND AUTHORIZATION

In line with international human rights obligations,[245] notification is free of charge virtually everywhere in the region. However, in **Sweden**, an application for authorization requires organizers to pay a fee (approximately EUR 30).[246] In the canton of Geneva, **Switzerland**, organizers are required to pay a fee (between CHF 200 and 500, approximately EUR 205 to 510) if the request for an assembly is submitted fewer than 30 days prior to the day when it is intended to take place.[247] In Fribourg, also in Switzerland, the law requires all organizers of demonstrations to pay a fee for the authorization process.[248]

2.3.6 FAILURE TO NOTIFY – POTENTIAL LIABILITY FOR ORGANIZERS AND PARTICIPANTS

As noted above, notification should never be an end in itself but should only be introduced where it is necessary and proportionate in pursuit of a legitimate aim. Rather than imposing sanctions for non-notification, state authorities should always seek to facilitate peaceful assemblies (albeit recognizing that their capacity to do so *may* be reduced if they were not in possession of the relevant information).

Some of the countries examined impose administrative sanctions for failure to notify or seek authorisation (**Austria**, **Belgium, Czechia**, **Luxembourg** (under the draft law), **Slovenia** and **Spain**) or for supplying false or insufficient information (**Germany** and **Luxembourg** (under the draft law)).[249] In **Slovenia**, a failure to provide all the required information [when notifying] means that the authorities consider the notification not to have been lodged, and it entails an administrative fine.[250]

In contravention of international human rights law and standards, legislation in **France**, **Germany**, **Hungary**, **Italy**, the **Netherlands**, **Poland**, **Portugal**, **Serbia**, **Sweden**, **Switzerland**, **Türkiye** and the **UK**[251] also provides

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municipal council, which is responsible for the decision. See City of Zurich, "Authorization requirement for demonstrations of up to 100 people will be abolished", Press Release from 1 November 2023, https://www.stadt-zuerich.ch/pd/de/index/das_departement/medien/medienmitteilung/2023/november/231101a.html. However, in February 2024, the population of the canton of Zurich voted in favour of a compulsory authorization regime for all municipalities. It is not yet clear how possible legislation at cantonal level to be adopted following the vote will affect the municipal rule stipulating a notification regime for small and medium sized assemblies.

[245] HRC General Comment 37, para. 70: notification procedures '… should be free of charge.'

[246] Information regarding the conditions and procedure for the permit is available on the Police' dedicated page available at https://polisen.se/tjanster-tillstand/tillstand-ansok/offentlig-plats/

[247] Switzerland, Implementing Regulation on the Law on Public Demonstrations (Règlement d'exécution de la loi sur les manifestations sur le domaine public, RMDPu), Article 6. In an email received by Amnesty International Switzerland on 28 June 2024 from the Department of Institutions and Digital of the canton of Geneva, in relation to the organization's invitations to provide comments to the findings of the report, authorities stated that a fee was required only "if the application is submitted less than 30 days in advance and could have been submitted on time".

[248] Article 12 of the 1990 General Police Regulations stipulates that public events are subject to authorisation and payment of a fee. See also https://www.amnesty.ch/fr/pays/europe-asie-centrale/suisse/docs/2024/reconnaitre-les-manifestations-protegees-par-les-droits-humains; and, for the experience of activists who have paid fees of around 200 CHF for organizing the women strike, see https://www.ville-fribourg.ch/reglements-tarifs/300-1.

[249] Austria: Versammlungsgesetz 1953, para. 19; Belgium, Law on communal administrative sanctions (SAC), 24 June 2013, https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=13-07-01&numac=2013000441; Czechia, Assembly Law, section 14 (3)(4); Luxembourg: Article 14 of the draft law (see details for sanctions envisaged in 2.3.4 under notification and authorization regimes); Slovenia: Public Assembly Act, Article 39; Spain: Organic Law 4/2015 on Public Security, Article 37.1 indicate sanctions of 100 – 600 Euros for failure to notify assemblies of more than 20 people; Germany: Law on administrative offences, (OWiG), https://www.gesetze-im-internet.de/owig_1968/index.html#BJNR004810968BJNE001123377, para. 111; Luxembourg: 2023 Draft law, Article 14.3 states that a fine of 500 EUR to 7500 EUROS can be applied to the person who organizes an assembly not declared previously under the conditions of the law, or organizing an assembly forbidden under the conditions of the law. Luxembourg has an authorization regime in place.

[250] Slovenia: Public Assembly Act proscribes administrative fines from 150 to 300 EUR for an organizer who "fails to register a rally or event in accordance with the provision of Article 14 of the Act" (Article 39, line 1).

[251] France: Criminal Code, Article 431-9. Organizers who do not notify the authorities of an assembly, who organize an assembly that has been banned or who deliberately provide wrong information in the notification can be held criminally liable and sentenced to up to six months' imprisonment and fined up to €7,500; Germany: failure to meet minimum notification requirements means that an organizer or leader of an assembly can be prosecuted under paras 25, 26 Assembly Law; Hungary: Failing to notify or notify in time is a petty offence on the part of the organizer (Article 189 (1)(a), 189 (3)(a), Petty Offences Act (Act II of 2012); holding such a non-notified assembly is also a petty offence under Article 189 (3a)(d) of the Petty Offences Act (Act II of 2012); Italy: Article 18(1) TULPS, punishes holding a meeting without prior notice with a fine and with arrest for up to six months. Article 18(4) of the TULPS also provides that the *Questore* [chief of police], in the event of failure to give notice, may prevent the meeting from taking place or may, for the same reasons, prescribe modalities of time and place for the meeting. Individuals violating the prohibition or prescriptions of the Questore are punished by a fine and imprisonment of up to one year (Art. 18(5)); The Netherlands: Article 11, Law on Public Assemblies states that 'holding or participating in a meeting for the purpose of professing religion or beliefs, assembly or demonstrations for which the required notification has not been made or was prohibited' is punishable with 'periods of imprisonment of up to two months or a fine of the second category'. See also note by Office of Public Prosecution, available at Demonstrations | Public Prosecutor's Office (om.nl); Poland: Code of Petty Offences, Article 52.2.2, 20

for criminal sanctions for failure to notify or seek authorization. In **France**, failure to notify, deliberately submitting inaccurate or incomplete information in the notification, or organizing a gathering which has been banned, is criminalized.[252] In **Portugal**, failure to adhere to the legal requirements, including notification, is punishable with a significant fine or up to two years' imprisonment.[253] In **Sweden**, anyone who intentionally or negligently organizes a demonstration without permission can be sentenced to a fine or imprisonment for a maximum of six months. In **Türkiye**, organizing or leading an unnotified meeting or demonstration is sanctionable with imprisonment from 18 months to three years. Also, incomplete documents or information means the notification is deemed invalid and also renders the assembly unlawful.[254]

Such criminal sanctions on assembly *organizers* contravene international human rights law and standards (as noted in section 2.2 above). So too the imposition of administrative sanctions – unless it can be shown that enforcement is itself strictly necessary and proportionate to achieving at least one of the legitimate aims for which mandatory notification may be introduced.

Separately, *participation* in an unnotified assembly should not be subject to any form of sanction.[255] However, in some jurisdictions, participation in an 'unlawful' assembly is administratively sanctioned or criminalized – including in assemblies that are treated as unlawful *because* the notification requirement has not been complied with. In countries where non-notification renders an assembly unlawful, participation in such an assembly can amount to a criminal offence. For example, in **France**, protests that have not been notified, for that reason alone, have been considered to be an '*attroupement*' (an assembly that 'threatens' or is 'likely to threaten' public order).[256] People organizing and/or participating in such an assembly can face criminal sanctions.[257] In **Italy**, lack of notification allows the *Questore* [chief of police] to either ban or impose restrictions on an assembly, and failure to adhere to such prohibition or prescriptions is criminally punishable.[258] In **Serbia**, where unnotified assemblies are unlawful, police can make arrests and charge/fine participants.[259] In **Türkiye**, any unnotified assembly is considered unlawful and participation is punishable with terms of imprisonment of between 18 months and three years.[260] In **Belgium,** non-compliance with

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May 1971, https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19710120114/U/D19710114Lj.pdf; Portugal: Decree-Law 406/74, Article 15, section 3; Serbia: the organizers are fined (70,000 – 120,000 RSD/ 600 – 1,000 Euros) and charged with minor offences if they fail to comply with the notification, including failing to ensure the assembly takes place in designated location and in a designated time (Article 21(1) of the Law on Public Gathering); Sweden: Public Order Act, Chapter 2, Article 29; Switzerland: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, (A/HRC/20/27), 21 May 2012, para. 28; Türkiye: Law No. 2911 on Meetings and Demonstrations, Article 28; UK: there are differences regarding sanctions for failure to provide notification for 'moving' assemblies (processions) across the three jurisdictions: England and Wales (no penalty for participants, but each organizer of a procession can be held criminally liable for failure to satisfy the notification requirement with a fine of up to 1,000 GBP: s.11(7)(a) Public Order Act 1986); Scotland (organizers of a procession liable to a penalty of maximum 3 months prison and 2,500 GBP fine for holding a procession otherwise than in accordance with the particulars of its date, time and route notified s.65 (1)(d) Civic Government (Scotland) Act 1982; participants liable if refuse to if told to disperse by uniformed officers and they refuse and fined of a maximum 1,000 GBP.
s.65(2)(d) Civic Government (Scotland) Act 1982; Northern Ireland: organizers and participants of processions and related protest meetings liable to a maximum penalty of 6 months imprisonment and a £5,000 fine), Public Processions (NI) Act 1998 s.6(7) and 6(10) and s.7(6) and 7(9).

[252] France, Criminal Code, Article 431-9. Organizers who do not notify the authorities of an assembly, who organize an assembly that has been banned or who deliberately provide wrong information in the notification can be held criminally liable and sentenced to up to six months' imprisonment and fined up to €7,500.

[253] Those who organize public assemblies, protests, or other, and do not follow the requirements of the Decree-Law which demands for a notification to be provided for assemblies - will incur the offence of "qualified disobedience" (Portugal, Decree-Law 406/74, Article 15, section 3:)Portugal's Penal Code's Article 348 punishes 'qualified disobedience' with a fine up to 240 days or up to two years imprisonment. According to Article 47 of the Penal Code, each day corresponds to a fine ranging from EUR 1 to EUR 498.80, which the tribunal fixes based on the economic and financial conditions of the convict and his "personal duties".

[254] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 10.

[255] General Comment 37, para. 71: 'A failure to notify the authorities of an upcoming assembly, where required, does not render the act of participation in the assembly unlawful.'

[256] France, Criminal Code, Article 431-3. The notion of *attroupement* in French law is too vague as it includes not only public assemblies that threaten public order but also those that are *likely to* threaten public order. Authorities have in some instances interpreted the latter category too widely; for example, authorities have considered protests that were not notified as falling within that category and used it as a ground for dispersal. See Amnesty International, 'France: Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France', EUR 21/179/2020, 29 September 2020.

[257] Non-compliance with notification requirements is punishable according to article 431-9 of the Criminal Code, while participation in a public assembly that is likely to disrupt public order (attroupement) is punishable according to article 431-3 of the Criminal Code. Amnesty International called on the French Parliament to review and repeal all laws that impose a punishment solely for the exercise of the right of peaceful assembly, including the two provisions.

[258] Italy, Regulation for the execution of the Consolidated Law on Public Security Laws (TULPS), Royal Decree No. 635/1940, article 18(4) provides that the *Questore* [chief of police], in the event of failure to give notice, may prevent the meeting from taking place or may, for the same reasons, prescribe modalities of time and place for the meeting. Individuals violating the prohibition or prescriptions of the Questore are punished by a fine and imprisonment of up to one year (Art. 18(5)).

[259] Participants can be charged/fined for "disturbances of public peace and order" as regulated by the Law on Internal Affairs. Furthermore, minor offences and fines are issued to the organizer and participants if they fail to leave following a dispersal order (Article 20 of the Law on Public Gathering), and the organizer if they organize a gathering in locations where the gathering cannot be held, fails to notify the gathering, or fails to comply with the ban on gathering (Article 22).

[260] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 23, which lists what is considered unlawful; and Article 28, which includes penal provisions for unlawful demonstrations. Furthermore, Article 7 of the Regulation On The Implementation Of The Law On

municipality regulations, including non-compliance with authorisation requirements (and participation in unauthorized assemblies), can result in administrative sanctions.[261] In Luxembourg, Draft law, Article 12 provides for a fine between EUR 251 – 2,500 EUROS for participation in a banned assembly is administratively sanctioned.[262] In Switzerland, for example in Zurich, participation in unauthorized assemblies is criminalized by law, however rarely applied in practice.[263] Examples of selected concrete cases of sanctions against organizers for failure to notify are provided in Chapter 3.3.2.

Some countries' legislation allows for the imposition of sanctions for not complying with the terms of the notification or permit request. Such requirements could include, for example, adhering to the notified route, complying with the prescribed obligations. In Serbia, organizers may be fined (70,000-120,000 RSD/ 600 - 1,000 EURO) and charged with a minor offence when they fail to comply with the terms of the notification, including failing to ensure that the assembly takes place in the designated location and at the designated time.[264] In Switzerland,[265] in many cantons, criminal sanctions can be imposed on anyone who "fails to comply with the terms of the permit" including, for example, a fine of up to CHF 100,000 (approximately EUR 102,250) in the canton of Geneva.[266] This provision has been explicitly criticized by the Special Rapporteur on freedom of peaceful assembly and of association.[267]

2.3.7 FAILURE TO NOTIFY – DISPERSAL AND BANS

In most of the countries examined, legislation does not provide that failure to notify a protest can, by itself, be used to justify dispersal (and courts have also affirmed that dispersal should not follow from non-notification). For example, during the 2022 trial in Finland of members of Elokapina (the Finnish XR movement), the police noted that the group did not notify the authorities of their planned protest. The court confirmed that this is not a reason to disperse demonstrations.[268] In Sweden, while the legislation requires authorization to organize an assembly, it is not possible to disperse an assembly solely on the basis that an authorization has been denied or has not been requested.[269] In Czechia, with the exception of spontaneous assemblies, all assemblies shall be notified five days in advance, however, the lack of such notification is not enough reason to dissolve an assembly.[270]

However, some countries have provisions in their legislation on assemblies that allow for dispersal if notification or authorization requirements are not met.

In Belgium, Greece, Luxembourg, Poland and Serbia,[271] an assembly can be dissolved if it violates the provisions of the law on assemblies which includes the failure to notify or seek authorization. In the

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Assembly And Demonstration Marches, 1985 (amendments 2002, 2013, 2015 and 2022) provides that: "Notifications not in compliance with the law, incorrect information, or whose documents are incomplete, shall be notified in writing to the head or one of the members of the organizing committee and shall be corrected or completed. In case the deficiencies are not completed despite the announcement made, the notification shall be deemed invalid." See: https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=14500&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5

[261] Belgium, Law on communal administrative sanctions (SAC), 24 June 2013, https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=13-07-01&numac=2013000441

[262] Draft Assembly law 2023, Article 12 provides for a fine between EUR 251 – 2,500 EUROS for participation in a banned assembly.

[263] Benutzungsordnung, Art. 26 c. Under the provisions of the General Police Regulations, anyone who takes part in unauthorized events, advertises them or incites them to do so shall be punished.

[264] Law on Public Gathering, Article 21 (1)

[265] Switzerland, Zurich, Regulation on the use of public grounds, Article 26, https://www.stadt-zuerich.ch/content/dam/stzh/portal/Deutsch/AmtlicheSammlung/Erlasse/551/210/551.210%20Benutzungsordnung%202022_V8.pdf; Basel, Misdemeanour Penal Code of Basel, Article 11, https://www.gesetzessammlung.bs.ch/app/de/texts_of_law/253.100; Bern, Regulations on demonstrations (KgR), Article 8, https://stadtrecht.bern.ch/lexoverview-home/lex-143_1?effective-from=20220701#fn10

[266] Switzerland, Geneva, Law on demonstrations in the public domain LMDPu, Article 10, https://silgeneve.ch/legis/index.aspx

[267] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, (A/HRC/20/27), 21 May 2012, para. 28

[268] Ruling of the Helsinki District Court, 6 April 2022, Verdict 22/114664, case No. R 21/7688, p. 13. There are other court decisions confirming this. In a trial in 2023 where police officers were charged for using OC-spray against peaceful protesters, police defended the decision to disperse a street block and claimed that the protest was not fully protected by assembly law because the protesters had given misleading information in their notification to the police. The Helsinki district court's decision, R22/4140, 21 June 2023, confirmed that a public meeting is protected by law despite neglecting the duty of notification.

[269] Public Order Act, Ch.2, Articles 23-24. This is also further underscored in jurisprudence, see for ex. Åberg, Kazimir, The Public Order Act: comments and case law, 2017 (Swedish).

[270] Czechia, Law on Assemblies, section 5(1) requires notification of five days in advance but accepts shorter notice in "justified cases", at the discretion of the authorities; sec. 4(1)(b) also clarifies that there is no obligation to notify spontaneous assemblies (however the convener can be liable for offence of failure to announce an assembly). Unnotified assemblies are not unlawful per se but they are sanctionable.

[271] Belgium: failure to obtain authorization or failure to notify - depending on local rules - can be taken into account in a decision by the local authorities to disperse a protest. Article 26 Constitution, https://www.senate.be/doc/const_nl.html, and article 22, 4° Police Service Act." https://www.senate.be/doc/const_nl.html; Greece: according to the law, the authorities cannot ban an assembly simply because no prior notification was provided. They can proceed though with its dispersal, article 9. Para. 1, Law on Assemblies; Luxembourg: Article 10, 2023 Draft Law on assemblies; Poland: Article 20.3 of the Law on Assemblies; Serbia: Law on Public Gatherings, Article 8(4);

Netherlands, the assembly law provides for the possibility to disperse or prohibit an assembly solely on the basis of not notifying on time[272] and the police have made use of such powers.[273] In the municipalities of Dordrecht and Hoorn, assemblies have been dispersed due to a failure to notify, yet the responsible mayors later apologized for this decision.[274] In Greece, a public outdoor assembly may also be dispersed if organizers do not provide the required details as part of the notification.[275] In France, dispersal is possible if an assembly that has not complied with the requirement of notification is deemed by the authorities to be a threat to public order. Amnesty International documented cases where the authorities considered that the lack of notification in itself rendered the assemblies likely to threaten public order ("*attroupement*").[276] Such broad provisions, enabling the dispersal of peaceful assemblies, clearly undermine established protections in international human rights law and standards.

In Türkiye, not notifying an assembly, or deviating from the notification procedure (see above), makes the assembly unlawful under Turkish law and gives the police the authority to disperse the assembly.[277] In August 2018 the Governor of the Beyoglu district of Istanbul banned the 700th weekly gathering of the Saturday Mothers/People based on the absence of notification and the fact that Galatasaray Square (in central Istanbul) was not a permitted location for assemblies.[278] The vigil was subsequently violently dispersed. After two of the participants brought two separate legal challenges, the Constitutional Court ruled that the applicants' right to organize meetings and demonstrations, protected under Article 34 of the Turkish Constitution, was violated. The court, referring to earlier judgements, underlined that failure to notify does not by itself justify the interference with the right to meetings and demonstrations.[279] Since August 2018, Galatasaray Square has been surrounded by metal barriers blocking access and guarded by police. However, in November 2023, after five years of bans on their weekly vigils, 10 representatives of Saturday Mothers/People were allowed to read a short statement in front of Galatasaray High School near Galatasaray Square. On 25 May 2024, for the 1,000th vigil for missing relatives, Saturday Mothers/people were allowed in the square.[280] Metal barriers were erected shortly after the vigil and authorities insisted the square will not be open on an ongoing basis. While the positive developments in the last months are welcomed, it still falls short of the full implementation of Constitutional Court decisions of November 2022 and March 2023 which concluded that the applicants' right of peaceful assembly had been violated and that the authorities should prevent the reoccurrence of the violation.

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[272] The Netherlands, Wet openbare manifestaties (WOM), https://wetten.overheid.nl/BWBR0004318/2010-10-10, Article 7.a (for the dispersal) and Article 5.2.a (for the prohibition), https://wetten.overheid.nl/BWBR0004318/2010-10-10/#ParagraafII_Artikel5

[273] The Netherlands: in Dordrecht, police dispersed a protest in a park because it was not notified and protesters could not show identification, see: ' Short protest against the felling of 118 trees in Dordrecht: Activists must leave immediately' (in Dutch), 2 August 2022, available at https://www.ad.nl/dordrecht/kort-protest-tegen-de-kap-van-118-dordtse-bomen-actievoerders-moeten-gelijk-weer-vertrekken~a0a624e0/ . The mayor apologized later, see: 'Mayor Wouter Kolff in the dust: 'Ending protest action against felling trees was not justified' (in Dutch), 4 August 2022, available at https://www.pzc.nl/dordrecht/burgemeester-wouter-kolff-door-het-stof-beeindigen-protestactie-tegen-kap-van-bomen-was-niet-terecht~a242c12f/ . Likewise, a protest of We Promise was dispersed because notification had not been provided. Also in this case, the mayor later apologized, see 'Mayor Nieuwenburg apologizes after cutting off demonstration against J.P. Coen' (in Dutch), 26 January 2022, available at https://www.nhnieuws.nl/nieuws/298467/burgemeester-nieuwenburg-biedt-excuses-aan-na-afkappen-demonstratie-tegen-jp-coen

[274] See 'Mayor Wouter Kolff in the dust: 'Ending protest action against felling trees was not justified' (in Dutch), 4 August 2022, available at https://www.pzc.nl/dordrecht/burgemeester-wouter-kolff-door-het-stof-beeindigen-protestactie-tegen-kap-van-bomen-was-niet-terecht~a242c12f/; and 'Mayor Nieuwenburg apologizes after cutting off demonstration against J.P. Coen' (in Dutch), 26 January 2022, available at https://www.nhnieuws.nl/nieuws/298467/burgemeester-nieuwenburg-biedt-excuses-aan-na-afkappen-demonstratie-tegen-jp-coen

[275] Greece, Law 4703/2020, Article 9 para. 1(d).

[276] France, Criminal Code, Article 431.4. See Amnesty International, 'Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France' report, EUR 21/7191/2020, September 2020, available at https://www.amnesty.org/en/documents/eur21/1791/2020/en/

[277] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 23 and 24. It should be noted that Article 23 also stipulates other grounds which make the assembly unlawful and allow for dispersal.

[278] Saturday Mothers/People are a group of relatives of victims of enforced disappearances and other human rights defenders who have been tirelessly seeking and justice for their loved ones who were forcibly disappeared in police custody and killed in the 1980s and 1990s. Saturday Mothers/People began holding a peaceful weekly vigil in Galatasaray Square in central Istanbul since May 1995 demanding that the authorities account for the fate of their loved ones. So far, no one has been brought to justice in relation to the enforced disappearances. Time and again, the Saturday Mothers/People have been met with brutal crackdowns and even prosecutions for taking part in peaceful vigils. Turkish authorities have never provided a valid justification for their unlawful denial of the rights to freedom of expression and peaceful assembly.

[279] Constitutional Court judgments, Maside Ocak Kışlakçı B. No: 2019/21721, 16/11/2022 https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/21721 and Gülseren Yoleri, B. No: 2020/7092, 29/3/2023, https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/7092

[280] Amnesty International, 'Türkiye: Authorities must open Galatasaray Square permanently to Saturday Mothers/People ahead of their historic 1,000 vigil for missing relatives', 24 May 2024, available at https://www.amnesty.org/en/latest/news/2024/05/turkiye-authorities-must-open-galatasaray-square-permanently-to-saturday-mothers-people-ahead-of-their-historic-1000th-vigil-for-missing-relatives/

2.4 NOTIFICATION AND AUTHORIZATION PROCEDURES IN PRACTICE

What the authorities in some countries describe as a notification regime may, in practice, amount to a system of authorization. The crucial distinction between notification and authorization procedures is that a system of authorization presumes that an assembly organizer, after informing the authorities, cannot go ahead with the event until permission or approval is granted from the authorities.[281] What might be described by the authorities as a 'notification' procedure could nonetheless function (de facto) as an 'authorization' procedure when it demands and/or triggers a mandatory process of dialogue or bargaining, in which the authorities have the upper hand, and whereby the assembly organizer may feel obliged to agree to whatever 'proposals' the authorities make regarding the time, place or manner of the event.

For example, in **France**, as the authorities may ban demonstrations based on alleged disturbances to 'public order', in reality, the notification regime as implemented by the authorities is a de facto authorization regime. For instance, the Préfecture de Gironde states on their website that: "The authority receiving the declaration [of notification] issues a receipt. The event is then presumed authorized. If the police authority considers that the planned event is likely to disturb public order, it will issue an order prohibiting the event, which will be notified to the signatories of the declaration."[282] Law enforcement officials in France regularly disperse public assemblies simply because of the lack of notification, most often when the authorities consider such assemblies likely to threaten public order.[283] For example, in February 2022 the authorities banned the Covid-19 anti-vaccination demonstration "Convois de la liberté",[284] arresting 97 people and fining 513 people who tried to defy the ban.[285]

Where assemblies are banned or severely restricted solely due to a failure to notify, notification becomes used by authorities an end in itself. Sometimes this occurs even though the authorities are already in possession of relevant information about a planned assembly. In **Italy**, for example, in December 2022, the chief of police of Milan banned a demonstration in advance because it had not been notified to the authorities,[286] but had been announced through banners on the streets and social media posts. "[287]

In **Portugal**, the notification requirement has also been administered in a strict manner. For example, in March 2023, one of the organizers of the National Trans Visibility Day march in Lisbon was identified by the police at the end of the protest. He has since then been notified by the public prosecutor as suspected of committing 'qualified disobedience'[288] allegedly because the march started before the permitted time (during weekdays marches in Portugal can only start after 7.30pm). The activist's lawyer told Amnesty Portugal that the march started according to the time announced in the notification, that this was communicated to the police on the spot, without the police objecting or warning the organizers that they would be committing the crime of qualified disobedience.[289] In recent years, Amnesty Portugal has documented similar cases involving notification procedures. Activists and those in different social movements have told Amnesty International Portugal that the way in which the authorities apply the notification procedure can be intimidating and generates a chilling effect on protest organizers.[290]

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[281] The fact that a notification requirement is enforced; or that restrictions have been imposed, or that regulation is discriminatory, does not convert a notification regime into a de facto authorization regime. Restrictions/bans/dispersals can be imposed within a notification-based system too, and notification procedures can lead to discriminatory restrictions (just as authorization regimes can potentially operate in ways that are not discriminatory).

[282] Prefect of Gironde, Principles, https://www.gironde.gouv.fr/Demarches/Manifestations-a-caractere-revendicatif

[283] France, Court of Cassation, Criminal Chamber, 16 March 2021, 20-85.603, https://www.dalloz-actualite.fr/sites/dalloz-actualite.fr/files/resources/2021/04/20-85.603.pdf

[284] Paris police Headquarters, Order nr. 2022- 00149 prohibiting a demonstration called "convoi de la liberté", 9 February 2022, https://www.prefecturedepolice.interieur.gouv.fr/sites/default/files/Documents/Arrete_du_9_fev_2022_interdisant_le_convoi_de_la_liberte.pdf

[285] See, '"Convois de la liberté" :several arrests and fines in Paris', 12 February 2022 (in French) https://www.lesechos.fr/politique-societe/societe/les-convois-de-la-liberte-aux-portes-de-paris-1386506

[286] The event was planned to express solidarity with an anarchist detainee being held under the so-called "hard prison" regime. See: Milano, il questore vieta la manifestazione in solidarietà all'anarchico Alfredo Cospito, https://www.ilfattoquotidiano.it/2022/12/28/milano-il-questore-vieta-la-manifestazione-in-solidarieta-allanarchico-alfredo-cospito/6919513/

[287] Italy, TULPS, Article 18 (4).

[288] Portugal, Criminal Code, article 291

[289] Interview with lawyer was carried out on 29 May 2024.

[290] Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, available at https://www.amnistia.pt/a-liberdade-como-bandeira/. In February 2023, several teachers received a notice from the Public Prosecutor's Office (PPO) in relation to participation in a demonstration that had taken place the previous month (January) in Oeiras, in the Lisbon region. The notice informed them that they were suspected of 'qualified disobedience' for organising an unnotified protest. The communication from the PPO followed a complaint filed by the police in relation to the lack of notification of the demonstration. The police claimed that they had been informed of several teachers' marches that day, but not about this specific one. At least one teacher was heard by the police. The Oeiras City Council assured journalists

In **Belgium**, although authorisation regimes are not necessarily applied in a restrictive way, and it is very rare that authorization is denied (based on information received from the municipalities of Brussels, Etterbeek, and Ghent),[291] the very existence of an authorization requirement (as explained in section 2.2) undermines the idea that assembling peacefully is a freedom and a right – not a mere privilege that the authorities are entitled to grant or deny. The existence of such an authorization requirement creates an opening for regulatory intervention – and in June 2023 – even though the fine was overturned on appeal[292] – an activist was administratively fined 350 EUR for organizing an unauthorized protest against budget cuts in childcare services in front of the Ghent's city hall.

In **Switzerland,** while some cantonal authorities assert that there is a presumption in favour of approval of assemblies,[293] restrictions imposed in practice recurrently contradict such assertions. Lawyers interviewed for this report[294] stated that the authorities impose a long list of conditions to be complied with and threaten criminal and/or administrative sanctions for non-compliance. For example, in Basel, this includes organizers having to provide personnel to steward the assembly, appoint a contact person who is always available to the cantonal police, and ensure that there will be no unnecessary restriction of public transport. In Zurich, organizers have been required to choose a professional security company to steward the demonstration.[295] In Lausanne, organizers are made liable for all actions taking place during a demonstration and are required to provide a stewarding service for security purposes**,** to monitor the demonstration, and to check participants' slogans (for example to prevent hate speech), among other requirements.[296] In Geneva, the police reportedly summon assembly organizers to a negotiation meeting during which they may have to face approximately 10 representatives of the police and public transport authorities. It is customary for police to try to impose their itinerary and conditions, with the threat of refusing authorization if the conditions are not accepted. Only large organizations might have the leverage to engage in negotiations properly and reduce the restrictions imposed. Smaller groups, or those representing minority communities, may simply be forced to accept the conditions.[297]

In **Sweden**, between 2020 and 2022, according to information received from authorities, 1,081 requests for authorization where protests were the main category were approved, seven were partially approved and eight requests were denied.[298] In 2020 the police denied a request to hold a Black Lives Matter demonstration despite the organizer putting in place measures to adhere to the maximum number of 50 participants (allowed at the time) as well as social distancing measures to comply with Covid-19 restrictions.[299]

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at the time that it had been informed of the protest. In an interview with Amnesty Portugal on 30 May 2024, one of the teachers involved in the case said that he was surprised by the communication from authorities, as he was not an organisers. He also said that at no point during the march the police warned the demonstrators that they could be committing "disobedience". The teacher also said that, after the initial notification of the hearings, there was no further communication from either the police or the Public Prosecutor's office. According to the teachers, the prosecutor in charge of the case had given the impression that the case would not go to court and would be dropped. However, the teacher said that the episode had caused discomfort and some fear among the group of protesting teachers. Ref: https://www.dn.pt/sociedade/docentes-notificados-pelo-mp-nas-manifestacoes-sentem-se-pressionados-15967264.html/

[291] Amnesty International received the following data from Belgium authorities in relation to the number of authorizations submitted and granted/refused: Brussels: around 1,200 requests per year, low number of refusals; Ghent: 1056 requests between 2020-2022, 0 rejections; Etterbeck: 190 requests between 2020-2022, 1 rejection during the Covid-19 pandemic when all assemblies were forbidden. Namur and Liège municipalities did not reply to the request for information by Amnesty International, and Antwerp refused to give out such information considering the request "manifestly unfounded by referring to article 6, §3, 3° of the law of 11 April 1994 on the right to the publicity of information and to the fact their workload does not allow the generation of a governance document that would answer all the questions raised by Amnesty"

[292] See 'Lizz (39) wins in court after she was fined for protesting in front of Ghent city hall: "Victory for all activists" (in Dutch), 14 December 2023, available at https://www.nieuwsblad.be/cnt/dmf20231214_96183957; and 'Lizz (39) wins in court after hefty GAS fine for protest action against cuts in childcare: "Historic victory" (in Dutch), 14 December 2023, available at https://www.hln.be/gent/lizz-39-haalt-gelijk-in-rechtbank-na-fikse-gas-boete-voor-protestactie-tegen-besparingen-in-kinderopvang-historische-overwinning~adc23f3a/

[293] Correspondence with the Canton of Geneva, received on 3 August 2024; Correspondence with the City of Lausanne, received on 23 August 2024.

[294] Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023. The lawyers' names have been withheld for privacy reasons.

[295] Interview with two expert lawyers in the area of freedom of assembly in Zurich on 7 November 2022. The lawyers' names have been withheld for privacy reasons.

[296] Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023. The lawyers' names have been withheld for privacy reasons.

[297] Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022. The lawyers' names have been withheld for privacy reasons.

[298] These numbers are approximate as the police authorities categorize applications according to the main purpose that the applicants indicate. As such, applications for assemblies where a protest is only a part of a bigger event might be missing from the statistics. E-mail correspondence with the Police Authority, 29 May 2024.

[299] See 'The police's decision to stop BLM demonstration during the pandemic was right' (in Swedish), 16 October 2020, available at https://www.svt.se/nyheter/lokalt/halland/polisens-beslut-att-stoppa-blm-demonstration-under-pandemin-var-ratt

2.5 SPONTANEOUS ASSEMBLIES

2.5.1 INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

Assemblies that are a direct response or reaction to current events are protected under the right of peaceful assembly.[300] Such assemblies ought to be regarded as 'spontaneous' if there is insufficient time for notification to be provided within the usual time frame.[301] It also does not matter whether or not such an assembly is coordinated or 'organized', or simply represents a spontaneous coming together of people in reaction to a particular event. Furthermore, "[t]he emergence of new technologies has greatly enhanced the possibilities of [being informed about such events]" and spontaneous gatherings should be considered an "expected (rather than exceptional)" form of civic participation. States should thus ensure that spontaneous and non-notified assemblies are "facilitated and protected in the same way as assemblies that are planned in advance".[302]

As part of this obligation, domestic laws regulating the freedom of peaceful assembly should explicitly exempt such assemblies from prior notification requirements, especially where timely notification has not been feasible or would have rendered such an event moot.[303] Indeed, the authorities should not merely assume the applicability of any mandatory notification requirement, but should rather assess on a case-by-case basis whether an upcoming assembly, or part of an ongoing assembly, is spontaneous such that it ought to be exempted from any prior notification requirement.[304]

Law enforcement authorities should, as far as possible, protect and facilitate spontaneous assemblies as they would any other assembly.[305] Organizing or participating in an unnotified assembly should not lead to administrative or criminal sanctions, and spontaneous assemblies should not be dispersed due to a failure to notify. The European Court of Human Rights has emphasized that:

> **"when an immediate response, in the form of a demonstration, to a political event might be justified, a decision to disband the ensuing, peaceful assembly solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, amounts to a disproportionate restriction on freedom of peaceful assembly".[306]**

2.5.2 PROTECTION OF SPONTANEOUS ASSEMBLIES IN LAW

Spontaneous assemblies are protected explicitly in the national legislation of Czechia, Finland, Greece, Hungary, Poland, Serbia and Slovenia.[307] In Czechia, there is recognition in law that notification cannot always be complied with and a shorter notification than the usual five-day period is accepted if this can be justified.[308] In Greece and Finland the protection is restricted by provisions that the spontaneous assembly must not present a "looming danger of public safety disruption or serious disturbance of socio-economic life" (Greece)[309] or "cause significant disruption to public order" (Finland).[310] In Greece, what amounts to "looming danger" or such "disturbance" is not outlined in law. In Finland, significant disruption is interpreted as that which causes "unreasonable inconvenience to bystanders or traffic"[311] on the basis of continuity and frequency.[312]

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[300] HRC, General Comment 37, para. 14.
[301] HRC, General Comment 37, para. 72.
[302] Venice Commission Guidelines (2020), para. 79.
[303] Venice Commission Guidelines (2020), para. 79.
[304] ECtHR, *Barseghyan v. Armenia*, application no. 17804/09, judgment of 21 September 2021, para. 53.
[305] Joint Report of the Special Rapporteurs (A/HRC/31/66), para. 23.
[306] ECtHR, *Bukta and Others v. Hungary*, Application 25691/04, Judgment, 17 July 2007.
[307] Finland, Assembly Act, para. 7; Greece, Article 3 para. 3 of Law 4603/2020 and Article 3 para. 5 of PD 73/2020; Hungary, ARA Articles 10(6), (7); Poland, Law on Assemblies, Article 3.1; Serbia, Law on Public Gatherings, Article 13(1); Slovenia
[308] Czechia, Law on Assemblies, section 5(1) requires notification of five days in advance but accepts shorter notice in "justified cases", at the discretion of the authorities; sec. 4(1)(b) also clarifies that there is no obligation to notify spontaneous assemblies (however the convener can be liable for offence of failure to announce an assembly); according to sec 4(2), municipalities can designate places for spontaneous assemblies (for example, in Prague, the capital, one square is designated for spontaneous assemblies;
[309] Greece, Law 4603/2020, Article 3 para. 3 and PD 73/2020, Article 3 para. 5.
[310] Finland, Assembly Act, Article 7.
[311] Finland, PeVM 13/1998 vp and Assembly Act, Article 10.
[312] Finland, HE 145/1998 vp. In practice, some analysis on how 'significant disruption' or 'unreasonable inconvenience' has been be applied can be seen in the Helsinki District Court decision R 22/4140 (21 June 2023): During the protest, two consecutive roadblocks on different streets were ordered to move from the street and, after protesters did not obey the order, dispersed by the police. In the court

In **Hungary**, the definition of a spontaneous assembly is narrow, protecting only "spontaneous assemblies without any planning and organizer" as well as assemblies where "keeping the notification deadline would endanger the purpose of the meeting".[313] This narrow definition can be overly restrictive, as also demonstrated in **Serbia**, which defines spontaneous assemblies as those "without an organizer, taking place as a direct reaction to a specific event, following such an event, and taking place in open or closed spaces, with the aim of expressing opinions and views on the stated event".[314] For example, according to NGOs in Serbia interviewed by Amnesty International, between 2020 and 2022 there were numerous instances in which the police issued heavy fines for failure to notify to people who discussed assembling spontaneously via messaging apps or social media, and whom police therefore considered to be protest 'organizers'. In some instances, people who merely expressed their views in social media posts were identified as 'organizers' and subjected to fines for holding an unnotified (considered 'illegal') assembly.[315] In **Slovenia**, the law on assemblies contains the same narrow definition; however, no other details and no explicit protection for (organized) spontaneous assemblies is stated in the law.[316]

In seven countries (**Austria**, **Belgium**, **Germany**, **Ireland**, **Italy**, **Sweden** and the **UK**[317]) spontaneous assemblies are protected on the basis of prevailing legal doctrine or jurisprudence. However, in practice, the discretion afforded to the authorities still enables the undue restriction of the right to freedom of assembly. In **Italy**, the interpretative discretion enjoyed by the *Questore* [chief of police] has over time allowed the mandatory notification requirement to be used as a restrictive instrument, providing the authorities with the pretext to hinder, restrict or repress meetings for which notification has not been provided. The absence of notification could be used to justify the prohibition of a public assembly or to allow the authorities to disperse because it has been deemed unlawful, as well as to make it possible for the police to use force against peaceful protesters.

In the **Netherlands**[318] there is no specific protection for spontaneous assemblies in law, but in practice they are usually allowed to go ahead. However, the fact that law enforcement officials have powers to disperse assemblies for lack of notification (see 2.3.7 above) generates uncertainty around the enjoyment of the right of peaceful assembly at spontaneous assemblies. It is a similar situation in **Portugal**.[319]

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decision, it is stated that the order to move the first roadblock was not justified, because the disruption caused was not significant enough, taking into account that the street was relatively quiet and not a central route for public transport, and disturbances to emergency vehicles could be mitigated by rerouting. However, the decision ruled that the second order to move the roadblock was justified, because the street of the second roadblock was much more significant for public transport and emergency services, and rerouting traffic was more difficult. The two court decisions and different interpretations illustrate the lack of foreseeability of the application of the criteria is for participants, and potentially leaves space for arbitrary decisions.

[313] Hungary, ARA Articles 10(7) & 10(6).

[314] Serbia, Law on Public Gatherings, Article 13(1). Article 13 (3) states that an assembly is not considered "'spontaneous' if it is taking place upon an invitation by a physical person or a legal entity, which are considered as 'organizer' under this law".

[315] See 'NGO: The first final judgement acquitting a protest participant' (in Serbian), 20 June 2022, available at: https://n1info.rs/vesti/nvo-pozdravile-oslobadjajucu-presudu-organizatoru-proslogodisnjih-protesta/, Also based on interviews conducted by Amnesty International with 10 civil society organization in person (in Belgrade, Serbia) and online between September 2022 and January 2024.

[316] Slovenia, Public Assembly Act, does not explicitly recognize or define 'spontaneous assemblies'. However, they can be subsumed under 'unorganised assemblies' which are defined by article 4, paragraph 1, point 4 of the Public Act as "unplanned assembl[ies] of people without organizer held for the purpose of expressing opinions and standpoints on questions of public or common importance in open or enclosed spaces where access is open to anyone".

[317] Austria: Constitutional Court (VfGH), Erkenntnis (B2229/94), 30 November 1995, https://www.ris.bka.gv.at/VfghEntscheidung.wxe?Abfrage=Vfgh&Dokumentnummer=JFT_10048870_94B02229_00&IncludeSelf=True; Belgium: LELOUP, M., De betogingsvrijheid en de vrijwaring van de openbare orde: een analyse van de Europese en de Belgische rechtspraak in TBP 2016, afl. 10, 560-578, (in Dutch); Germany: Basic Law, Article 8; Lisken/Denninger, Handbuch des Polizeirechts, 7. Auflage 2021, J. Versammlungsrecht Kniesel/Poscher Rn. 237ff (in German) https://beck-online.beck.de/Dokument?vpath=bibdata%2Fkomm%2Flisdenkohdbpolr_7%2Fcont%2Flisdenkohdbpolr.glj.gliii.gl1.htm; Ireland: Constitution, Article 6 1° (ii) and a voluntary notification regime is in place; Italy: Marco Ruotolo, Le libertà di riunione e di associazione, in R. NANIA – P. RIDOLA (a cura di), I diritti costituzionali, vol. II, Torino, 2006 (in Italian); Alessandro Pace, La libertà di riunione nella Costituzione italiana, Milano, 1967, p. 8 ff. (in Italian), and Alessandro Pace, Art. 17, in G. BRANCA (a cura di), Commentario della Costituzione. Rapporti civili, BolognaRoma, 1977, pp. 150-151, (in Italian); Sweden: Constitution (per Chapter 2 Sections 1(4), 23 and 24, Instrument of Government). While the legislation requires an authorization to organize an assembly, it is not possible to disperse an assembly solely on the basis that an authorization has been denied or has not been requested. This is also further underscored in jurisprudence, see for ex. Åberg, Kazimir, The Public Order Act: comments and case law, 2017 (Swedish); UK: Public Order Act 1986, s. 11 states that notification is required unless "not reasonably practical" indicating that notification is not required for spontaneous assemblies; Northern Ireland requires notification for moving assemblies 28 prior or "as soon as reasonably practical"; Scotland's Law on moving protests (processions)doesn't include the same provision on reasonable practicability in its national legislation on assemblies but legislation would have to be read in line with the ECHR. There is also the possibility for discretion over the 28 days notification requirements and it is possible to provide notification on shorter notice.

[318] For example, the city of Amsterdam states on its website to contact the city government in case the deadline cannot be met.

[319] According to the Portuguese Ministry of Internal Affairs, spontaneous assemblies are permitted even if notification procedures are not complied with, and only banned or prevented in case they constitute a danger to public order and safety. Amnesty International correspondence with Ministry of Internal Affairs, 12 July 2023.

There is some measure of protection or a simplified notification procedure applied to spontaneous assemblies in **Luxembourg** (under the draft law), [320] **Spain** and **Switzerland.** In **Spain** there is some recognition in law that notification cannot always be complied with and a 24-hour notification procedure is provided for in case of "serious and extraordinary circumstances".[321] **Switzerland** provides a variety of approaches across its main cities. In the cantons of Basel-City and Bern a notification procedure – instead of the standard authorization requirement – is in place for spontaneous assemblies.[322] In Zurich, according to the city authorities, if an assembly relates to a spontaneous event, and it becomes apparent that the time available is insufficient to carry out the standard process of reviewing the application and issuing the authorization, a specifically designated group of employees within the Zurich City Police is authorized to issue a so-called spontaneous authorization in a simplified procedure.[323] Similarly, in Lausanne, the authorities can speed up the authorization procedure. In Geneva, where authorization requests must generally be submitted 30 days before a demonstration is due to take place (see 2.3.5), in exceptional circumstances this period can be reduced to 48 hours, though still with the requirement in place to seek authorization.[324] In practice, spontaneous assemblies are sometimes tolerated. However, according to lawyers interviewed for this report, police regularly try to identify the organizers and fine them.[325]

While the legislation and practice in several countries seem to seek to accommodate, to some extent, spontaneous assemblies, it is concerning that such assemblies are still subjected to some level of procedure and regulatory control by authorities.

There is no protection – in legislation or in case law - for spontaneous assemblies in **France**,[326] or **Türkiye**[327] as there are no exceptions to the notification requirement. In Türkiye, this means that all spontaneous assemblies are considered unlawful. In France, the lack of any exceptions means that the authorities readily consider spontaneous assemblies to be *attroupement*; that is, an assembly disturbing public order, and thus subject to dispersal.

2.5.3 SANCTIONS FOR ORGANIZERS IN RELATION TO SPONTANEOUS ASSEMBLIES

At least 12 countries (**Austria**, **Czechia**, **Finland**, **France**, **Italy**, **Hungary**, **Luxembourg**, **Poland**, **Portugal**, **Sweden**, **Spain**, and **Türkiye**) have laws providing for potential sanctions for organizing spontaneous assemblies.

In **Austria**, organizers are liable to be sanctioned unless failure to notify was justified.[328] In **Czechia**, failure to announce an assembly can make the convenor liable.[329] In **Finland**, organizers are liable only if the assembly significantly compromised public order or security.[330]

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[320] The 2023 draft law article 3(6) includes an exception to the authorization regime in case of "exceptional and serious reasons to justify an urgent assembly".
[321] Spain, Law 9/1983, Article 8, allows for 24h notice in cases of serious and extraordinary circumstances which are not specified, https://www.boe.es/eli/es/lo/1983/07/15/9/con;
[322] Switzerland: Basel, Justiz- und Sicherheitsdepartement des Kantons Basel-Stadt, Die Basler Demo-Praxis. Eine Erläuterung, p 2, https://www.jsd.bs.ch/dam/jcr:3ab628d0-926e-4dfc-b3ed-719d78b9f06a/210517_Basler_Demo_Praxis_Erlaeuterung.pdf; Bern, Regulation on gatherings on public grounds (KgR), Article 3 paras 2 and 3, confirmed by the Federal Tribunal, judgment of 17 March 2009, https://www.bger.ch/ext/eurospider/live/de/php/aza/http/index.php?highlight_docid=aza%3A%2F%2F17-03-2009-1C_140-2008&lang=de&type=show_document&zoom=YES&
[323] Correspondence by Amnesty International with the Police of the City of Zurich, received on 5 May 2023. To obtain a spontaneous authorization, the applicant must: provide his/her name and address, be able to cooperate and willing to cooperate, accept the terms and conditions specified in the spontaneous authorization, confirm the receipt of the spontaneous consent by signature, be present on site during the event and be reachable by phone at any time.
[324] Switzerland, Art 2, RMDPU
[325] Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022. The lawyers' names have been withheld for privacy reasons.
[326] In France, there is no exception to the notification requirement contained in the 'Internal Security Code', Art.211(1), available at https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000025503132/LEGISCTA000025505129/#LEGISCTA000025508384
[327] Law No. 2911 on Meetings and Demonstrations, Article 23(1-a) indicates that lack of notification makes spontaneous assemblies unlawful, in conjunction with Article 10, which gives law enforcement authorities the power to intervene per Article 24(2), and Guidelines for Riot Police, Article 16, https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=9225&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5. This legal framework is confirmed by Law 2559 on the Duties and Discretion of the Police, 4 July 1973, available at https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2559.pdf
[328] Austria, Assembly Law, Article 19. The justification can be that a timely justification was not possible and would have jeopardized the purpose of the meeting.
[329] Czechia: sec 4(1) of the Assembly Act indicates the possibility for an administrative penalty of up to 15,000 CZK [add EUR], although the assembly cannot be dissolved just for being spontaneous.
[330] Finland, Assembly Act Section 26.

In **France**, organizers can be held criminally liable for failure to notify.[331] A similar situation exists in **Italy**, **Luxembourg** (under the draft law), and in **Türkiye** (where organizers can be held criminally liable for a failure to notify).[332]

In **Portugal**, the lack of specific protection for spontaneous assemblies in the law leaves space for discretion by authorities. This is concerning, particularly since failure to notify is punishable with a significant fine and up to two years imprisonment (see 2.3.6). In at least one case, an environmental activist who interrupted the Prime Minister's speech during an event in April 2019 by trying to read a manifesto, was fined 300 EUR for being one of the organizers of a non-notified protest.[333]

In **Sweden** – where an authorization regime is in place – an organizer of a spontaneous assembly taking place (without the required authorization as per the regime in place) has criminal liability.[334] In **Spain**, the legislation foresees the holding of assemblies without prior notification as an infraction and the organizers or promoters can be held liable.[335]

In **Hungary**, no sanctions are envisaged for spontaneous assemblies as long as they meet the (restricted) definition (see above), otherwise they would be unlawful and sanctionable.[336] In **Poland**, where spontaneous assemblies are explicitly protected, sanctions can only be imposed if the assembly violates the law on assembly, for example by not satisfying the criteria for a spontaneous one.[337]

2.5.4 DISPERSAL OF SPONTANEOUS ASSEMBLIES

In the **Netherlands**[338] and **Türkiye**[339], the failure to notify allows for prohibition of the assembly and dispersal. In **Türkiye**, the authorities routinely make use of this possibility and failure to notify is one of the most common justifications for dispersal, often in combination with a decision to ban the assembly.

In **France** and in **Luxembourg**, a failure to notify allows for dispersal if the spontaneous gathering is considered a 'threat to public order'.[340]

In **Austria, Luxembourg** (new draft law), **Poland** and **Serbia**, dispersal of assemblies is an option if the notification requirements are not complied with (as discussed above). This could also apply to spontaneous assemblies.

In **Greece**, failure to notify is itself not a reason for dispersal of spontaneous assemblies, but the competent police or coastguard authority has the discretion to proceed with the dissolution of a spontaneous assembly if participants do not adhere to restrictions imposed on them. Such restrictions could include assembling in a specific area, or the obligation to appoint an organizer.[341]

In **Hungary**, the Constitutional Court ruled in three cases that the authorities were justified in issuing fines to people who continued to march in public spaces after the official end of a notified assembly. Specifically,

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[331] France, Criminal Code, Article 431-9 punishes with six months' imprisonment and a fine of 7,500 EUR the organization of a demonstration that has not been notified in advance, […] that has been inaccurately notified. This means that organization of spontaneous assemblies can be sanctioned.
[332] Italy, TULPS, Article 18(3); Luxembourg, 2023 Draft law, Article 14(1) and (2); Türkiye, Law 2911, Article 23.
[333] Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, available at https://www.amnistia.pt/a-liberdade-como-bandeira/. The activist was charged with 'qualified disobedience', and after four years of pending proceedings, during which he was subjected to restrictions on movement and identity checks, he was found guilty, and his sentence was converted in a 300 EUR fine. The activist appealed the decision.
[334] Sweden, Public Order Act, Chapter 2, Article 29(1) indicates fine or imprisonment up to six months.
[335] Article 37.1 of the Public Security Law.
[336] Failing to notify or notify in time is a petty offense on the part of the organizer (Article 189 (1) a), 189 (3) a), Petty Offenses Act (Act II of 2012); holding such a non-notified assembly is also a petty offence under Article 189 (3a) d) of the Petty Offenses Act (Act II of 2012).
[337] According to Art 3.1 of the Law on Assemblies, a 'spontaneous assembly' is an assembly that is organized as a result of a sudden and unforeseeable event related to the public sphere and which would be pointless to organize at any other time or would hold little relevance to public debate. Spontaneous assemblies are allowed if they do not violate provisions stipulated in articles 27 and 28 of the Law on assemblies.
[338] The Netherlands, WOM, Art. 5.2 and 7a
[339] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 28 and 29.
[340] France: The notion of *attroupement* in French law is too vague as it includes not only public assemblies that threaten public order but also those that are *likely to* threaten public order. Authorities have in some instances interpreted the latter category too widely; for example, authorities have considered protests that were not notified as falling within that category and used it as a ground for dispersal. See Amnesty International, 'France: Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France', EUR 21/179/2020, 29 September 2020. Luxembourg: the regime of authorization requires for permission to be granted by authorities for protests, otherwise the protests can be considered 'unlawful' and could be subject to dispersal. Furthermore, the 2023 Draft Law also includes the notion of 'attroupement', and all unauthorized assemblies could be considered as such. Amnesty International has recommended France and Luxembourg to repeal or significantly amend (and in Luxembourg's cases, remove from the draft law) such provision.
[341] Greece: Article 3 para. 3 of Law 4703/2020 and Article 3 para. 5 of Presidential Decree 73/2020

they found that such a continuation after the official end of a demonstration did not constitute a spontaneous assembly.[342]

In Finland, while unnotified and spontaneous protests are not defined as unlawful in law or in regulations, in practice it appears that the police disperse such protests at a lower threshold compared to notified protests (however dispersal is not the first measure police generally takes).[343]

2.6 CONCLUSIONS AND RECOMMENDATIONS

Most of the 21 countries analysed for this report require that protest organizers notify the relevant authorities in advance of their intent to hold an assembly. Some require that organizers only proceed with an assembly after receiving official authorization.

Notification requirements may place an additional burden on protest organizers and constitute an interference with the right of peaceful assembly. Procedural requirements, while permissible, must always be justified within a human rights framework and should only exist where necessary to aid the protection and facilitation of an assembly or the rights of those affected by it.

Notifying the authorities in advance may provide benefits to protest organizers; for example, help from the emergency services in facilitating the event, stopping or redirecting traffic, and ensuring that medical support is on hand. Ideally, notification regimes should be voluntary, with organizers choosing to inform the authorities in order to receive these types of support.

In many countries, however, notification is implemented as an end in itself, with excessive and burdensome procedures in place, and failure to comply exposes organizers, and at times participants, to the risk of penalties. These penalties can range from administrative fines to criminal sanctions, as well as the banning, dispersal or restriction of protests.

On the other hand, the full enjoyment of the right of peaceful assembly is not compatible with an authorization regime, and such requirements can never be justified as they make the exercise of the right of peaceful assembly conditional and discretionary.

The analysis reveals that the distinction between authorization and notification regimes can become blurred in practice and what states describe as notification requirements may in fact more closely resemble an authorization requirement, which is incongruent with international standards.

The duty on the part of authorities to facilitate the right of peaceful assembly also applies in cases of peaceful spontaneous protests, which should be protected. However, in several cases, states examined in this report failed to put such protection in place.

Since organizing and participating in public protests is one way to exercise the right of peaceful assembly, the authorities must treat protests as a right, not a privilege, and ensure the legislation governing the right of peaceful assembly is in line with international and regional human rights obligations. To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- Assemblies should not be subject to authorization. States with an authorization regime should amend domestic legislation to, repeal authorization regimes and, at most, require notification only.
- Notification processes should ideally be voluntary rather than mandatory and states should seek to expand the range of assemblies that are subject only to a voluntary notification scheme.
- States should ensure that, where a notification regime is in place, prior notification requirements are treated only as a notice of intent to protest, and not as a request for permission.
- Any notification process must be transparent and free of charge, should not be unduly burdensome on the organizer, and must be non-discriminatory.
- Laws which render participation in an assembly unlawful due to a failure to notify must be repealed. No sanctions should be imposed for participating in an unnotified assembly. Likewise, the lack of

[342] Hungary, Constitutional Court, Decision 3233/2020. (VI.19.); Constitutional Court, Resolution 3307/2020. (VII.24.), Constitutional Court, Decision 3252/2021. (VI.11).
[343] Amnesty Finland has carried out observations and some of their conclusions are available at https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf

official notification must not be used as a ground to determine that an assembly is unlawful (such that liability would arise for participation).

- Laws imposing criminal sanctions or any other undue sanction on organizers for a failure to notify should be repealed.
- Failure to notify must not be used as a justification for dispersal. Broad provisions allowing for dispersal based on a violation of any of the provisions in assembly laws, including a failure to notify, are disproportionate and should be repealed or amended.
- Where advance notification is required, an explicit exemption should be made for spontaneous assemblies – those which seek to respond to a current event and for which there is insufficient time to provide timely notification. Moreover, the authorities must protect and facilitate spontaneous assemblies and should expressly consider whether an assembly (or part of a continuing assembly) might qualify as spontaneous.
- Narrow definitions of spontaneous assemblies should be amended so that assemblies which have an organizer and/or for which advance notification would be impractical or render the assembly obsolete are also protected.
- Organizers or those presumed by the authorities to be organizers should not be held liable for failure to notify the authorities about a spontaneous assembly.
- States should not impose any sanctions for participating in a spontaneous assembly.
- Spontaneous assemblies should not be dispersed simply due to failure to notify. Laws that allow for such dispersal should be repealed or amended to limit the scope for abuse of discretion.
- States should collect, and routinely publish, statistics – disaggregated according to the nature of assemblies – so as to enable the monitoring of specific forms of restrictions on the exercise of the right of peaceful assembly, discriminatory policing practices, gender-based or other type of violence and abuses in the context of protests, and other law enforcement interventions against protesters.

3. UNWARRANTED AND EXCESSIVE BURDENS IMPOSED ON ORGANIZERS

3.1 INTRODUCTION

The right of peaceful assembly includes the right to plan, organize, promote and advertise an assembly in any lawful manner. The HRC, in its General Comment 37, highlighted that, in relation to the obligation to respect, protect and facilitate peaceful assemblies, states have both *negative* and *positive* duties concerning the activities typically carried out by organizers before, during and after assemblies, which include refraining from applying sanctions on participants or organizers without legitimate cause. (See details on states' negative and positive obligations in Introduction/ presumption in favour of peaceful assemblies).

This analysis of the enjoyment of the right of peaceful assembly in 21 countries exposed a wide spectrum of often excessive obligations and problematic liability provisions that can be leveraged on organizers of peaceful assemblies. Some countries' laws place obligations on organizers to maintain security and order during assemblies, including the duty to organize and pay for private security and stewarding services. In other countries, organizers are responsible for bringing public assemblies to an end. Some countries' laws make organizers accountable for the behaviour of participants. In others, failure to notify the authorities of forthcoming assemblies puts organizers at risk of administrative and criminal sanctions (see Chapter 2).

Many of the obligations and restrictions imposed on organizers appear to fail the *three-part test* established by international human rights law to ascertain compliance as they do not meet the requirements of legality, necessity and proportionality, including when they are based on vague or ambiguous provisions (details on what the *three-part test* constitutes are available in Introduction/ presumption in favour of peaceful assemblies). Furthermore, they can be discriminatory in nature. The overall result is that conduct which is protected by international human rights standards on the right of peaceful assembly is supressed or unduly restricted.

3.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW AND STANDARDS

The countries examined for this report have a wide range of domestic provisions, some of which are also vaguely worded, setting out specific obligations and liability for organizers of assemblies. This makes conducting an analysis of how these provisions comply with international human rights law and standards

somewhat difficult. Nevertheless, many of the provisions appear at odds with international human rights standards that enshrine the right.[344]

In General Comment 37, the HRC provides helpful interpretation for states' positive obligations and clarifies that:

> **"Article 21 [of the ICCPR, on the right of peaceful assembly] and its related rights do not only protect participants while and where an assembly is ongoing. Associated activities conducted by an individual or by a group, outside the immediate context of the gathering but which are integral to making the exercise meaningful, are also covered. The obligations of States parties thus extend to actions such as participants' or organizers' mobilization of resources; planning; dissemination of information about an upcoming event; preparation for and travelling to the event; communication between participants leading up to and during the assembly; broadcasting of or from the assembly; and leaving the assembly afterwards. These activities may, like participation in the assembly itself, be subject to restrictions, but these must be narrowly drawn. Moreover, no one should be harassed or face other reprisals as a result of their presence at or affiliation with a peaceful assembly."[345]**

It is worth noting that the 1998 UN Declaration on Human Rights Defenders recognizes that "[e]veryone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms."[346] International human rights law and standards recognize and protect the right to defend human rights as an autonomous and independent right and articulate states' obligations to guarantee a safe and enabling environment in which human rights defenders can work safely and without fear of reprisals.[347] In this regard, and insofar protest organizers are oftentimes human rights defenders and are targeted by states as a result, restrictions on the exercise of their rights to freedom of expression and peaceful assembly can also constitute a restriction on the right to defend human rights.[348]

3.2.1 ANY INTERFERENCE WITH PEACEFUL ASSEMBLIES MUST BE WARRANTED

The right of peaceful assembly is not absolute and may therefore be subject to restrictions. However, for any such restriction not to constitute an undue interference with the right of peaceful assembly and freedom of expression they must meet the *three-part test* established by international human rights law that include the requirements of legality, necessity and proportionality (details on what the *three-part test* constitutes are available in Introduction/ presumption in favour of peaceful assemblies) and be non-discriminatory.

Onerous and pre-emptive requirements imposed on assembly organizers which fail to meet the *three-part test* constitute a violation of international and regional human rights standards on the right of peaceful assembly.

The HRC clarified that the negative duty of states *"entails that there be no unwarranted interference with peaceful assemblies. States are obliged, for example, not to prohibit, restrict, block, disperse or disrupt peaceful assemblies without compelling justification, nor to sanction participants or organizers without legitimate cause."*[349]

The application of sanctions on organizers, as well as on participants in peaceful assemblies, warrants particular scrutiny, particularly when sanctions are of a criminal nature. The European Court of Human Rights has stated that:

> **"where the sanctions imposed on the demonstrators are criminal in nature, they require particular justification. A peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction, and notably to deprivation of liberty. Thus, the Court must examine with particular**

[344] International Covenant on Civil and Political Rights (ICCPR), Article 21; European Convention of Human Rights (ECHR), Articles 11.
[345] HRC, General Comment 37, para. 33.
[346] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), 1998, Article 12.
[347] Declaration on Human Rights Defenders, 1998, Articles 5-6.
[348] Special Procedures communication AL ESP 5/2018, 28 January 2019.
[349] HRC, General Comment 37, para. 23.

scrutiny the cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence."[350]

The Court has also noted that, although some measures are labelled 'administrative' under certain national legal systems, as they fulfil several criteria such as the deterrent nature of the offence or the severity of the penalty risked, particularly where individuals can be deprived of their liberty, they can be considered criminal sanctions.[351]

Excessive conditions or liability imposed on organizers, including threats of administrative or criminal sanctions, exert a significant chilling effect on the rights of peaceful assembly and freedom of expression, which may constitute a violation of the exercise of such rights.[352] The HRC has emphasized that restrictions on peaceful assembly must not be "discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect".[353] The European Court of Human Rights has recognized that a chilling effect can amount to a violation of the rights of peaceful assembly and freedom of expression.[354]

3.2.2 LIABILITY OF ORGANIZERS FOR BREACHES OF NOTIFICATION REGIME

Under international human rights law, authorisation (or de facto authorisation) regimes are incompatible with the right of peaceful assembly. With regard to mandatory notification regimes, as any other interference with the right of peaceful assembly, they must comply with the principle of legality, pursue a legitimate aim, and be necessary and proportionate (the *three-part test*). This means that the state must be able to demonstrate that any mandatory notification requirement is the least intrusive measure needed to achieve such aim and that the impact on the right is smaller than the benefit obtained by the interference. (The overview of the regimes of notification and authorization regimes in the countries analysed in this report is provided in Chapter 2).

The HRC, in General Comment 37, states that notification regimes are permissible when they are necessary to assist the authorities in fulfilling their obligation to facilitate the smooth conduct of peaceful assemblies, but it also clarifies that beyond complying with the *three-part test*, notification requirements "must not be misused to stifle peaceful assemblies".[355] It is worth noting that under international human rights law, states must not require notification for spontaneous assemblies.[356] (The overview of the regimes on spontaneous assemblies in the countries analysed in this report is provided in Chapter 2).

In relation to the burden that mandatory notification requirements can have on organizers, the General Comment states that procedures "should be transparent, not unduly bureaucratic, their demands on organizers must be proportionate to the potential public impact of the assembly concerned, and they should be free of charge." It is also crucial that the enforcement of notification requirements does not become an end in itself.[357]

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[350] ECtHR, Kudrevičius and Others v. Lithuania, Grand Chamber Judgement of 15 October 2015, para 146, available at https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-158200%22]}; see also Akgöl and Göl v Türkiye, judgement of 17 May 2011, para 43, available at https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-104794%22]}; Pekaslan and Others v Turkey, judgement of 20 March 2012, para. 81, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwimpK66t4OHAxWgQEEAHaPSB_MQFnoECA8QAQ&url=https%3A%2F%2Fhudoc.echr.coe.int%2Fapp%2Fconversion%2Fdocx%2Fpdf%3Flibrary%3DECHR%26id%3D001-109750%26filename%3DCASE%25200F%2520PEKASLAN%2520v.%2520TURKEY.pdf%26logEvent%3DFalse&usg=AOvVaw1vqtFB5HPSHsFLbUnKiT_m&opi=89978449; Yilmaz Yildiz and Others v. Turkey, judgement of 14 January 2015, para 46, available at https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-147470%22]} ECtHR, Kudrevičius and Others v. Lithuania, Grand Chamber Judgment of 15 October 2015, para. 146 (references omitted); see also Akgöl and Göl v. Türkiye, Judgment of 17 May 2011, para. 43; Pekaslan and Others v. Türkiye, Judgment of 20 March 2012, para. 81; Yılmaz Yıldız and Others v. Türkiye, para. 46 https://juris.ohchr.org/casedetails/3211/en-US

[351] ECtHR, Engel and Others v. the Netherlands, Application no. 5100/71, 8 June 1976, paras 82-83; ECtHR, Kasparov and Others v. Russia, Application no. 21613/07, 3 October 2013, para. 39-45.

[352] HRC, General Comment 37, para. 10 and 47.

[353] HRC, General Comment 37, para. 36.

[354] See, for example, ECtHR, Tatár and Fáber v Hungary, Application nos. 26005/08 and 26160/08, 9 June 2012, para. 41; Bumbeş v. Romania, Application no. 18079/15, 3 May 2022, para. 101; Peradze and Others v. Georgia, Application no. 5631/16, 15 December 2022, paras. 46-47.

[355] HRC, General Comment 37, para. 70.

[356] HRC, General Comment 37, para. 72.

[357] HRC, General Comment 37, para. 70 and 72.

In this regard, the European Court of Human Rights has held in several decisions that even though organizers may be expected to comply with certain regulations in force, such regulations should not represent a hidden obstacle to the effective enjoyment of the right of peaceful assembly.[358]

Moreover, international human rights standards clarify that a failure to comply with mandatory notification requirements must not result in the state imposing criminal sanctions or any other undue sanction, whether criminal or administrative, on organizers of peaceful assemblies.[359]

3.2.3 MAINTENANCE OF ORDER AND SAFETY

The function of maintaining public order and safety is non-delegable and remains the responsibility of state agencies.[360] The attempt to delegate core responsibilities regarding the maintenance of order and safety to an assembly organizer and stewards – if any – (see also 3.2.4 below) not only misunderstands and overburdens the role of organizers and stewards but amounts to an abdication by state authorities of their positive obligations to actively protect and facilitate the right of peaceful assembly. Similarly, requiring organizers to contribute towards the costs of policing or security is incompatible with state's obligations is relation to the right of peaceful assembly.[361]

The Venice Commission Guidelines (2020) indicate that, while organizers and stewards may assist, states retain primary responsibility for the protection of public safety and security and have a positive obligation to provide adequately resourced policing arrangements and intervene when necessary. This duty should not be assigned or delegated to the organizers or stewards of an assembly.[362] Further, the Guidelines indicate that "the facilitation of assemblies is an inherent part of the role of law enforcement and needs to be undertaken by the state regardless of the nature, size or other circumstances surrounding an assembly".[363]

Organizers – where they exist[364] – should make *reasonable* efforts to comply with legal requirements and to encourage peaceful conduct of an assembly,[365] however the responsibility for maintaining peace and order and mitigating any possible risks to an assembly remains with the authorities.

Organizers *may* opt to take steps to help ensure that an assembly remains peaceful. However, it would constitute a wholly disproportionate interference with the right of peaceful assembly if assembly organizers were required (or co-opted) to perform law enforcement functions. (See also 3.2.4 below on stewards/marshals.)

Any responsibilities placed on organizers must be reasonable. So, while it may be good practice, for example, for organizers to engage in dialogue with the relevant authorities, this must not be a requirement.[366] Furthermore, recognizing that protest actions may legitimately be directed against (and may be highly critical of) state authorities, assembly organizers cannot be compelled to enter into a collaborative working relationship with those same authorities – for example, by being required to relay messages received from the police to assembly participants, informing the police of unlawful conduct by participants within the assembly, or announcing the dispersal of an assembly following the issuance of a police dispersal order. It is worth noting that such a situation has particular implications and risks for certain people, for example, where

[358] ECtHR, Oya Ataman v. Türkiye, App. No. 74552/01, 5 December 2006, para. 38; ECtHR, Mustafa Hajili and Others v. Azerbaijan, App. Nos. 69483/13 and 2 others, 6 October 2022, para. 56.
[359] HRC, in General Comment 37, para. 71 clarified that "a failure to notify the authorities of an upcoming assembly, where required, does not render the act of participation in the assembly unlawful, and must not in itself be used as a basis for dispersing the assembly or arresting the participants or organizers, or for imposing undue sanctions, such as charging the participants or organizers with criminal offences". The Special Rapporteur on freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies also stated that "[w]here there has been a failure to properly notify, organizers, community or political leaders should not be subject to criminal or administrative sanctions resulting in fines or imprisonment"(A/HRC/31/66, 2016, para. 23); The ECtHR confirmed that "a merely formal breach of the notification time-limit [is] neither a relevant nor a sufficient reason for imposing administrative liability" (Sergey Kuznetsov v. Russia, Application no. 10877/04, 23 October 2008, para. 43).
[360] HRC, General Comment 37, para. 64; Venice Commission Guidelines (2020), para. 138. By way of further example, the Venice Commission Guidelines (2020) make it clear, in para 166, that, in facilitating a peaceful assembly (including the possibility of having to deal with unforeseen eventualities), the onus and burden falls on law enforcement officials, and other public authorities, including public safety agencies such as fire and ambulance services, to ensure effective channels of inter-agency communication.
[361] HRC, General Comment 37, para. 64.
[362] Venice Commission Guidelines (2020), para. 138.
[363] Venice Commission Guidelines (2020), paras 155.
[364] Not all assemblies have an identifiable and formal organizer or group of organizers. Some assemblies and/or groups have a flatter structure and operate without designated organizers or leaders. Nevertheless, the obligation to facilitate assemblies, irrespective whether formally organized or not, remains with the authorities.
[365] HRC, General Comment 37, para. 65; 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, adopted on 4 February 2016, UN Doc. A/HRC/31/66, para. 26.
[366] HRC, General Comment 37, para. 75.

people organizing and participating in an assembly may have uncertain legal status, are sex workers, Black people, Arab people or people belonging to other racialized groups who are statistically more at risk of criminalization or police violence. While it may sometimes be in the interests of the assembly organizer to undertake such tasks, it should always be an entirely voluntary undertaking and assembly organizers should not be assigned or mandated to have such a role, to be otherwise required would constitute a serious interference with their right to assemble peacefully.

3.2.4 STEWARDS AND MARSHALS

Any obligatory requirement to steward an assembly is an interference with the right of peaceful assembly. While for certain protests it may be good practice to appoint stewards, it can never be a legal requirement for organizers.[367] The provision of stewards must be completely voluntary, based on the premise that maintenance of public order and peace is a core responsibility of the authorities, and organizers should not have any obligatory roles in guaranteeing it.

The Venice Commission Guidelines (2020) clarify that "the holding of assemblies should never be made contingent on the ability of organizers or participants to hire stewards, as this would constitute an excessive interference with their right to freedom of assembly". Moreover, states cannot impose on organizers of assemblies the legal obligation to employ and pay commercial stewards or private security firms, and in instances where such arrangements would be voluntary put in place, "private security arrangements should never absolve the state from its duty to facilitate the assembly and make appropriate arrangements for policing such gatherings".[368]

3.2.5 COSTS AND CHARGES LEVIED ON ORGANIZERS

The state obligation to actively facilitate the right of peaceful assembly requires that it does not levy charges – directly or indirectly – on assembly organizers, nor otherwise makes the exercise of the right subject to a requirement to cover, contribute to the cost, or guarantee the provision of public services. Such services include law enforcement, routine cleaning and medical services, which are integral to the obligation of the state to facilitate the right. The costs for such services should be covered by the state.

Requirements for participants or organizers to either arrange, cover or contribute to the costs of policing or security (including traffic control and crowd management), are a violation of the right of peaceful assembly as these are state obligations and create a significant barrier to the realization of these rights and may also deter people from exercising their rights.[369]

Invoking a lack of notification to impose financial sanctions or to claim back the costs of public services, for example policing, is an illegitimate interference with the right of peaceful assembly and violates international and regional human rights standards.[370]

3.2.6 LIABILITY FOR ACTIONS BY OTHERS

Assembly organizers should never be liable for the actions of others. They may be held accountable "only for their own unlawful conduct", including the incitement of others.[371] "Isolated acts of violence by some participants should not be attributed to others, to the organizers or to the assembly as such".[372]

The European Court of Human Rights has asserted several times in various judgments the key principles around the liability of organizers. It has noted that "criminal responsibility of the organizers cannot be engaged if they did not participate directly in the impugned acts, if they did not encourage such acts or did not endorse the unlawful behaviour".[373] The Venice Commission Guidelines (2020) confirms that liability of organizers and stewards should be based on individual culpability for offences they individually commit or

[367] HRC, General Comment 37, para. 65; Venice Commission Guidelines (2020), para. 156.
[368] Venice Commission Guidelines (2020), para. 157.
[369] Venice Commission Guidelines (2020), para. 89; HRC, General Comment 37, para. 64; Special Rapporteur on the rights of freedom of peaceful assembly and of association (A/HRC/20/27, para. 31)
[370] HRC, General Comment 37, para. 64.
[371] HRC, General Comment 37, para. 65.
[372] HRC, General Comment 37, para. 17.
[373] ECtHR, *Mesut Yıldız and Others c. Turquie*, 2017, para. 34.

when they "personally and intentionally incited, caused or participated in actual damage or disorder".[374] The Guidelines conclude:

> **"[I]f an assembly degenerates into serious public disorder, it is the responsibility of the state, not the organizer, representative, or event stewards, to limit the damage caused. Assembly organizers and representatives should under no conditions be obliged to pay for damages caused by other participants in an assembly (unless they incited, or otherwise directly caused them)."[375]**

The Guidelines further clarify that all provisions creating administrative and criminal liability must comply with the principle of legality, and organizers or participants in assemblies must benefit from a "reasonable excuse" defence;[376] that is, "[a] defence applicable where failure to comply was not wilful but a matter of impossibility".[377] For example, an organizer should not face prosecution for either underestimating or overestimating the number of participants in an assembly if the estimate was in good faith.[378] The Guidelines also clarify that "organizers of an assembly should never be held liable for failure of others to comply with a dispersal order".[379]

3.3 BURDENS AND LIABILITIES ON ASSEMBLY ORGANIZERS IN PRACTICE

3.3.1 WHO CAN BE AN ASSEMBLY ORGANIZER?

A review of the eligibility criteria used to assess who can act as an organizer of assemblies across the 21 countries examined in this report brought up some concerns.

In some of the countries, including **Austria**, **Czechia** and **Hungary**, the legislation stipulates that only certain "citizens" can organize protests.[380] For example, protests can only be organized by national citizens[381] in **Czechia**, and by EU citizens[382] in **Austria**. Restricting the right to own or specific citizens prevents non-nationals from organizing an assembly, including stateless persons, refugees, foreign nationals, asylum seekers, migrants and visitors. In practice however, such discriminatory requirements do not appear to be strictly adhered to across countries. In **Türkiye**, the Law on Meetings and Demonstrations requires that "foreigners" must seek authorization from the Ministry of the Interior to organize meetings, demonstrations or marches (while nationals are subjected to a mandatory notification regime).[383]

On the positive side, in countries including **Finland**, the **Netherlands** and the **UK**, legislation explicitly guarantees the right of peaceful assembly to everyone, rather than restricting it only to citizens or prescribing other exclusions.[384] (See Chapter 1.5.2 on differential treatment for citizens and non-citizens.)

Some countries place age restrictions on organizers, limiting the ability of young persons to organize assemblies. For example, the legislation and/or practice in **Czechia**, **Finland**, **Hungary**, **Slovenia**, **Sweden**, **Switzerland** and **Türkiye** hinder and restrict children's ability to exercise their right of peaceful assembly.[385] (For more details on age restrictions for children, see Chapter 8.)

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[374] Venice Commission Guidelines (2020), para. 224.
[375] Venice Commission Guidelines (2020), para. 224.
[376] ODIHR Guidelines (2010), para. 110.
[377] ODIHR Guidelines (2010), p. 119.
[378] ODIHR Guidelines (2010), para. 110.
[379] Venice Commission Guidelines (2020), para. 227.
[380] Austria: Assembly Law, para. 8; Czechia: Assembly Act, Section 3; Hungary: ARA, Article 3(3).
[381] The legislation in Czechia ensures organization of assemblies only to 'citizens'. However, officials and courts interpret the provisions broadly, thus both citizens and non-nationals can organize assemblies. Comment from the Ministry of Interior is available at https://www.mvcr.cz/clanek/shromazdovaci-pravo.aspx;
[382] The legislation in Austria stipulates that 'foreigners' may not act as organizers, however within the meaning of this provision, 'foreigners' is intended as third-country nations, however not EU citizens.
[383] Türkiye, Law 2911 on Meetings and Demonstrations, Article 3.2.
[384] Finland: Constitution, Section 13; The Netherlands: Constitution, Article 9; UK: Human Rights Act, Article 11.
[385] Czechia: Act on Freedom of Assembly, Section 3; Finland: Assembly Act, Section 5; Hungary: Act CL of 2016 on the General Administrative Procedure, Article 12; Slovenia: Public Assembly Act, Article 38; Sweden: Parental Code, Chapter 6, Section 11; In Switzerland, while there does not appear to be a minimum age requirement in law, the authorization regime in some cities can, in practice, prevent children from organizing protests (see Chapter 8); Türkiye: Law no 2911, Article 9, envisages that organizing committee of the meeting must consist of at least seven individuals who are over 18 years of age.

In most of the countries analysed, the organizer's details must be provided on the required form. In a few countries, for example Czechia, the Netherlands and Portugal, those informing the authority of a planned assembly are automatically designated as organizers. These provisions fail to contemplate the possibility that assemblies are organized in an informal manner, without identifiable organizers or that they are organized by groups with a flat structure operating without leaders.[386]

Some countries impose conditions on the number of people required to organize a protest. For example, the law in Portugal requires that the notification be signed by three organizers, while in Türkiye the law envisages an organizing committee for an assembly consisting of at least seven individuals over 18 years of age.[387]

A second instance court in Serbia found, in a case brought by authorities against protesters, that the act of inviting citizens to a protest via social networks is not sufficient for someone to be considered as an organizer. Instead, for someone to be considered an organizer, they must fulfil cumulatively three conditions: inviting participants, preparing, and organizing an assembly.[388]

3.3.2 SANCTIONS FOR FAILURE TO NOTIFY PROTESTS

Most of the countries examined in this report have in place a mandatory prior notification regime, while four countries among those examined - Belgium, Luxembourg, Sweden and Switzerland - have what more closely resembles an "authorization" regime; at least for some types of assemblies. Slovenia has an authorization regime for some assemblies in exceptional circumstances. Chapter 2 analyses the specific features of the notification and authorization regimes present in the countries examined, as well as the consequences of failure to comply, including administrative and/or criminal sanctions for participants and/or organizers.

In addition to the information provided in Chapter 2, in some of the countries examined, such failure to adhere to the notification/authorization requirements brings additional consequences for organizers. This can include fines, criminal sanctions and liability for costs and for the actions of other people. Cases below are included as illustrative examples and are not exhaustive.

In Spain on 20 October 2021, protesters demonstrating against the construction of a highway held a rally in front of the General Assembly of the Principality of Asturias. During the rally, police approached two protesters, asked for their identification, and enquired whether they knew if the demonstration had been notified. The protesters replied that they did not know. In March 2022, administrative proceedings were initiated against them, naming them as "organizers" of the peaceful protest who had failed to notify the authorities.[389] The sanctions envisage administrative fines of 100 to 600 EUR. The protesters told Amnesty International that at no time during their interactions with the police they were informed that they would be considered "organizers" and might be sanctioned.[390] In France, two of the organizations interviewed by Amnesty International mentioned that the police had designated as "organizer" members of their organizations on the sole basis that they carried out specific tasks at an assembly, such as peacekeeping or liaising with police. The police placed the individuals in pretrial detention (*garde a vue*) on the grounds of "organizing a demonstration which has not been notified" which is punishable with criminal sanctions.[391] In Sweden, failure to apply for authorization, or to complete the application in time for the response to arrive before the event is due, brings liability for organizers for possible costs.[392] Organizer(s) who – wilfully or negligently – violates the requirements for authorization is sanctionable with a 'fine or imprisonment for a maximum of six months'.[393] In Serbia, which has a mandatory prior notification regime, failure of the

[386] Venice Commission Guidelines (2020), para. 170.
[387] Portugal: Decree Law 406/74, Article 2; Türkiye: Law No. 2911 on Meetings and Demonstrations, Article 9.
[388] See: Yucom, "The victory of solidarity and the right to freedom of assembly over institutional retaliation," (In Serbian), 20 June 2022, https://yucom.org.rs/pobeda-solidarnosti-i-prava-na-slobodu-okupljanja-nad-institucionalnom-odmazdom/
[389] The proceedings invoked Public Security Law 4/2015, Article 30.3 allows the attribution of the status of promoter and organizer of a demonstration which has not been notified in a wide range of circumstances such as when a person presides over the assembly, direct or carry out similar acts, or may be so deemed by publications or declarations of convocation by oral or written statements, slogans, banners or other signs.
[390] Amnesty International Spain, *Right to protest in Spain: seven years, seven gags that restrict and weaken the right to peaceful protest in Spain"* (in Spanish), November 2022, available at: https://doc.es.amnesty.org/ms-opac/doc?q=*%3A*&start=0&rows=1&sort=fecha%20desc&fq=norm&fv=*&fo=and&fq=mssearch_fld13&fv=EUR41700022&fo=and ; Switzerland
[391] The interviews took place on 24 January and 17 March 2023. France, Criminal Code, Article 431-9 punishes with six months' imprisonment and a fine of 7,500 EUR the organization of a demonstration that has not been notified in advance.
[392] Sweden, Public Order Act, Chapter 2, section 26, Article 27.
[393] Sweden, Public Order Act, Chapter 2, Article 29.

organizer to notify opens liability for severe administrative fines.[394] In Italy, if organizers fail to adhere to the mandatory notification, they can be subject to fines and imprisonment for up to six months.[395]

3.3.3 ORGANIZERS BURDENED WITH THE OBLIGATION TO MAINTAIN ORDER AND CALL OFF AND/OR DISPERSE THE ASSEMBLY

In some of the countries examined, legal provisions were identified creating obligations on organizers for "maintenance of order", or variations of this wording. These provisions are contrary to international human rights law as the function of maintaining public order and safety is the responsibility of the state.[396]

In Finland, the organizer(s) of an assembly (for which notification must be provided by law) is responsible for maintaining order and security and ensuring compliance with the law during the event. They must halt the event, or order it to disperse, if continuing would cause immediate danger to the safety of people, property or the environment. If the organizer deliberately or through gross negligence fails to perform this duty, they may be convicted of an assembly violation.[397] In Hungary, the leader of an assembly is responsible for "keeping the peaceful nature of the assembly, and meeting the conditions, if any, set by the police".[398] They must also "close the assembly after the end, and [call on] the participants to leave the assembly",[399] and "dissolve the assembly as required by the law".[400] In Portugal, the promoters/organizers of a protest in an enclosed space are liable for maintaining order inside that space, unless they request the presence of law enforcement.[401]

In Serbia, where only the organizer(s) can notify the authorities about the planned assembly, they are directly responsible for the assembly. This includes, among other things, the duty to "engage marshals and ensure peaceful assembly by preventing outbreaks of violence and inappropriate behaviours during the assembly, as well as on their way to and from the planned assembly" and to 'stop… the assembly if there is a direct risk to the safety of people and property and inform the police".[402] The organizer can also face severe fines for failing to lodge a notification (up to 150,000 RSD/approx. 1,280 EUR) or to comply with the terms of the notification (up to 120,000 RSD/approx. 1024 EUR). [403] In Spain, the organizers or promoters of demonstrations[404] are responsible for their "good order".[405] In Sweden, the person registered as the organizer is "responsible for maintaining the order at the event", although the police may dictate the terms and conditions for order and safety, which the organizer must then follow.[406]

In Türkiye, the organizing committee for the assembly is responsible, among others, for ensuring that it proceeds peacefully and that there are no deviations from the specifications written in the (mandatory) notification, including time, location, and purpose. [407] Organizers must prevent entrance to people who want to bring firearms, explosives and other items that could be deemed dangerous, inform the security forces of their presence and help with their apprehension.[408] Furthermore, they must assist the security forces in the arrival of participants and if necessary, in identifying their identities.[409] The members of the organizing committee must be present before, during and for the entire duration of the event[410], and if they fail to perform their duties, they risk a term of imprisonment of between six months and two years.[411] In Slovenia, the organizer "shall organize the assembly or event in such a manner that public order is maintained, there is no threat posed to the lives or health of the participants or other persons, property is safe, public traffic is

[394] Serbia, Law on Public Assembly, Article 22.
[395] Italy, TULPS, Article 18(5).
[396] HRC, General Comment 37, para. 64.
[397] Finland, Assembly Act, Sections 7, 17, 21 and 26.
[398] Hungary, ARA, Article 4(2).
[399] Hungary, ARA, Article 4(1).
[400] Hungary, ARA, Article 17.
[401] Portugal, Decree-Law 406/74, Article 10, Section 2.
[402] Serbia, Law on Public Assembly, Article 11.
[403] Serbia, Law on Public Assembly, Article 21-22.
[404] Spain, Public Security Law, Article 30.3, includes the physical and legal entities who signed the corresponding communication letter communicating the demonstrations, as well as, in case when no notification has been submitted, the people who may be considered its organizers or promoters defined as 'people who preside over, run or exercise similar actions or those who, through publication or calls for assemblies or demonstrations, through the speeches they make or printed material they distribute there, through the slogans, flags or other signs they show or for any other reasons, or people who may reasonably be determined to be inspiration behind the assembly.'
[405] Spain, Organic Law, Article 4.2.
[406] The terms and conditions relate to hiring of necessary staff, such as security. However, the terms and conditions may not entail unnecessary costs for the organizer or obstruct the event in any other way (Sweden, Chapter 2, para 16, Public Order Act).
[407] Türkiye, Law 2911 on Meetings and Demonstrations, Article 12.
[408] Türkiye, Law 2911 on Meetings and Demonstrations, Article 9(e).
[409] Türkiye, Law 2911 on Meetings and Demonstrations, Article 9(i).
[410] Türkiye, Law 2911 on Meetings and Demonstrations, Article 10.
[411] Türkiye, Law 2911 on Meetings and Demonstrations, Article 28.

not disturbed and the environment is not unduly burdened".[412] In Czechia, "the organizer is responsible, among others, for the assembly running in a legal and peaceful manner and instructing the participants to ensure a proper conduct of the assembly". They "must be present at the assembly and direct its course so that it does not materially deviate from the purpose […] stated in the notice". If the organizers fail to remedy a disturbance in the "peaceful conduct", they must request, without undue delay, the necessary assistance from authorities or police as well as try to restore order.[413] A failure to do so means that the organizer may be subject to fines of up to 15,000 CZK/ approx. 606 Euros.[414]

3.3.4 ORGANIZERS BURDENED WITH THE OBLIGATION AND RESPONSIBILITY FOR THE MANAGEMENT OF ASSEMBLIES

In some of the countries examined, legal provisions create obligations on organizers for the organization and development of assemblies, including ensuring the presence of marshals or stewards (these terms are often used interchangeably), leading and overseeing those marshals, and ensuring access for emergency vehicles.

In Serbia, the organizer is directly responsible for engaging marshals, leading and overseeing the assembly, organizing and directing the work of the marshals and "ensur[ing] unfettered passage for the emergency vehicles, police and fire services".[415] In Sweden, the person registered as organizer is "responsible for maintaining the order at the event" and the police can direct the organizer to hire "necessary staff, such as security".[416] In Slovenia, "the organizer shall ensure there is a steward service at the assembly or event which is commensurate with the nature of the assembly or event and expected number of participants".[417] In Spain, organizers are responsible for the 'good order' of meetings and demonstrations and must take the necessary measures to ensure the same.[418]

In Finland, outside Helsinki (the capital), according to information available to Amnesty International, it is commonplace for the police to ask organizers to appoint stewards and/or person to direct traffic. Traffic management responsibilities are not specifically mentioned in the country's Assembly Act, however the National Police Board had issued guidelines[419] on ordering traffic controllers to an event. The recommendation states that police provide professional traffic control if necessary, however "if it is not possible to provide professional traffic control, the police may assign volunteer traffic controllers to direct traffic on the road". Amnesty International observed that police departments adopt different practices and appear to have different interpretations of the Assembly Act. In correspondence with Amnesty International, the Helsinki Police Department clarified that it "has not ordered the organizers of public meetings to appoint traffic controllers".[420] Sisä-Suomi Police Department had a different interpretation of the law, and stated that, since the organizer is, in the light of the premise of the Assembly Act, primarily responsible for ensuring the safety of a public meeting, the organizer is also responsible for traffic management."[421] According to Amnesty International's information, Sisä-Suomi Police Department give orders to the organizers to appoint traffic controllers and charge a fee (45 EUR) for the permit to appoint them.

3.3.5 ORGANIZERS BURDENED WITH LIABILITY FOR INFRACTIONS AND/OR DAMAGES BY OTHERS

In some of the countries examined, despite international standards clarifying that organizers should never be made responsible for the actions of others but only for their own unlawful conduct[422] legal provisions were identified creating sole or joint liability for organizers for costs that they should not cover or infractions committed and/or damages incurred by others during an assembly.

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[412] Slovenia, Public Assembly Act, Article 10.
[413] Czechia, Assembly Law, section 6(6).
[414] Czechia, Assembly Law, section 14(3)(c).
[415] Serbia, Law on Public Assembly, Article 11.
[416] The terms and conditions relate to hiring of necessary staff, such as security. However, the terms and conditions may not entail unnecessary costs for the organizer or obstruct the event in any other way (Sweden, Chapter 2, para 16, Public Order Act).
[417] Slovenia, Public Assembly Act, Article 10.
[418] Spain, Law 9/1983, Article 37.1; LO 4/2015, Article 4.2.
[419] Finland, Recommendation, POL-2023-34068.
[420] Amnesty International's email exchange with Helsinki police department on 27 February 2024.
[421] E-mail exchange between the Sisä-Suomi Police Department and an activist in Jyväskylä on 28 May 2024 (saved in Amnesty's files)
[422] HRC, General Comment 37, para. 65.

In **Hungary**, in cases of violence and/or damage to property, being an organizer or leader denotes joint liability with the responsible participant for paying damages.[423]

In **Switzerland**, legislation in the cantons of Lucerne[424] and Berne[425] allows for organizers of unauthorized demonstrations, which are demonstrations that do not respect the authorization conditions, and protests considered to be violent to be liable for the costs of police interventions.[426] In the canton of Zurich, reimbursement of costs for police operations from organizers for unauthorized demonstrations was accepted in a popular vote.[427] In Basel, a similar cantonal initiative proposing the passing on of the costs for policing – which remains pending – has been put forward by the Young People's Party (SVP) calling for it to be obligatory for the authorities to pass on the costs of police interventions to organizers and participants of unauthorized protests.[428]In a positive move, in the city of Biel in the canton of Berne, the local council has amended the legislation to remove the possibility for authorities to pass on the costs related to police operations to protesters.[429]

In **Greece**, the law provides that the assembly organizer is responsible for compensating those who have suffered harm to their life, physical integrity or property from participants.[430] In **Poland**, being an organizer entails several responsibilities, including being liable for deliberately failing to prevent damage caused by the attendees of an assembly, which can be subject to fines.[431] In **Türkiye**, participants are held responsible individually; however, legislation stipulates that the organizing committee of an assembly also face collective responsibility.[432]

In **Austria** the failure to notify risks administrative sanctions but also leaves organizers vulnerable to liability for actions perpetrated by others. In one particular case, the Supreme Court decided against a lower court's verdict which found organizers liable for the damage caused by some participants to a pub during an otherwise peaceful protest. The Supreme Court recognized that the organizers demonstrated the peaceful intentions of the assembly and therefore could not be considered liable to pay damages to the pub owner, however in doing so the Supreme Court placed an excessive burden on organizers.

In some of the countries examined, provisions were identified allowing the defence of "reasonable excuse" or similar arguments, which limits the liability of organizers.[433]

For example, in **Austria**, organizers of a demonstration are generally obliged to take all possible and reasonable precautions to ensure that an assembly does not pose a danger to participants or to persons not directly involved in the event. However, organizers are not automatically liable for the misconduct of other participants. Rather, the organizers themselves must be proven to have committed a culpable act that is the cause of the damage incurred. Case law affirms liability, for example, if the assembly was not properly notified to the authorities.[434]

In **Spain**, organizers are liable for any infractions and damages caused in an assembly.[435] Although individuals who cause damage to third parties during demonstrations are directly liable for their actions, the organizers will also be liable unless they have put in place all reasonable measures to avoid such damage. Moreover, organizers who are considered jointly liable can be exonerated by bringing a case against those directly responsible and proving their civil responsibility[436]. In **Hungary**, the organizer may exempt

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[423] Hungary, ARA, Article 20.
[424] Switzerland, Police Law, Article 32a and 32b.
[425] See Judgement by the Federal Court, issued on 29 April 2020, following a public law complaint initiated by a group of NGOs, other type of associations, experts and individual citizens against the City of Berne, seeking the repeal of articles 54, 55, 56 and 57 (on the payment of costs in the case of events involving violence), Articles 83 (1) (h), 83 (2), 84 (1), 84 (4) and 89 (on expulsion and detention) and Article 118 (2) in conjunction with Articles 118 (1), 119 and 120 (on observation) of the Police Act (PolG/BE), available at BGer, 1C_181/2019.
[426] The costs shall be divided in a maximum of 40/60 percentage, the organizer shall be liable only if he does not have the required permit or has intentionally or grossly negligently failed to comply with permit conditions. Depending on compliance with the permit conditions, the share to be borne by the organizer shall be reduced. The organizer may be charged a maximum of 30,000 Francs.
[427] Switzerland, 'New Hurdles for Freedom of Demonstration' (in German), 3 March 2024, available at: https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2024/abstimmung-demonstrationsfreiheit/neue-huerden-fuer-die-demonstrationsfreiheit
[428] See SVP Canton of Basel City, 'Anti Chaos Initiative', available at: https://www.svp-basel.ch/antichaoteninitiative/
[429] Switzerland, Ortspolizeireglement der Stadt Biel (OPolR), Article 20, para. 7, available at: https://biel-bienne.tlex.ch/app/de/texts_of_law/5.5-1
[430] Greece, Law 4703/2020, Article 13 (2).
[431] Türkiye, Code of Petty Offences, Article 52.3.1.
[432] Türkiye, Law 2911 on Meetings and Demonstrations, Article 28.
[433] ODIHR Guidelines (2010), para. 110 and p. 119.
[434] Austria, Supreme Court Judgement (27.1.2021, 9Ob8/20x). https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JJT_20210127_OGH0002_0090OB00008_20X0000_000&Suchworte=RS0023285
[435] Spain, Law 9/1983, Article 4.2; Law 4/2015, Article 37.1.
[436] Spain, Law 9/1983, Article 4.3.

themselves from such joint liability if they can prove that "in the course of organizing and holding the assembly, they acted as is reasonable in the circumstances".[437]

In Greece, organizers can only be absolved of their responsibility if they notified assemblies promptly and can prove that they adhered to all regulations, such as cooperation with the competent authorities, informing the participants of the obligation not to carry objects that can be used to exercise violence, and appointing individuals to provide support in the guarding of the assembly.[438] The way in which these requirements are worded is not sufficiently precise and allows for excessive discretion on the part of the authorities and potential abuse. Moreover, in the case of spontaneous assemblies, it appears that organizer(s) would not be absolved from liability to compensate for offences committed by participants as they may not be able to fulfil the requirement of prompt notification.

3.3.6 ORGANIZERS BURDENED WITH LIABILITY TO PAY COSTS FOR PUBLIC SERVICES

Across the 21 countries examined in this report, only Sweden, charges a fee for organizing a protest, by asking for an advance payment of 320 SEK/ approx. 30 EUR when organizers make an application for authorization.[439]

The absence of advance costs across 20 of the 21 countries is a positive finding, as it removes a potential burden on the organizers that would represent an undue interference with the right of peaceful assembly. Nevertheless, there are several provisions and practices across the remaining countries that raise concerns.

In Slovenia in March 2022, theatre director Jaša Jenull received an order from the State Attorney to pay nearly EUR 35,000 to cover the costs of policing a protest against Covid-19 restrictions held in the capital, Ljubljana, on 19 June 2020. Jaša Jenull had been a prominent figure at the spontaneous and unorganized protest. He was ordered to pay the costs by 1 April 2022, otherwise authorities would file a civil lawsuit against him. This was not an isolated incident; Jaša Jenull was already facing a civil lawsuit and another call for reimbursement for more than EUR 6,000 in relation to another protest that he had not organized. The Slovenian authorities announced at the time they intended to claim more than EUR 970,000 from protesters for policing services, on the basis that the protests were held without notifying the authorities. According to the police, the lack of notification required additional resources to ensure public safety. Following a change in government in 2022, all such lawsuits against protesters were dropped.[440] In Portugal, in July 2023, the organizers of a LGBTI march in Sintra, in Lisbon region, were charged with failing to notify authorities and fined 700 EUR for police services, including the cost of disrupting traffic.[441]

In Switzerland, the research found several cases where liability has been leveraged on assembly organizers. In Geneva, the organizer of an International Women's Day protest in 2019 was found guilty on 18 May 2020 for failing to comply with conditions for a protest imposed by the Security Department and sentenced by the Police Court to a fine of 200 Swiss francs, which could be converted into two days' imprisonment if the fine was not paid.[442] The Court stated that the organizer failed to instruct the security service in accordance with the protest permit, such that the security service had not intervened effectively to end acts committed by certain protesters; specifically, spraying tags, non-adherence to the route and the use of pyrotechnics. The judgment was upheld by the Court of Justice in November 2020, and then by the Federal Court in December 2021.[443] The organizer has taken the case to the European Court of Human Rights arguing that the criminal conviction infringed on their rights of peaceful assembly and freedom of expression, and the right to a fair trial.[444] The case remained pending at the time of publication.[445]

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[437] Hungary, ARA, Article 20(1).
[438] Greece, Law 4703/2020, Article 13 (2).
[439] Sweden, e-service to pay the fee is available at: https://polisen.se/tjanster-tillstand/tillstand-ansok/offentlig-plats/
[440] Amnesty International, *Outcome Urgent Action 25/22*, EUR: 68/6144/22 Slovenia, available at https://www.amnesty.org/en/documents/eur68/6144/2022/en/
[441] Amnesty International Portugal, "Freedom as a flag" (in Portuguese), 15 March 2024, available at: https://www.amnistia.pt/a-liberdade-como-bandeira/
[442] ECtHR, Batou v Switzerland, available at https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-225049%22]} and Geneva Law on Demonstrations in the Public Domain (LMDPu, F 3 10), Article 10.
[443] Court judgement 6b_10/2021. The Federal Court upheld the conviction arguing that the applicant had been criminally convicted because she had not fulfilled her duty to cooperate with the police under Article 10 LMDPu. The Federal Court recalled that this penal provision had been deemed constitutional (Federal Court judgment of July 10, 2013, 1C_225/2012, consid. 7).
[444] The articles used in the application include Article 10 (freedom of expression), Article 11 (freedom of peaceful assembly) and Article 6 (right to fair trial) under the European Convention for Human Rights.
[445] See case before the ECtHR, available at https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-225049%22]}

In some municipalities in the **Netherlands**, organizers are required to sign liability provisions – as part of the notification regime – through which the state can claim back costs associated with street cleaning, repairs, and so on. For example, in the city of Hoorn the notification form stipulates that the municipality has the authority to recover costs incurred by the city for "cleaning the streets, houses, and buildings, when necessary, as a consequence of the assembly" and for making "repairs necessary for city property, or property of third parties where the city is liable".[446] It is impossible to complete the notification without accepting these terms. In 2017 a local Amnesty International group was obligated by the Dutch authorities to use certified traffic controllers[447] rather than police, which would incur considerable costs for the organizers, for a protest in Maastricht. Amnesty International challenged the requirement and in November 2021 the highest instance court – the Council of State – ruled that it is the city's responsibility to facilitate a protest.[448]

In **Hungary**, the organizer is liable to arrange for the place of the assembly to be left in the same condition as it was before, which includes dismantling any stage, cleaning up, and so on.[449] If an organizer fails to do so, they must pay the costs incurred by the owner or trustee of the public or private space where the event was held.[450]

In **Sweden**, the law stipulates that the organizer is liable for all costs if they fail, due to negligence, to meet certain conditions including: applying for authorization; completing the application in time for the response to arrive before the event is due; and following the terms and conditions for order and safety prescribed by the police.[451] If the costs cannot be calculated with sufficient certainty, the police shall estimate the amount the organizer must pay. The obligation to pay compensation may however be reduced or waived if there are special reasons, as per the legislation's provisions.[452] As detailed in Chapter 2, any system of prior authorization for assemblies generally constitutes a violation of the right of peaceful assembly. In the case of Sweden, it raises further concerns regarding the implications for organizers' liability for costs (for more details on Sweden's authorization regime, see Chapter 2).

3.3.7 ORGANIZERS' REQUIREMENT TO HAVE PUBLIC LIABILITY INSURANCE

There does not appear to be any obligatory requirement for organizers to obtain public liability insurance in 20 of the 21 countries analysed for this report. The exception is **Italy**, where a Directive of the Ministry of the Interior, dating back to 26 January 2009 and still considered to be in force, expressly invited prefects to provide, at the expense of protest organizers, "forms of guarantees for possible damages".[453] However, in practice, based on the information available to Amnesty International, prefects have not applied this provision so far.

In **Belgium**, in June 2021 Brussels municipal authorities clarified that there is no obligation for organizers to obtain civil liability insurance (as part of the mostly authorization regime for demonstrations) as it would be a restriction of the constitutional right to freedom of expression.[454] This communication was issued after organizers planning a public demonstration in July 2021 in Neder-over -Heembeek (Brussels) were informed in a letter from police that liability insurance was required. Since that incident, the police apologized for the error and ensured that letters to organizers do not mention any such requirement.

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[446] The Netherlands, notification form available at https://www.hoorn.nl/demonstratie
[447] In the Netherlands, traffic control is mostly done by police, however sometimes it is delegated to third parties, which then must be certified.
[448] The case was taken to court by PILP-NJCM and Amnesty International. See more details on the case at https://pilpnjcm.nl/en/dossiers/right-to-protest/ and https://www.amnesty.nl/actueel/amnesty-wint-rechtszaak-over-demonstratierecht
[449] Hungary, ARA, Article 3(6).
[450] Hungary, ARA, Article 20 (3).
[451] Sweden, Public Order Act, Chapter 2, Article 27
[452] Sweden, Public Order Act, Chapter. 2. Article 27.
[453] Italy, Recommendation by the Ministry of Interior for assemblies in urban centres and other specific areas, 'Direttiva del Ministero Dell'Interno per le manifestazioni nei centri urbani e nelle aree sensibili', 26 January 2009, available at: https://www1.interno.gov.it/mininterno/site/it/sezioni/servizi/old_servizi/legislazione/sicurezza/0984_2009_01_26_Direttiva_prefetti_su_manifestazioni_in_centri_urbani.html
[454] Belgium, see communication from College of Mayors and Councillors of Brussels, available at: https://www.bruxelles.be/sites/default/files/bxl/Q_R_23_-_2021.pdf

3.4 CONCLUSIONS AND RECOMMENDATIONS

This chapter has outlined a number of provisions and practices in the countries analysed where states have failed to fulfil their human rights obligations and to enshrine in law and practice the presumption in favour of peaceful assemblies. States have imposed on organizers of protests undue restrictions, including sanctions which violate the right of peaceful assembly. The analysis also exposed a wide range of often excessive obligations and problematic liability provisions placed on organizers, resulting in suppression of conduct protected under international human rights standards.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- Amend national legislation to ensure that anyone, without discrimination, can organize, lead, call for and participate in a peaceful assembly, including children under 18 years of age and non-citizens.
- Repeal/amend provisions that require organizers to pay or contribute to costs linked to the organization or development of assemblies, including for policing tasks and private security, the presence of emergency services, or cleaning.
- Repeal/amend any provisions that create obligations and responsibilities on organizers that go beyond the organization of a gathering with professed peaceful intentions, such as the responsibility for maintaining public order and security, ensuring the free flow of traffic, making calls for the assembly to disperse, and so on.
- Repeal/amend any legal provisions creating a mandatory requirement for organizers to appoint or contract marshals, stewards or private security at protests.
- Repeal/amend any provisions that allow for the imposition on organizers of peaceful assemblies of any criminal sanctions or any other undue sanctions for failure to notify an assembly or failure to seek a permit.
- Repeal/amend any provisions that create a legal requirement or obligation for organizers to engage in dialogue with law enforcement.
- Ensure that organizers are never held liable for conduct for which they are not directly responsible. Organizers should only be liable for their own unlawful conduct.

4. RESTRICTIONS ON THE TIME, PLACE AND CONTENT OF PROTESTS

4.1 INTRODUCTION

In recent years, European governments have imposed sweeping restrictions on protests. Amnesty International's research shows that the reasons given for these restrictions by authorities were often spurious, or the restrictions were not proportionate to achieve a legitimate public interest objective. Governments often used "national security" and "public order" as pretexts to crack down on peaceful dissent. For example, they used the Covid-19 pandemic to pass emergency legislation that restricted protests beyond the exigencies of the situation.

Laws and policies across Europe grant broad powers and a wide discretionary margin to domestic authorities to impose restrictions based on the time, place, and content of public assemblies. These powers are used regularly to hinder peaceful assemblies across the region. Amnesty International's research has identified a worrying pattern of restrictions imposed on marginalized groups, especially LGBTI people, Muslim people, Arab people, Black people and other people belonging to racialized groups. These restrictions were often based on the real or perceived identity of the organizers and/or the political causes or messages that they espoused, which the authorities framed as threats to public order or morals. The authorities justified these restrictions by making inferences based on racial and gender-based stereotypes, which pointed to deeply entrenched institutional racism, homophobia, transphobia and other forms of discrimination. Rather than countering racism and discrimination, as required by international and regional human rights standards, European governments reinforce and entrench them by failing to ensure the enjoyment of right of peaceful assembly to everyone, including people subjected to racism and discrimination.

4.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW AND STANDARDS

The fulfilment of the right of peaceful assembly requires states to put in place laws and policies that facilitate their organization and to ensure that anyone can exercise the right without discrimination. This includes refraining from imposing unwarranted restrictions on peaceful assemblies: in general, people should be able to peacefully assemble wherever, whenever, however and for whatever reason.[455]

Hence, there should be no restrictions on holding an assembly except in a very limited range of circumstances.[456] Restrictions should be considered an exception and the state authorities are responsible for justifying them,[457] by ensuring that they comply with the principles of legality, proportionality and

[455] ECtHR, *Sáska v. Hungary*, Application No. 58050/08, Judgment, 27 February 2013, para. 21.
[456] OSCE-ODIHR, Human Rights Handbook on Policing Assemblies, 2016, p. 18.
[457] HRC, General Comment 37, para. 36; ECtHR, *Makhmudov v. Russia*, Application No. 35082, Judgment, 26 July 2007, para. 68.

necessity (otherwise known as the *three-part test* – detailed in Chapter 1.2.2). The principle of proportionality entails that, while the authorities have a wide range of options for imposing restrictions, the chosen restriction must nevertheless always be the least intrusive to achieve the purported aim. This may require them to choose a restriction that is not the quickest, cheapest or most 'convenient' option.[458] For example, in some instances, restrictions taken in advance of an assembly may be more intrusive than measures imposed during the event in response to the actual situation on the ground. Banning an assembly in advance should always be a measure of last resort.[459]

Disproportionate restrictions do not only violate the rights of the organizers and participants of the specific assemblies on which they are imposed but are also likely to dissuade others from exercising their rights in the future; the so-called chilling effect.[460]

Blanket bans on peaceful assemblies are a sweeping one-size-fits-all that prevent certain categories of assembly and/or assemblies at certain times or in certain places from taking place. They may include for example bans on all assemblies taking place in a specific area of a city or during a specific time period (e.g., during the night or on Sundays). Blanket bans are intrinsically disproportionate[461] because they contradict the required individualized assessment of the specific circumstances that may warrant a restriction.[462]

As the rights to freedom of expression and peaceful assembly are interdependent, restrictions on the right of peaceful assembly must respect freedom of expression. For this reason, restrictions must in principle be neutral on the message of the expression or the assembly ('content neutral'). Otherwise, the very purpose of peaceful assemblies as a tool of political and societal participation and as an opportunity to voice opinions in the public domain would be invalidated.[463]

States have the duty to ensure that everyone can enjoy the right of peaceful assembly without any discrimination. Therefore, restrictions based on the content and/or the real or perceived identity of organizers and participants must be assessed through the state's obligation to counter racism and any other form of discrimination.[464] Too often, marginalized groups subject to structural and intersectional discrimination, including Black people, Arab people and people belonging to other racialized groups experience extra hurdles and barriers to freely exercise their right of peaceful assembly. [465]Amnesty International's research has identified a worrying pattern across Europe where public assemblies organized to express solidarity with Palestinian people have been banned or disproportionately restricted, raising concerns regarding the respect of non-discrimination (see below at sub-chapter 4.4.5 'discriminatory restrictions based on content and real or perceived identity of organizers').

Generally, the authorities must allow peaceful assemblies to be held in all publicly accessible spaces such as public squares and streets and enable participants, as far as possible, to assemble 'within sight and sound' of their target audience.[466] Limited public access to some spaces, such as buildings or designated perimeters of courts, parliaments, sites of historical significance and embassies, may be used to restrict the right to peacefully assemble in such places, but these should be clearly defined and interpreted narrowly. Authorities must always justify such restrictions on a case-by-case basis rather than imposing blanket bans on public assemblies in those areas.

If there are compelling reasons for imposing limitations which require a demonstration to be held in a different location, the authorities should suggest alternative sites as close as possible to the site initially proposed by the organizers.[467] Moving a peaceful assembly to a remote area where protesters cannot reach their target audiences or the general public is likely to constitute a disproportionate restriction.

The timing, duration or frequency of a demonstration may be essential for achieving its objective. Imposing restrictions on precise times, days or dates when assemblies can or cannot be held poses a threat to the right of peaceful assembly. Frequency alone must not be used to justify restrictions. Peaceful assemblies

[458] HRC, General Comment 37, para. 40.
[459] HRC, General Comment 37, para. 37.
[460] HRC, General Comment 37, para. 40.
[461] The ODIHR Guidelines (2010, paras 2.4 and 43) and Venice Commission Guidelines (2020, paras 133, 141, 145 and 151) concluded that blanket application of legal restrictions based on the time or location of an assembly tend to be "over-inclusive" and should be regarded as a violation of the right to freedom of peaceful assembly.
[462] HRC General Comment 37, para. 38. ODIHR Guidelines (2010), para. 45.
[463] HRC, General Comment 37, para. 22
[464] HRC, General Comment 37, para. 22.
[465] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Report, 14 April 2014, UN Doc. A/HRC/26/29, paras 22-47.
[466] HRC, General Comment 37, para. 22, Venice Commission Guidelines (2020), para. 59.
[467] ODIHR Guidelines (2010), para. 101.

should generally be allowed to end at a time when participants choose so that they have sufficient opportunity to manifest their views or to pursue their other purposes effectively.[468]

4.3 TIME-RELATED BLANKET BANS

In the majority of the 21 countries examined for this report domestic laws do not impose any time-related blanket ban on protests. However, domestic laws in **Portugal, Serbia** and **Türkiye** restrict peaceful assemblies to daytime.[469] In Brussels, the capital city of **Belgium**, municipal regulations stipulate that assemblies are not permitted on Saturdays in certain parts of the city.[470] In **Portugal**, assemblies designated as parades and processions are restricted to certain times.[471]

In **Poland**, the priority afforded to so-called 'cyclical' assemblies results in a blanket ban on any other assembly taking place at the same time and place where a cyclical assembly is organized.[472] For example, the annual Independence March marked with presence of anti-human rights groups – has been used to prevent counter protests organized by anti-racism groups in the last years.[473]

4.4 RESTRICTIONS ON PLACE

Similar to time-related blanket bans, bans preventing public assemblies in any specific location (such as the vicinity of government buildings, parliaments or other public institutions) raise human rights concerns as they constitute a disproportionate restriction of the right of peaceful assembly. [474]

4.4.1 LOCATION-RELATED BLANKET BANS

In a number of countries including **Austria**, **Belgium**, **Czechia**, **France**, **Germany**, **Portugal**, **Türkiye** and the **UK**, protests can never take place in certain areas.[475] For example, in **Austria**, '[w]hile the National Council, the Federal Council, the Federal assembly or a Land parliament is in session, no open air assembly can be

[468] HRC, General Comment 37, para. 54. See also UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Report, 21 May 2012, UN Doc. A/HRC/20/27, para. 39.
[469] Portugal, Decree-Law 406/74, Article 11 (most assemblies cannot take place after 00:30); Serbia, Law on Public Assemblies, Article 7 (assemblies can take place from 06:00 to midnight); Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 7 (assemblies may not start before "sunrise").
[470] See City of Brussels, Information on demonstrations, available at https://www.brussels.be/demonstrations
[471] Portugal, Decree-Law 406/74, Article 4 states that parades and processions may take place on Mondays to Fridays after 19:30, on Saturdays after 12:00, or at any time of day on Sundays and holidays. These restrictions impact the effectiveness of protests, including the ability to be heard by authorities. In practice, during weekdays, when processions would reach their final destinations (for example the Parliament, or a ministerial building), it would be after working hours, and there is a risk that no one would be inside the buildings to hear the demands of protesters.
[472] Poland, Law on Assemblies, Article 14.3. Cyclical assemblies are defined as assemblies that are held at least four times per year or on an important national day, which have taken place for at least three years and which are aimed at celebrating events of high importance in Polish history. See more details on cyclical assemblies in 2.3.1
[473] See Public Information Bulletin of the Commissioner for Human Rights, 'The ECtHR will examine the so-called cyclical assemblies. The CHR: this is a violation of the right of other citizens to demonstrate' (in Polish), 20 October 2021, available at ETPC zbada tzw. zgromadzenia cykliczne. RPO: to naruszenie prawa innych obywateli do demonstrowania (brpo.gov.pl); and 'Stops at the Independence March. The police explain, the PO MP reacts' (in Polish), 11 November 2022, available at Marsz Niepodległości a zatrzymania. Michał Szczerba interweniuje - Wydarzenia w INTERIA.PL;
[474] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and UN Special Rapporteur on extrajudicial, summary or arbitrary executions, *Joint report on the proper management of assemblies*, 4 February 2016, UN Doc. A/HRC/31/66, para. 30.
[475] Austria, Assembly Law, para. 7, available at https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000249
Belgium, Law of 2 March 1954, Article 3, imposes "protest-free zones" ("neutral-zones") in specific areas near certain government buildings, in certain municipalities for example in Brussels (see example indicated in text, see https://www.brussels.be/demonstrations, as well as in Namur in a perimeter around the Walloon Parliament, and in Eupen in a perimeter around the parliament of the German-speaking community; Czechia, Act on Freedom of Assembly, section 25; France, map of protest-free areas in Paris is available at https://www.interieur.gouv.fr/sites/minint/files/medias/documents/2021-12/schema-national-du-maintien-de-l-ordre-decembre-2021.pdf (however in a meeting with Amnesty International the Prefect of the Police said he was not aware of this map); Germany, so called "pacified ban circles" are established by Assembly Law VersG, para. 16 I, however the exact location of these areas is regulated by separate state laws (*Bannmeilengesetze*), and they differ from state to state, and can be blanket bans – for example, in North Rhine-Westphalia, assemblies around state parliament in Düsseldorf are generally prohibited – or case-by-case restrictions – for example, in Berlin); Portugal, Decree-Law 406/7445, Article 13, requests that assemblies take place no less than 100m from sovereign bodies such as embassies or consulates; Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 22; UK: Serious Organized Crime and Police Act 2005, available at https://www.gov.uk/government/publications/sites-under-the-serious-organised-crime-and-police-act-2005/sites-under-the-serious-organised-crime-and-police-act-2005) criminalizes trespass on "protected sites" which include "nuclear sites" and "designated sites" (the provisions however should not lead to national security prosecutions without case-by-case examinations). A law on 'abortion buffer zones' also legislated during the research period entered into force in 2023.

held within 300 metres of their seats. In **Belgium**, in Brussels, 'neutral'zones' (protest-free) areas are established around the Federal Parliament buildings, near the Flemish Parliament, the Parliament of the French community and the Royal Palace. In **Czechia**, assemblies are forbidden on 9 streets near the Parliament and 100 m around the building of the Constitutional Court. In Paris, **France**, several areas are designated as protest-free. In **Portugal**, the legislation requests for assemblies to take place at no less than 100 metres from sovereign bodies such as embassies or consulates. In **Türkiye**, among others, the area surrounding one kilometre of the Grand National Assembly is a protest-free zone.

In several others, including **Hungary**, **Ireland**, **Italy** and **Serbia**[476] while there are no permanent restrictions, domestic laws allow the authorities to impose blanket bans on protests in specific areas.

4.4.2 CHOICE OF LOCATION

Many countries including **Belgium**, **Czechia, France**, **Finland**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Portugal**, **Slovenia**, **Sweden**, **Switzerland**, **Türkiye** and the **UK** have legislation that empowers the authorities to move, reroute, restrict or limit organizers' and participants' movements during a protest, which may have also a consequence on the choice of location.[477]

While some of these laws prescribe detailed and narrow circumstances under which the location can be restricted, in other countries the authorities have wide discretion to introduce restrictions, which may result in disproportionate restriction on the right of peaceful assembly. For example, in **Türkiye**,[478] the highest local authorities in provinces and districts determine and announce the allowed locations, places and routes of protests and other public assemblies within their geographical areas of competence every year, without any prescribed limitations to this discretion. These wide powers may result in the imposition on blanket bans on places, which are intrinsically disproportionate. In **Italy**'s capital, Rome, the prefect, political parties and trade unions have signed a protocol for the regulation of demonstrations in the city's squares, listing pre-selected routes and squares where protests are permitted, to avoid excessive "disruption to the enjoyment of city life".[479] These laws and regulations do not comply with the requirement of a case-by-case assessment to ensure that any restriction on the right of peaceful assembly is necessary and proportionate to achieve a legitimate aim.

In practice, in many countries assemblies are allowed to take place according to the organizers' choices, but there are occasions when the authorities impose restrictions on locations; for example, to reduce disruption to traffic or city life, facilitate diplomatic visits, or protect public safety. Some of these restrictions proved to be disproportionate to achieve their purported aims. For example, in **Austria,** in June 2021, the authorities banned a protest in front of a hotel where nuclear negotiations between Iran and the USA were taking place,

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[476] Hungary: ARA, Articles 11(4) and 13(5). In addition, the MoI Decree No. 26/2018. (IX. 27.) entitles the police to determine "security areas" for a temporary period where and when assemblies may not be held. Article 7(2)(a) of the MoI Decree provides that the police "may, in justified cases, and to the extent strictly necessary for that purpose, establish a security area temporarily closed to the exercise of the right of assembly for the time necessary so that the police may perform the task of securing persons or premises, taking into account the residence and travelling route of the [visiting diplomat] or the location of a court."; Ireland: Gardaí have the right to limit protests within half a mile of the Oireachtas (the Irish parliament) if members of the Oireachtas are sitting, see https://www.citizensinformation.ie/en/government_in_ireland/human_rights/right_to_protest.html; Italy: Law 183/2011, Article 19, in conjunction with TULPS, Article 2, and the Directive of the Ministry of the Interior of 26 January 2009; Serbia: Law on Public Gatherings, Articles 6 and 24.

[477] Belgium, Circular CP4 on negotiated public space management for the integrated police, available at https://etaamb.openjustice.be/nl/omzendbrief-van-11-mei-2011_n2011000309, Ministerial circular OOP 41 on the operationalization of reference framework CP 4 on the negotiated management of public space following events affecting public order, available at https://etaamb.openjustice.be/nl/omzendbrief-van-31-maart-2014_n2014000090; Czechia, Assembly Act, section 9; France, Law on National Security, Article L211-2; Finland, Assembly Act, section 10; Germany, Assembly Law, Article 12; Greece, Presidential Decree 73/2020 – Regulation of Public Outdoor Assemblies, Article 9, paras 1-3; Hungary, ARA, Article 13.5; Ireland, Offences against the State Act 1939; Italy, Protocol for the regulation of demonstrations in the squares of the capital, available at https://briguglio.asgi.it/immigrazione-e-asilo/2009/marzo/prot-manifest-roma.pdf
Portugal, Decree-law 406/74, Article 6(1); Slovenia, a permit from the administrative unit is required, Public Assembly Act, Articles 13(1) and (4); Sweden, Public Order Act, Chapter 2, Article 24; Switzerland, failure to comply with authorization conditions including a prescribed route constitutes a criminal offence in Geneva, and in Lausanne it renders an assembly unauthorized, see Règlement général de police de la Commune de Lausanne (RPG); Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 6/2; UK, Public Order Act 1986, section 12, available at https://nationallegalservice.co.uk/uk-protest-rights/, Civil Government (Scotland) Act, and Public Order Act, section 65, PP(NI)A 1998 sections 6 and 7.

[478] Türkiye, Law No. 2911 on Meetings and Demonstrations, Article 6.

[479] Italy, Prefecture of Rome, Protocol for the regulation of demonstrations in the squares of the Capital, http://briguglio.asgi.it/immigrazione-e-asilo/2009/marzo/prot-manifest-roma.pdf. In 2015, a new directive of the prefect of Rome introduced new criteria regulating public demonstrations in the city and designating specific areas where pubic assemblies are allowed, see Prefecture of Rome, Disciplina delle manifestazioni nelle piazza ("Discipline of demonstrations in public squares"), https://www.prefettura.it/FILES/AllegatiPag/1199/Area_I_Osp_direttiva_manifestazioni_e_cortei.pdf

citing disruptions caused by noise.[480] The Administrative Court of Vienna subsequently ruled the ban unlawful.[481] In **Finland,** in 2022, police relocated a protest from close to the Russian embassy to nearby crossroads, citing, in a meeting with Amnesty International, the inconvenience that daily demonstrations caused to people living nearby. Similarly, activists reported that a demonstration scheduled on 25 March 2023 in solidarity with Kurdish groups near the Turkish embassy in the Finnish capital, Helsinki, was moved by police to a gravel pitch nearby. [482]According to the Helsinki police, the policy prohibiting protests near to embassies, which was significantly more restrictive in the past years, changed following decisions by an administrative court and the parliamentary ombudsman in the 1990s, and is now less restrictive. However, citing security reasons, police quite often keep peaceful protests at a distance from embassies, compromising the 'sight and sound' principle.[483]

In some instances, restrictions appear to be unlawful and discriminatory, such as the restrictions that the Porto Municipality, **Portugal**, tried to impose on the LGBTI+ Pride March in June 2023, claiming that the parade's after party would have to be moved to a city park four kilometres away from where the parade was to end as requested by the organizers, with the justifications of a 'concentration of events, in the city centre' on that day.[484]

In some countries the authorities interfere more frequently to determine (or influence) the location of an assembly, based on laws granting them broad discretion and resulting in disproportionate restrictions on the rights of peaceful assembly. For example, in **Türkiye**, governors regularly prevent protests from taking place at the organizers' desired location. Often these decisions are connected to the content or purpose of the assembly, with specific places inaccessible – for lengthy periods - for certain groups of protesters despite their symbolic value. This includes May Day demonstrations,[485] assemblies to commemorate the 2013 Gezi protests on Taksim Square,[486] and the Saturday Mothers/People weekly vigil on Galatasaray Square.[487] In **Switzerland**, for example in the cities of Lausanne, Geneva and Lucerne, according to lawyers, it is rare to obtain the agreement of the authorities regarding the desired place or route for assemblies, with police approaching negotiations with the default position of wanting to limit the impact of a protest.[488]

In **France** and **Italy**, assemblies are frequently banned, moved and rerouted, often with vague reasoning related to "public order" or "public safety". For example, in France, the authorities often try to provide alternative locations away from the city centre or 'wealthier' neighbourhoods in the capital, Paris; thus interfering with the visibility of protests and the sight and sound principle.[489] In Rome, Italy, the *Questore* [chief of police] has often denied organizers the right to protest on the Piazza Montecitorio, where parliament is located.[490]

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[480] Amnesty International Austria, 'Iran vigils prohibited in Vienna: Noise pollution not a sufficient reason' (in German), 17 June 2021, available at https://www.amnesty.at/news-events/iran-mahnwachen-in-wien-untersagt-laermbelaestigung-kein-ausreichender-grund/

[481] Amnesty International Austria, 'Current court decision: banning the Iran protests was a violation of human rights' (in German), 15 November 2021, available at https://www.amnesty.at/presse/aktuelle-gerichtsentscheidung-untersagung-der-iran-proteste-war-menschenrechtswidrig/

[482] Interview with Kurdish solidarity groups, 24 April 2023.

[483] Amnesty International Finland, *Report on demonstration observation*, 2022, https://www.amnesty.fi/uploads/2023/02/raportti_mielenosoitustarkkailu.pdf p. 9; Interview with Helsinki Police Department, 7 February 2023.

[484] Interview with the organizers of LGBTI Pride, 4 July 2023. See also https://www.publico.pt/2023/07/03/local/noticia/camara-porto-irredutivel-arraial-lgbti-covelo-fazse-apoio-2055487

[485] Amnesty International, "Türkiye: Unlawful ban on May Day celebrations in Istanbul must be lifted", 30 April 2024, https://www.amnesty.org/en/latest/news/2024/04/turkiye-unlawful-ban-on-may-day-celebrations-in-istanbul-must-be-lifted/

[486] See, for example, Reuters, "Turks clash with police on anniversary of anti-Erdogan 'Gezi' protests", 31 May 2022, https://www.reuters.com/world/middle-east/turks-clash-with-police-anniversary-anti-erdogan-gezi-protests-2022-05-31/

[487] Amnesty International, "Türkiye: Authorities must open Galatasaray Square permanently to Saturday Mothers/People ahead of their historic 1,000th vigil for missing relatives", 24 May 2024, https://www.amnesty.org/en/latest/news/2024/05/turkiye-authorities-must-open-galatasaray-square-permanently-to-saturday-mothers-people-ahead-of-their-historic-1000th-vigil-for-missing-relatives/

[488] Switzerland, interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022, interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023, interview in writing with an expert lawyer in the area of freedom of assembly in Lucerne, received on 29 August 2022. The lawyers' names have been withheld for privacy reasons.

[489] For example, "Reply to the prefecture : a strange conception of the right to demonstrate" (in French), 10 October 2020, available at https://blogs.mediapart.fr/marche-des-solidarites/blog/101020/reponse-la-prefecture-une-etrange-conception-du-droit-de-manifester

[490] For example, in November 2022, the Questura of Rome did not allow the grassroots trade union USB from holding a demonstration in Piazza Montecitorio, scheduled for 2 December, see https://www.usb.it/leggi-notizia/divieto-di-manifestare-in-piazza-montecitorio-1548.html. The notification to the union made reference to an order issued in November 2021 by the Prefect of Rome, banning any kind of public assembly from the area around the parliament, see https://roma.repubblica.it/cronaca/2021/11/12/news/no_green_pass_esce_l_ordinanza_del_prefetto_autorizzate_in_zone_non_a_rischio_-326161370/. In May 2022, a strike by school workers was prohibited from using the same square, see https://roma.corriere.it/notizie/cronaca/22_maggio_27/roma-questura-nega-manifestazione-scuola-piazza-montecitorio-polemica-sindacati-8b23a60e-ddb7-11ec-9d2a-935eb68a8d83.shtml. In July 2021 the No Green Pass movement was prohibited from using Piazza Montecitorio for a demonstration, see https://www.adnkronos.com/no-green-pass-questura-nega-piazza-montecitorio-sit-in-si-fara-a-piazza-

4.4.3 DEVIATION FROM ROUTE

In most countries, deviating from the route agreed with the authorities does not make a demonstration unlawful. However, in **Greece**, **Hungary**, the **Netherlands**, and **Türkiye,**[491] the deviation can alone be a reason for police to disperse the assembly.

In practice, in some countries such as **Belgium**, **Ireland** and **Portugal**[492] the police will often reroute an assembly in negotiation with the organizers. In some countries, the authorities' discretional powers resulted in disproportionate restrictions of the right of peaceful assembly. In **Serbia** the authorities first banned and then severely restricted the 2022 Europride march, including restricting its route, citing a "risk of violence by counter protesters and serious disruptions to public peace and order".[493] In Lausanne, **Switzerland**, on 14 June 2020, a static public assembly organized by the Feminist Strike turned into a march, which police dispersed based on the fact that the organizers received authorization only for a static gathering.[494]

4.4.4 COUNTER DEMONSTRATIONS

Peaceful counter demonstrations enjoy the same protections under international human rights law as any other peaceful assembly. Authorities must therefore ensure that they facilitate such demonstrations while at the same time ensuring that the assemblies they are opposing can continue without disruption and protect participants of both assemblies from any attacks by the respective counter protesters.[495] Few countries have transparent and clear information publicly available about the processes the authorities will follow to facilitate more than one protest at a time, including counter protests.[496]

In some countries, including **Belgium**, Finland, **Luxembourg**, **Switzerland** (Basel) and **Türkiye**, the authorities' approach is usually for the first notified or authorized protest to take priority, and to negotiate with the organizers of the other protest(s) to find alternative times or locations or to put in place restrictions to facilitate two or more protests at the same time.[497]

In other countries, such as **Austria**, **Finland**, **Germany**, **Greece**, **Italy**, **Portugal**, **Slovenia**, **Sweden**, **Switzerland** (Zurich)[498] and the **UK**,[499] the authorities make an assessment on a case-by-case basis to ensure everyone's safety, particularly if parallel assemblies are taking the form of counter demonstrations. In Amsterdam, the

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del-popolo_3tSIYwmE3bE2Vaoe78yjAV. On that occasion, the Questura had ordered that the demonstration be held in another area in view of the possible large number of participants. In February 2021, Piazza Montecitorio was denied as a protest site to the trade union COBAS during the occasion of the vote of confidence for the (then) new government, see http://sicobas.org/2021/02/16/21837/

[491] Greece, Law 4703/2020, Article 9.1.b; Hungary, ARA, Articles 13 and 18(1)(c). It is a petty offence if the organizer deviates from the initially planned (and notified) route or if someone calls on the participants to deviate from the initially planned (and notified) route (Petty Offences Act, Article 189(1)(c)) unless this is due to an external factor (Article 189(4)); the Netherlands, WOM, Articles 11.1.b and 11.2 state that acting in violation of an instruction is a punishable offence. WOM decisions (decisions by the city authorities) would usually state that organizers cannot deviate from the route laid down in the decision. They can be accompanied by the wording "if you do, police will intervene"; In Türkiye it is unlawful to hold marches and assemblies in places other than those designated (yearly) by the authorities (Law No. 2911 on Meetings and Demonstrations, Article 6). Article 10 limits the organization of the protest to the area noted in the notification. Article 22 indicates protest-free zones/locations prohibited for protests.

[492] Belgium: For example, in the cities of Brussels, Gent and Etterbeek; Ireland: See Irish Council for Civil Liberties, *Know Your Rights: The Right to Protest*, 2019, https://www.iccl.ie/wp-content/uploads/2020/01/Know-Your-Rights-Protest.pdf; Portugal, Decree-law 406/74, Article 6(2).

[493] See EFE, "Serbian police protect EuroPride march from anti-gay militants", 18 September 2022, https://efe.com/en/latest-news/2022-09-18/serbian-police-protect-europride-march-from-anti-gay-militants/

[494] See 'Trial of feminist activists during a Critical Mass' (in French), 3 August 2021, available at https://www.20min.ch/fr/story/proces-dactivistes-feministes-lors-dune-critical-mass-503973296091

[495] HRC, General Comment 37, para. 26.

[496] Specific processes outlined in law or regulations exist in Türkiye and the UK. Some cities in the Netherlands have local guidelines in place, see below.

[497] Belgium, responses to TGs from the authorities of Ghent, Antwerp, Brussels and Etterbeck; Finland, police web page available at https://poliisi.fi/en/public-meetings-and-demonstrations; Luxembourg, this is, for example, the practice in the city of Luxembourg, see discussion of this problem at the City Hall at https://www.vdl.lu/fr/la-ville/vie-politique/conseil-communal/seances-duconseil-communal/archives/seance-du-conseil-communal-du-11-juillet-2022; Switzerland, Correspondence with the Cantonal Police of the City of Basel, received on 30 June 2023; Türkiye, Law No. 2911 on Meetings and Demonstrations, Articles 10 and 15.

[498] Austria, Law on Public Assembly, Article 7a; Finland, response to TG from National Police Board, 22 March 2023; Germany, Hong in Peters/Janz VersammlungsR-HdB, B. Die Versammlungsfreiheit Rn. 92, beck-online; Greece, response to TG from Greek Police Headquarters, 2 April 2024; Italy, response to TG from Department of Public Security, Ministry of the Interior, 19 May 2023; Portugal, response to TG from Ministry of Internal Affairs, 12 July 2023; Slovenia, Correspondence from Slovenian Police, March 17th 2023; Sweden, see https://polisen.se/om-polisen/polisens-arbete/demonstrationer/; Switzerland, Correspondence with the Police of the City of Zurich, received on 5 May 2023.

[499] England and Wales, College of Policing, "Public order public safety", undated, https://www.college.police.uk/app/public-order, 'Police Response to Protests – Flow Charts' available at https://library.college.police.uk/docs/APPref/police-response-to-protest.pdf; Scotland: See for example https://www.gov.scot/publications/marches-parades-static-demonstrations-guidance/pages/3/; Northern Ireland: 'Processions and Protests', PP(NI)A 1998, sections 6 and 7, https://www.psni.police.uk/safety-and-support/keeping-safe/processions-and-protests

capital of the **Netherlands**, the municipality's handbook for facilitating assemblies outlines a dialogue-based approach for facilitating assemblies concurrently, wherever possible, and states that several assemblies taking place at the same time would not provide a legitimate reason for restrictions.[500]

Nevertheless, several authorities have displayed a restrictive approach to facilitating more than one protest simultaneously, including counter demonstrations. For example, in **Hungary**, the Ministry of the Interior stated that "it was not the police's duty to make another assembly possible at the same place",[501] but that they would inform the organizers that the assembly may be held at another location, which is usually identified through negotiations between police and the organizers. In Berne, **Switzerland**, the authorities state that "first and foremost, the police's reasons against granting a permit would be taken into account", and that such reasons could include "the maintenance of public and private traffic, the avoidance of excessive pollution, the maintenance of security and the prevention of danger from riots and violence as well as assaults and criminal offences of any kind".[502]

In practice, counter demonstrations tend to be facilitated in many countries, yet in some instances the police do not adequately protect protest participants. For example in **Finland**, during protests held by Extinction Rebellion (XR) in October 2022, the police failed to intervene in a timely manner when a counter demonstrator kicked an XR activist and played extremely loud music among the protesters for an extended period.[503] In **Ireland**, the police (*Gardai*) facilitated protests against Covid-19 lockdown rules, but restricted counter protesters who were supporting the Covid-19 restrictions by pushing them back or preventing them from entering a rally site.[504] The *Gardai* subsequently admitted to difficulties with facilitating both protests.[505] In the **Netherlands**, there have been instances of police failing to protect protesters from a hostile audience.[506] In **Poland** the authorities do not allow counter protests at so-called 'cyclical' assemblies – periodic assemblies that regularly occur in the same place and have priority over any other assembly (see Chapter 2.3.1 on cyclical assemblies).

4.5 DISCRIMINATORY RESTRICTIONS BASED ON CONTENT AND REAL OR PERCEIVED IDENTITY OF ORGANIZERS

Despite the requirement in international standards that restrictions on assemblies must be 'content neutral', most countries do not explicitly refer to any such principle in their national legislation. In Scotland(**UK)** the government has published guidance on the elements that local authorities should take into account when assessing notifications of public assemblies.[507] This guidance references duties under the ECHR and also states that "restrictions should not be placed on an organizer just to please those organizations or members of the community who disagree with the purpose of the march or the opinions or beliefs held by the marchers".[508] In **Sweden**, national legislation explicitly precludes restrictions on assemblies based on content, stating that any restrictions "cannot be so far-reaching as to constitute a threat to the freedom of expression as one of the foundations of democracy. The restriction may not be made solely on the basis of political, religious, cultural or other such beliefs."[509]

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[500] The Netherlands, Demonstrations Handbook (in Dutch), https://www.amsterdam.nl/wonen-leefomgeving/veiligheid/handboek-demonstreren-bijkans-heilig/ p. 52.
[501] Hungary, Correspondence with the Ministry of the Interior, 13 March 2023.
[502] Switzerland, Correspondence with the Police Inspectorate of the City of Berne, received on 6 April 2023.
[503] Amnesty International Finland, *Report on Protest Observation*, 2022, p. 13.
[504] See Irish Times, "Policing Authority questions 'push back' of counter-demonstrators at anti-mask protest", 26 September 2020, https://www.irishtimes.com/news/crime-and-law/policing-authority-questions-push-back-of-counter-demonstrators-at-anti-mask-protest-1.4356541
[505] Ireland, Policing Authority, *Report on Policing Performance by the Garda Síochána in Relation to COVID-19 Regulations*, 11 Sep 2020, https://www.policingauthority.ie/assets/uploads/documents/Report_on_Policing_Performance_by_the_Garda_S%C3%AD
[506] See, for example, Amnesty International Netherlands, 'Amnesty International calls for independent evaluation' (in Dutch), 22 November 2022, available at https://www.amnesty.nl/actueel/amnesty-roept-op-tot-onafhankelijke-evaluatie; see also video entitled 'Outpost and counter-demonstrators at the Tropenmuseum' (in Dutch), posted on 29 May 2022, and available at https://www.youtube.com/watch?v=-Pop1oKE4vk&ab_channel=OscarBrakFotografie and 'Kick Out Zwarte Piet protesters pelted with eggs, olienbollen and firecrackers' (in Dutch), 4 December 2021, available at https://nltimes.nl/2021/12/04/kick-zwarte-piet-protesters-pelted-eggs-oliebollen-firecrackers-volendam
[507] UK, Civic Government (Scotland) Act.
[508] UK, Scotland, *Review of Marches and Parades in Scotland: Guidance for Scottish Local Authorities,* 12 December 2006, https://www.gov.scot/publications/review-marches-parades-scotland-guidance-scottish-local-authorities/pages/2/
[509] Sweden, Instrument of Government, Chapter 2, Article 21.

In practice, many countries impose restrictions based on racist prejudice and other stereotypical views regarding the organizers and/or the messages or political causes (content) of specific assemblies. In these instances, the authorities often make inferences and draw conclusions regarding threats to public order solely based on the real or perceive identities of the organizers and/or the political cause they espouse. This often amount to racial stereotyping and othering, which is at odds with the principle of non-discrimination and the state duty to combat racism and other forms of discrimination. Some of the reasoning advanced by the authorities to justify restrictions on protests raise concerns regarding institutional and deeply entrenched racism, especially against Arab people, Muslim people and other people belonging to racialized groups.

For example, in **France**, a Palestine solidarity demonstration was banned in Paris in May 2021 after the Minister of the Interior advised prefects to ban such demonstrations in advance.[510] As justification for the ban, prefects cited among other things "numerous violations committed against law enforcement" in July 2014 (seven years prior), and "tensions" related to the "geopolitical context", effectively associating an entire demographic group with violence and the inability to peacefully protest. In addition, the deployment of police forces elsewhere on the same day was prioritized.[511] Also in France, in February 2022 the campaign group Les Hijabeuses, who had planned a protest against a French Football Federation policy that prohibits women from participating in competitive sports while wearing headscarves, were prevented from protesting. The *préfecture* of police justified the ban with concerns over "public order" and the "safety of the women protesters", unfairly characterizing the women's campaign as being part of a dispute between proponents of "political Islam" and religious patriarchy, versus those who respect French values, including gender equality.[512] When the Paris Administrative Tribunal overturned the ban on the Les Hijabeuses' protest, the decision came too late for the protest to go ahead.[513]

In **Germany**, the (perceived) identity of protest organizers and participants as well as the content of their protests has had an influence on the restrictions imposed. For example, in Berlin in May 2022 and April-May 2023, demonstrations on and around Nakba Remembrance Day were banned pre-emptively and in a blanket manner.[514] The ban was based on stigmatizing and discriminatory stereotypes of expected participants, whom the Berlin police described as being "from the Arab diaspora, in particular with Palestinian background… [and] other Muslim-influenced circles… from the Lebanese, Turkish and Syrian diaspora", and whom the police characterized as having a "tendency towards violent acts". This characterization exposed the authorities' institutionalized racism against a whole demographic group.[515]

In **Italy**, too, Muslim communities have experienced arbitrary and discriminatory bans and restrictions, severely limiting their right to freedom of peaceful assembly. For example, in August 2017 the *Questore* [chief of police] of Rome denied organizers the opportunity to hold a Muslim prayer meeting in front of the Colosseum for reasons of "security and public order", citing the "increasing deterioration of the international scenario" and making vague references to "anti-terrorism".[516] Gatherings to celebrate the Muslim holy month of Ramadan have also been subjected to discriminatory bans and prevented from being held in public squares in several cities for reasons of "public order".[517]

In **Poland**, certain groups such as LGBTI people experience a heightened level of discriminatory restrictions as well as harassment from the authorities. For example, activists have faced criminal charges for simply

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[510] Gérald Darmanin, Twitter post: "In Paris, I asked the Police Prefect to ban Saturday's demonstrations in connection with recent tensions in the Middle East' (in French), 13 May 2021, https://twitter.com/GDarmanin/status/1392828037473914883?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1392828037473914883%7Ctwgr%5E012ffa52d41905f6326616b79120612b864d3ea6%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.leparisien.fr%2Fparis-75%2Ftensions-entre-israel-et-palestine-manifestations-interdites-a-paris-ce-samedi-13-05-2021-NLJ5JTD5QVHIHPZKUJMECLEH5E.php

[511] Prefecture of Police, Twitter post: "In accordance with the request of the Minister of Interior, the Prefect of Police issued an order prohibiting the demonstration declared for Saturday 15 Mai 2021', (in French), 13 May, https://twitter.com/prefpolice/status/1392899848286900228/photo/2

[512] Prefecture of Police, Office of the Prefect, Order no. 2022-00145 prohibiting a demonstration declared for 9 February 2022.

[513] Amnesty International, 'France: Préfecture of Police Tries to Suppress Women Footballers' Protest against Lawmakers' Latest Attempt to Undermine Muslim Women in Sport (Index: EUR 21/5226/2022), 10 February 2022, https://www.amnesty.org/en/wp-content/uploads/2022/02/EUR2152262022ENGLISH.pdf

[514] Nakba Day on 15 May is a central day of remembrance in Palestinian culture to commemorate the expulsion and flight in connection with the founding of the state of Israel.

[515] Amnesty International, *Protect the Protest: Against Blanket Bans of Demonstrations for the Rights of Palestinians* (Index: EUR 23/7180/2023), 12 September 2023, https://www.amnesty.org/en/documents/eur23/7180/2023/en/

[516] See 'Colosseum, the Police Headquarters bans Islamic prayer due to 'terrorism alert'' (in Italian), 29 August 2017, available at https ://www.romatoday.it/cronaca/colosseo-manifestazione-islam-1-settembre-vietata.html

[517] See for example, 'Jesolo. Sports hall denied to Muslims' (in Italian), 26 August 2010, available at https ://nuovavenezia.gelocal.it/regione/2010/08/26/news/jesolo-palasport-negato-ai-musulmani-1.1341851, 'Piazzale denied for Ramadan. In Seriate Muslims ready to protest' (in Italian), 9 July 2015, available at https ://bergamo.corriere.it/notizie/cronaca/15_luglio_09/piazzale-negato-il-ramadan-seriate-islamici-pronti-presidio-b1f522a6-2614-11e5-9a08-f80f881ecc8e.shtml, and 'Prayer denied to Muslims in Sesto: question and answer between Islamic centre and mayor' (in Italian), 1 September 2017, available at https ://www.ilgiorno.it/sesto/cronaca/palasesto-chiuso-islam-1.3367949

hanging a rainbow flag or for writing slogans such as "God loves you the way you are" in chalk on pavements.[518] During the so-called "rainbow night" on 7 August 2020, police violently dispersed a peaceful demonstration in the capital, Warsaw, organized in solidarity with an LGBTI activist, and arrested nearly 50 people. During a subsequent court hearing it was revealed that police officers had been instructed to target LGBTI activists, with one officer stating: "We were instructed to stop all persons displaying the colours of LGBT, regardless of how they behaved. We treated that order as an order to be obeyed… I remember that these people were marked with LGBT colours". [519] On the contrary, movements supporting the government's policies have enjoyed priority over other assemblies.[520] Numerous municipalities declared themselves "LGBT free zones". Although this does not have legal weight, it results in a significant chilling effect for protests by, and in solidarity with, LGBTI people, undermining the right to freedom of peaceful assembly.

LGBTI people have also been subjected to discriminatory restrictions and bans in **Türkiye**, including restrictions on Pride marches, for nearly a decade.[521] The authorities also frequently ban or restrict other protests based on their content or the identity of their organizers. For example, the "Commemoration of the Armenian Genocide", which organizers attempt to hold each year on 24 April, has been banned for three years in a row. 8 March 2023, a feminist night march to mark International Women's Day in Istanbul was prohibited on multiple grounds, including "disturbing the peace".[522]

In **Finland**, protesters have been arbitrarily banned from using PKK and other Kurdish organizations' flags.[523] During anti-monarchy protests in the **Netherlands**, police have confiscated signs and banners displaying anti-monarchy or anti-police slogans, arguing that they were offensive and thus unlawful.[524] In March 2022 a protester was arrested for shouting "fuck the police" and detained for three days.[525]

Since October 2023, a worrying pattern of disproportionate restrictions imposed in many European countries in relation to demonstrations expressing solidarity with Palestinian people has raised further concerns regarding the failures of European countries to combat racism and all other forms of discrimination.

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[518] Amnesty International, *Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists* (Index: EUR 37/5882/2022), 20 July 2020, https://www.amnesty.org/en/documents/eur37/5882/2022/en/, p. 52.
[519] Amnesty International, *Poland: "They Treated Us Like Criminals"* (previously cited), p. 42.
[520] Pro-government protests, for example the monthly commemoration of the Smolensk plane crash, enjoy special protection as a cyclical assembly and have priority over other assemblies. See 'Commandment: suppress protests at Smolensk monthly commemorations. More than 30 people are under police surveillance in Krakow' (in Polish), 17 December 2022, available at: https://krakow.wyborcza.pl/krakow/7,44425,29273694,przykaz-zdlawic-protesty-przy-miesiecznicach-smolenskich-w.html
[521] Amnesty International, *Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters* (Index: EUR 44/8049/2024), 17 May 2024, https://www.amnesty.org/en/documents/eur44/8049/2024/en/
[522] Amnesty International, "Türkiye: International Women's Day march must go ahead 'without bans, beatings and other police violence'", 8 March 2023, https://www.amnesty.org/en/latest/news/2023/03/turkiye-international-womens-day-march-must-go-ahead-without-bans-beatings-and-other-police-violence/
[523] On Independence Day in 2022, the Helsinki police forbade protesters from carrying the flags of the PKK and other Kurdish organizations in the "Helsinki without Nazis" demonstration. At the same time, the flags were allowed in a demonstration in Oulu. After investigation, the National Police Board stated that the decision of the Oulu police did not warrant any action. The National Police Board took no position on the removal of flags in Helsinki, as the Helsinki administrative court had ruled that the Helsinki police had acted within the limits of its discretion. See https://poliisi.fi/en/-/national-police-board-effigy-of-turkish-president-should-not-have-been-seized
[524] One of the activists declared this to Amnesty International. It is also included in an Amnesty International video, available at https://www.youtube.com/watch?v=EjqJHBzMPrU&t=321s&ab_channel=AmnestyInternationalNL (minute 5:15). Police also confiscated a banner with the words "All Clits Are Beautiful", arguing it was offensive (and thereby unlawful), since the first letters of the phrase are generally understood to mean "All Cops Are Bastards", see https://www.rtvutrecht.nl/nieuws/2065449/politie-neemt-spandoek-all-clits-are-beautiful-in-beslag-bij-demonstratie-idee-prima-afkorting-niet
[525] The case was dismissed on formal grounds: see 'Students released after 3 days in jail for 'fuck the police' statement' (in Dutch), 18 March 2022, available at https://studio040.nl/nieuws/artikel/student-vrijgelaten-na-drie-dagen-in-de-cel-voor-fuck-the-police-uitspraak. On 1 February 2024, another protester was arrested for having uttered the same words. The case against her is pending.

PALESTINE SOLIDARITY PROTESTS

On 7 October 2023, Hamas and other armed groups carried out attacks into southern Israel which included deliberate killings of civilians, launching indiscriminate rockets and the taking of hostages. Shortly afterwards, the Israeli army began a campaign of massive bombardment and then a ground offensive which included indiscriminate attacks and direct attacks on civilians and civilian objects. The scale of civilian casualties and the extent of destruction and damage to homes, health care, and infrastructure is unprecedented. Subsequently, people in Europe have been taking to the streets to demand a ceasefire and protest against war crimes, crimes against humanity, the risk of genocide in Gaza and Israel's system of apartheid over Palestinians. Since April 2024, students have erected protest camps in universities across the region to demand to cut off ties with and disinvest from Israel. [526]

The authorities in many European countries have responded to these protests by imposing disproportionate restrictions on the right of peaceful assembly, including pre-emptive bans based on "risks to public order and security", as well as banning certain chants, Palestinian flags, keffiyehs and other symbols. The authorities have proceeded to dispersing peaceful protests camps, including instances when they did not result in serious and sustained disruption. Protesters have also reported excessive use of force and arbitrary detentions in several countries, including **Belgium**, **France**, **Germany**, **Greece**, and **Italy.**

In **Germany,** the authorities pre-emptively banned several gatherings in support of Palestinians, often citing concerns of "public security", a need to prevent the "public celebration of the Hamas terrorist attacks" of 7 October, and "the increase in antisemitic attacks" in the country. In Berlin, the police banned numerous solidarity gatherings between 11 and 30 October. The decisions cited the unspecified risks of "inciting, antisemitic exclamations, glorification of and incitement to violence, and acts of violence", based on "experience from previous years and the recent past, and further findings".[527] The organizers' urgent request to suspend the first of these bans was not granted by the court, which upheld the ban.[528] In Frankfurt, the banning of a demonstration planned for 14 October by the city authorities was declared unlawful by the Frankfurt administrative court, stating that the city had not sufficiently demonstrated its concerns about "the immediate threat to public safety", nor sufficiently shown that it had considered "all milder means" before resorting to the ban. The court also confirmed that "the ban on the assembly [could not] be adequately justified by the defendant's references to the highly emotional nature of the Middle East conflict".[529] Subsequently, however, the assembly was banned again. Indeed, the city authorities lodged an appeal against the court decision to quash the ban, and the administrative court of the federal state of Hesse, the higher court, granted the appeal and banned the assembly.[530] On the same day, a demonstration in Frankfurt "in solidarity with Israel" was allowed to take place.[531]

In instances where protests were able to take place lawfully, there were numerous subsequent reports of unnecessary and excessive use of force by police, hundreds of arbitrary arrests, and increased racial profiling of people perceived to be Arab or Muslim.[532]

On 2 November, the slogan "from the river to the sea" – one of the most frequently heard slogans at protests in solidarity with Palestinians – was banned by Germany's Ministry of the Interior.[533] The ban came despite a Berlin court ruling in August 2023 that the slogan as such does not incite to violence or discrimination. [534] Since the ban by the Ministry of the Interior, the administrative court of Muenster has also upheld the slogan as lawful, overturning a protest ban. The court ruled that "the slogan in itself was not unlawful because, according to the obvious understanding of an unbiased and reasonable public, it is objectively directed against the state of Israel, but not with sufficient concreteness against, for example, the Jewish part of the German population."[535]

In **Austria**, since November 2023, more than a dozen protests in solidarity with Palestinians have been banned in several cities.[536] For example, in the capital, Vienna, the authorities banned a demonstration for 11 October 2023, citing national security concerns. Despite the ban, the protest took place.[537]

In **France**, on 12 October 2023 the Minister of the Interior, Gérald Darmanin, announced a complete ban on all assemblies expressing solidarity with Palestinians as "they [were] likely to generate disturbances to the public order", adding that "any organization of such protests will lead to arrests".[538] The Conseil d'Etat, France's highest administrative court, subsequently ruled that only local authorities can decide whether to outlaw a demonstration, based on a case-by-case assessment. Prior to the ruling, several protests had already been banned. Peaceful protests defying the ban in the cities of Lyon and Paris were dispersed by police using water cannons and tear gas.[539]

In **Switzerland**, all demonstrations related to Israel and the OPT were not allowed to take place in Zurich, the canton of Basel-Stadt, and the capital, Bern for several days in October 2023[540]. In the Western French-speaking part of the country, including Geneva and Lausanne, similar assemblies were allowed to take place. Authorities in Bern continued to not allow larger assemblies and marches between 17 November and 24 December in the city centre.[541] The city authorities justified the decision by stating that police forces were being deployed elsewhere for the visit of the French President and for events such as a football match and Christmas markets. Nevertheless, the security director of the city stated that the "tense atmosphere" at past Palestine solidarity demonstrations had contributed to the decision. [542]

In **Czechia**, a Palestinian solidarity demonstration planned for 5 December in front of the building of the Ministry of Interior was banned (on 30 November) by local municipality, reportedly because of the use of the slogan 'from the river to the sea'.[543] Local authorities argued that they based the decision to ban the demonstration on the opinion of the Ministry of Interior who criticized the slogan and argued it incited violence. Following a challenge of local authorities' decision, a court ruled the ban 'unlawful' stating that the slogan can have many meanings and cannot be read as an incitement to violence, and

[526] See Amnesty International UK, 'UK: peaceful student protests on Gaza must be respected', 02 May 2024, available at https://www.amnesty.org.uk/press-releases/uk-peaceful-student-protests-gaza-must-be-respected; See Amnesty International UK, 'UK: peaceful student protests on Gaza must be respected', 02 May 2024, available at https://www.amnesty.org.uk/press-releases/uk-peaceful-student-protests-gaza-must-be-respected; and 'Pro-Palestinian student protests spread across Europe. Some are allowed. Some are stopped', 8 May 2024, available at https://apnews.com/article/amsterdam-campus-protest-gaza-europe-palestinians-israel-1eeb4e07231ebcc6776319ff0663db66

[527] See consecutive decisions by the Berlin Assembly Authority (a department of the Berlin police):
https://www.berlin.de/polizei/polizeimeldungen/2023/pressemitteilung.1374221.php
https://www.berlin.de/polizei/polizeimeldungen/2023/pressemitteilung.1376630.php
https://www.berlin.de/polizei/polizeimeldungen/2023/pressemitteilung.1377487.php

[528] Decision by Administrative Court of Berlin (in German), 11 October 2023, available at https://gesetze.berlin.de/perma?d=JURE230056137

[529] Decision of Administrative Court of Frankfurt (in German), para. 35-36, 13 October 2023, available at https://www.rv.hessenrecht.hessen.de/bshe/document/LARE230005124/part/L,

[530] Decision of the Administrative Court of Hesse (in German), 14 October 2023, available at https://www.rv.hessenrecht.hessen.de/bshe/document/LARE230005165/part/L

[531] See 'Police enforce ban on pro-Palestine demonstration, further demonstration banned' (in German), 15 October 2023, available at https://www.hessenschau.de/gesellschaft/polizei-setzt-verbot-von-pro-palaestina-demo-in-frankfurt-durch-weitere-demo-verboten-v16,demonstrationen-frankfurt-100.html

[532] Amnesty International, *Amnesty International Report 2023/24: The State of the World's Human Rights* (Index: POL 10/7200/2024), 23 April 2024, https://www.amnesty.org/en/documents/pol10/7200/2024/en/

[533] Federal Ministry of the Interior, "Announcement of a ban on associations in accordance with Section 3 of the Association Act Ban on the association 'HAMAS (Harakat al-Muqawama al-Islamiya)" 9 in German), 2 November 2023, available at https://www.bundesanzeiger.de/pub/publication/M0JVrk5Qop55DhqscjE/content/M0JVrk5Qop55DhqscjE/BAnz%20AT%2002.11.2023%20B10.pdf?inline

[534] Administrative Court of Berlin, 24 Chamber, 23 August 2023 (24 K 7/23), https://gesetze.berlin.de/perma?d=JURE230056038, paras 34-36.

[535] Administrative Court of Munster, 17 November 2023 (1 L 1011/23), https://openjur.de/u/2478245.html, para. 28.

[536] See 'About 50 criminal charges in Austria for "From the River to the Sea" slogan' (in German), 16 November 2023, available at https://www.derstandard.at/story/3000000195536/etwa-50-strafanzeigen-in-oesterreich-wegen-from-the-river-to-the-sea-parole; 'Graz police prohibit pro-Palestine demonstration on Saturday' (in German), 13 October 2023, available at https://www.heute.at/s/grazer-polizei-untersagt-pro-palaestina-demo-am-samstag-100296597

[537] Amnesty International, "Austria" in *Amnesty International Report 2023/24: The State of the World's Human Rights* (Index: POL 10/7200/2024), 23 April 2024, https://www.amnesty.org/en/documents/pol10/7200/2024/en/

[538] See 'France bans all pro-Palestinian demonstrations and will arrest any "troublemaker"' (In French), 21 October 2023, available at https://www.radiofrance.fr/franceinter/la-france-interdit-toute-manifestation-pro-palestienne-et-interpellera-tout-fauteur-de-troubles-1641785

[539] See 'Pro-Palestinian rally dispersed in France' video, published on 10 October 2023, available at https://www.youtube.com/watch?v=stljD8NxJ48; 'France uses teargas on banned pro-Palestinian rally as Macron calls for calm', 13 October 2023, available at https://www.reuters.com/world/europe/france-bans-pro-palestinian-protests-citing-risk-disturbances-public-order-2023-10-12/

[540] Amnesty International Switzerland, 'Serious and disproportionate interference with freedom to demonstrate' (in German), 20 October 2023, available at https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2023/eingriffe-in-das-demonstrationsrecht

[541] City of Bern, Local Council, Rules for rallies from mid-November (in German), 8 November 2023, available at https://www.bern.ch/mediencenter/medienmitteilungen/aktuell_ptk/regeln-fuer-kundgebungen-ab-mitte-november. See also Amnesty International Switzerland, 'Further unauthorized restrictions of the right to protest' (in German), 17 November 2023, available at https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2023/weitere-unzulaessige-einschraenkung-des-rechts-auf-protest; In an email received by Amnesty International Switzerland, on 25 June from the city of Bern, in relation to the organization's invitations to provide comments to the findings of the report, authorities wanted to point out that "small gatherings were still possible and larger rallies outside the city centre were also still permitted".

[542] See 'Constitutional law professor criticizes Bern for banning demonstrations' (in German), 8 November 2023, available at https://www.derbund.ch/demo-verbot-in-bern-staatsrechtler-spricht-von-verstoss-gegen-verfassung-342693383255

[543] See 'A prohibited pro-Palestinian demonstration. Prague intervenes over slogan, activists are preparing a lawsuit' (in Czech), 1 December 2023, available at https://www.irozhlas.cz/zpravy-domov/praha-magistrat-slogan-palestina-demonstrace-zakaz_2312012237_ava

therefore the conditions for banning an assembly had not been met under the Assembly Act (Section 10 (1)).[544]

In **Serbia**, police banned a Palestinian solidarity protest scheduled for 10 December 2023, citing security risks. The protest nevertheless took place but was limited to the space in front of the Serbian government, and the protesters were prevented by law enforcement from walking to the embassies of USA and Israel.[545]

In the **UK**, while no official ban on Palestine solidarity demonstrations was imposed initially, public officials increasingly demonized peaceful protesters.[546] On 10 October, the Home Secretary (the UK's Minister for the Interior) sent a letter to police chiefs encouraging them to deploy a "strong police presence" to all Palestine solidarity protests, and suggesting that behaviours such as waving Palestinian flags, chanting slogans including "from the river to the sea, Palestine will be free" or showing other Palestinian symbols could be "intended to glorify terrorism", creating uncertainty as to whether Palestine solidarity protesters could safely chant, or carry and wave flags.[547] The Home Secretary subsequently referred to peaceful protests as "hate marches".[548] Other politicians also repeatedly attempted to discredit and marginalize those speaking out for the human rights of Palestinians.[549] In February 2024, MPs claimed in a cross-party Home Office Select Committee report that police had been overwhelmed by the large demonstrations regularly taking place in the capital, London, and recommended that organizers should be made to give the police more than the current six days' notice for the marches to go ahead.[550] Evidence to the contrary, which was presented to the Committee, included the fact that good communication existed between the organizers and London's Metropolitan Police to ensure the protests went smoothly, and that police were given plenty of notice of demonstrations. The Committee did not reflect this evidence in its report.[551]

In **Italy**, numerous demonstrations in solidarity with Palestinians in Gaza and in support of Palestine took place without giving rise to concerns but, in some instances, peaceful demonstrators faced excessive or unnecessary force by police. Between 13 and 15 February 2024, demonstrations were held in front of the Bologna, Naples and Turin offices of RAI – the Italian national radio and television company – following a statement issued on 11 February by the chief executive of RAI expressing solidarity with Israel.[552] Riot police employed batons against protesters, which resulted in several protesters and police officers being injured. On 23 February 2024, riot police intervened violently in two demonstrations in the cities of Florence and Pisa, leading to several people, including children, requiring hospital treatment after being hit by police officers with batons.[553] On the same day, people gathered for a protest organized by students in Pisa's city centre, moving towards a university square which had been blocked by police vehicle and riot police. To prevent the participants from reaching the square, police charged forward, hitting students with batons. As videos of the violent police response started circulating, President Sergio Mattarella issued an unprecedented statement addressed to the Minister of the Interior criticizing the policing of the protest.[554] The Ministry of the Interior reported that two police officers and 17 protesters required hospital treatment, including 11 children. The Minister of the Interior subsequently stated that the demonstration had not followed notification requirement and that protesters had refused to share with police the intended route, notwithstanding numerous attempts to engage with

[544] See 'The cancellation of a December demonstration in support of Palestine was illegal, a court ruled' (in Czech), 18 December 2023, available at https://www.ceska-justice.cz/2023/12/zruseni-prosincove-demonstrace-na-podporu-palestiny-bylo-nezakonne-rozhodl-soud/
[545] See 'Despite the ban, a rally in support of Palestine was held in Belgrade' (in Serbian), 10 October 2023, available at https://faktor.ba/svijet/svijet/i-pored-zabrane-u-beogradu-odrzan-skup-podrske-palestini/174399
[546] The Network for Police Monitoring (Netpol), "In our millions'. A Netpol report on policing of protests in Britan against Israeli genocide of Palestine', 30 May 2024, available at https://netpol.org/2024/05/30/in-our-millions-report-launch/
[547] UK Home Office and the Rt Hon Suella Braverman KC MP, "Police chiefs asked to protect communities from provocations, Letter to Chief Constables in England and Wales following the Israel-Hamas conflict", 10 October 2023, https://www.gov.uk/government/publications/police-chiefs-asked-to-protect-communities-from-provocations
[548] See Guardian, "Suella Braverman calls pro-Palestine demos 'hate marches'", 30 October 2023, https://www.theguardian.com/politics/2023/oct/30/uk-ministers-cobra-meeting-terrorism-threat-israel-hamas-conflict-suella-braverman
[549] See, for example Guardian, "UK ministers consider ban on MPs engaging with pro-Palestine and climate protesters", 3 March 2024, https://www.theguardian.com/world/2024/mar/03/ministers-consider-ban-mps-engaging-pro-palestine-climate-protesters
[550] UK Parliament, Home Affairs Committee, *Policing of Protests, Third Report of Session 2023–24*, 21 February 2024, https://committees.parliament.uk/publications/43477/documents/218954/default/
[551] UK Parliament, Home Affairs Committee, *Policing of Protests, Oral transcripts*, https://committees.parliament.uk/work/8065/policing-of-protests/publications/oral-evidence/
[552] The statement was released in response to two singers voicing solidarity with the Palestinian people, including shouting "stop the genocide!" and calling for a ceasefire, at a popular national singing competition.
[553] 'Urgent information from the Government on the events that took place during public demonstrations recently held in Pisa and Florence' (in Italian), available at XIX Legislatura - Lavori - Resoconti Assemblea - Dettaglio sedute (camera.it)
[554] Italy, Presidency of the Republic, 'President Mattarella points to Minister Piantedosi: protect the freedom to express one's thoughts' (in Italian), 24 February 2024, available at https://www.quirinale.it/elementi/107701

organizers.[555] It is important to note that these arguments do not justify either the dispersal or the use of excessive force by police. Administrative and criminal investigations against protesters were ongoing at the time of writing.

Law enforcement authorities in countries such as **Austria, France, Germany**, the **Netherlands**, **Switzerland**, and the **United Kingdom** reportedly dispersed protest camps in university precincts in violation of the right of peaceful assembly and, at times, by resorting to excessive use of force.[556] These dispersals appear to be often at odds with international human rights law and standards, which protect the right of peaceful assembly including in private spaces and in instances where protesters break a law for reasons of conscience or because they believe that is the most effective way to achieve their objective (see Chapter 7 on Civil Disobedience). Dispersing peaceful protests should be a measure of last resort when peaceful protesters cause disruption that is both serious and sustained.

The spurious grounds of "public order" or "public safety" used to ban or severely restrict Palestine solidarity demonstrations not only fail to comply with the *three-part test* of legality, necessity and proportionality. They also entrench racial prejudice and negative stereotyping as the authorities often made inferences regarding threats to public order solely on the basis of the real or perceived identity of the organizers and the cause they were promoting. These baseless arguments expose institutionalized racism targeting Arab people and Muslim people, which the authorities have, through these bans, further entrenched, rather than acknowledging and taking action to address it, as required by international and European human rights law and standards.

Portraying these peaceful protests and/or part of their messages as "promoting antisemitism" stigmatize participants and organizers, by amplifying racist and othering tropes negatively impacting Arab people and Muslim people. It may also result in the criminalization, or otherwise penalization, of anyone expressing solidarity with Palestinian people, especially in countries where criminal laws punish "antisemitic speech" based on vague and broad grounds. While states should prohibit forms of expression that amount to advocacy of hatred that constitutes incitement to discrimination, hostility and violence, the legitimate criticism of Israel, its human rights record and its system of apartheid over Palestinians is protected by the right to freedom of expression.

The expression by individuals of frustration, criticism, anger, or views that shock or offend, including in the context of assemblies, cannot justify general suspicion or the criminalization of Palestinians and those showing solidarity with their human rights, or the denial of their rights to freedom of assembly and expression.

4.6 RESTRICTIONS RELATED TO THE COVID-19 PANDEMIC

On 11 March 2020, the World Health Organization (WHO) declared the Covid-19 outbreak a global pandemic and called on states to tackle it urgently. Measures adopted by countries across Europe to counter the pandemic and to cope with increasing pressures on their public health systems also restricted human rights, including the right to freedom of peaceful assembly. Several countries in Europe declared a state of emergency,[557] but only a handful officially derogated from their international obligations to respect, protect

[555] Italy, Ministry of Interior, 'Information from the Minister of Interior on events that occurred during public demonstrations recently held in Pisa and Florence, and subsequent discussions', 29 February 2024, available at https://www.interno.gov.it/sites/default/files/2024-03/informativa_del_ministro_piantedosi_senato_29_02_24.pdf

[556] See Amnesty International posts on X: Amnesty EU on X: "We call for an investigation into local government decisions & police actions at Palestine solidarity demonstrations around the University of Amsterdam since last Monday, & the alleged use of violence by police. #uvaprotest #Roeterseiland #ProtectTheProtest #demonstratierecht https://t.co/Rrblf6pahu" / X (10 May 2024); Amnesty EU on X: "@HumboldtUni @kaiwegner Universities and local authorities should safeguard & facilitate the right of students to peacefully & safely protest, & refrain from calling on law enforcement in relation to peaceful protests. . ." / X (28 May 2024); 'Police clear protest from Swiss university as Gaza demonstrations spread', 7 May available at https://www.reuters.com/world/europe/police-clear-protest-swiss-university-gaza-demonstrations-spread-2024-05-07/; 'Clashes and arrests as pro-Palestinian protests spread across European campuses', 8 May 2024, available at https://www.theguardian.com/world/article/2024/may/08/pro-palestine-student-protests-campuses-europe-arrests-police; 'Students protests against Israel's war on Gaza spread across Europe', 8 May 2024, available at https://www.aljazeera.com/gallery/2024/5/8/student-protests-against-israels-war-on-gaza-spread-across-europe;

[557] Apart from France and Serbia, Germany (under federal laws), Italy, Luxembourg and Portugal declared a state of emergency.

and fulfil human rights, as prescribed by Article 4 of the ICCPR and Article 15 of the ECHR.[558] Numerous countries banned all protests and gatherings, in particular during the first phase of lockdowns in April and May 2020.[559] They restricted assemblies, either by limiting their size, not allowing moving assemblies, or by using people's vaccination/immunity status as a means to restrict attendance once vaccines were available. Restrictions were imposed despite participants taking safety measures such as social distancing and mask-wearing, including in **Austria**, **Ireland** and the **Netherlands,** raising concerns on their necessity and proportionality**.**[560]

In order to adopt such measures, several countries introduced specific legislation, often by means of ad hoc decrees circumventing parliamentary control over restrictions – such as in **Belgium**, **Germany**, **Greece** and **Italy** – or without other safeguards such as reasonable limitations to the duration of the decrees. Some countries, such as the **UK**, used these decrees to extend police powers to control protests.[561] On several occasions, courts declared such decrees entirely or partly unconstitutional, or reversed newly implemented legislation.[562] **Portugal** suspended the right to strike for those working in critical infrastructure sectors.[563] In **Finland**, on the other hand, the Regional Administrative Agencies introduced time-limited restrictions – usually for one month at a time – limiting the number of people who could attend assemblies, varying from six to 500 persons depending on the phase of the pandemic and the rate of Covid-19 infections at the time. Covid-19 restrictions in **Portugal** were decided regionally, with each Regional State Administrative Agency making independent decisions. The restrictions were the same for all forms of assemblies.

While these measures have since been abolished in most countries, in **Italy** and the **Netherlands** some powers and/or restrictions introduced as emergency measures during the pandemic continue at the time of writing. In Italy, broad powers introduced as part of Directive Lamorgese of 10 November 2021 continue to be available to the authorities, extending the powers of the *Questore* [chief of police] and allowing for the movement and location of demonstrations to be restricted. Demonstrations can be forced to remain static or to take a different route than that planned by the organizers, on the basis of "factual reasons, of time and place" or the number of demonstrators. Also in the Netherlands, according to investigative reporting, restrictions introduced during the pandemic remained in place afterwards.[564]

Many Covid-19 measures disproportionately affected racialized and other marginalized groups across Europe, with their right of peaceful assembly being disproportionately restricted. Regarding **Ireland**, the UN Human Rights Committee stated that it "is concerned at reports of alleged excessive use of force by police against protesters in the context of the Covid-19 pandemic, disproportionately affecting specific communities, such as young persons, ethnic and racial minorities, Travellers and Roma".[565] In **Portugal,** representatives of an economically disadvantaged neighbourhood in the Lisbon area, accused the police of harassing the community under the justification of the restrictive rules brought in during the Covid-19 pandemic.[566] The community had organised and participated in protests on behalf of the six survivors who suffered ill-treatment at a police station in Alfragide[567] (in 2015). The harassment experienced by the community was reportedly in retaliation for an imminent decision by a court upholding[568] a previous first

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[558] Only Serbia communicated a derogation under Article 15 of the European Convention on Human Rights to the Council of Europe; France notified the UN Secretary-General per Article 4 of the ICCPR.

[559] Bans: Austria (all public gatherings and protests, April-May 2020), Hungary (general ban on assemblies 17 March-17 June and 11 Nov 2020-22 May 2021), Italy, Slovenia, Türkiye; Restrictions: Austria (from May 2020), Finland, France, Hungary (from 23 May-8 June 2021), Ireland, Luxembourg, Switzerland, Türkiye, UK. No information available for the rest.

[560] In Austria, the authorities continued to impose unnecessary and disproportionate restrictions on some demonstrations for health reasons despite precautions being put in place by organizers. In Ireland, on numerous occasions protests were disbursed even where efforts were clearly made to comply with health guidance, including mask wearing and social distancing. This had a chilling effect on protest in general and inconsistent approaches by An Garda Síochána (AGS) were noted by the oversight body, the Policing Authority. In the Netherlands, together with other organizations, Amnesty International raised concerns about the apparently arbitrarily applied restrictions regarding the number of participants of an assembly in an open letter to the municipalities of Utrecht, Almere, Amsterdam, Den Haag, Delft and Rotterdam: see https://www.greenpeace.org/nl/klimaatverandering/45368/burgemeesters-sta-pal-voor-het-recht-op-protest/

[561] Amnesty International, *Europe: Policing the Pandemic* (Index: EUR 01/2511/2020), 24 June 2020, https://www.amnesty.org/en/documents/eur01/2511/2020/en/

[562]For example, Poland declared a state of an epidemic emergency by adopting a simple decree which was, in effect, as far-reaching as a state of emergency and prevented people from taking part in assemblies. It was a way of circumventing the Constitution, which foresees a more complex procedure of declaring a state of emergency. According to the judgment of the Supreme Court od 01.07.2021 (case no. IV KK 238/21), the restrictions on protests were unlawful.

[563] Decree of the President of the Republic nº14-A/2020, article 4(c), March 18, declaring a state of emergency, https://diariodarepublica.pt/dr/detalhe/decreto-presidente-republica/14-a-2020-130399862

[564] See 'Right to demonstrate in jeopardy' (in Dutch), 22 March 2023, available at https://www.platform-investico.nl/onderzoeken/onderzoek-demonstratierecht-in-de-knel#annotation-39162-17%20en%20https://online.flippingbook.com/view/957335867/2/#zoom=true;

[565] HRC, Concluding Observations: Ireland, 26 January 2023, UN Doc. CCPR/C/IRL/CO/5, para. 43.

[566] See 'Cova da Moura. Residents denounce aggressive PSP patrols' (in Portuguese), 24 November 2020, available at https://www.dn.pt/edicao-do-dia/25-nov-2020/amp/cova-da-moura-moradores-denunciam-patrulhas-agressivas-da-psp-13070869.html/

[567] The Alfradige police station is on the edge of Cova da Moura neighbourhood

[568] The Court of Appeal upheld the decision of the first instance court on 25 November 2020. In the case, 17 police officers were indicted by the Public Prosecutor, and eight were convicted.

instance court judgement where eight officers were found guilty of aggravated kidnapping, assault, insult, defamation and false testimony against six young men from the Cova da Moura neighbourhood.[569]

In the UK, the government's response to Covid-19 resulted in discriminatory restrictions on the right of peaceful assembly, including patterns of discriminatory and disproportionate use of force by law enforcement in the policing of assemblies; harassment and intimidation of Black protesters and legal observers; and discrimination both in the interference with, and failure to facilitate, peaceful protests. These included police using the pandemic as an excuse to pursue existing discriminatory policing.[570]

While the exceptional situation of the global Covid-19 pandemic and other public health crises may require states to adopt extraordinary measures to stop the spread of infection, these must be motivated by legitimate public health goals based on credible scientific evidence. Freedom of peaceful assembly is a right that may be legitimately restricted during such emergency situations. Procedures set out in international treaties, including the ECHR and ICCPR, specify that states may derogate from some aspects of those treaties in times of emergency. However, as with other measures, these derogations must comply with the principles of legality, necessity and proportionality and must not be arbitrary or discriminatory in their application or impact. They should be the least intrusive and restrictive measures available to fulfil the legitimate objective and should be reviewed regularly to ensure the measures are in line with the latest scientific evidence. They should also be limited in duration, for example through 'sunset' clauses that limit the measures to a set period and prevent their automatic integration into ordinary law. Parliamentary and independent oversight is an important safeguard in that regard.

4.7 CONCLUSIONS AND RECOMMENDATIONS

Restrictions on the time, place, and content of protests risk being disproportionate if they do not allow for a case-by-case approach that takes into account each specific situation. This chapter has demonstrated that a large number of countries use time and/or location-related blanket bans that are intrinsically disproportionate. The chapter has also shown examples where restrictions on peaceful assemblies were based on the messages and/or the real or perceived identities of the organizers and participants, reproducing and entrenching racism and other forms of discrimination.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- Any time, place or content-based restriction must be introduced only following an individualized assessment of the assembly, when such restriction is both necessary and proportionate to achieve a legitimate aim, and in compliance with the principle of legality.
- States should refrain from imposing general restrictions on the time or date of assemblies, as these do not allow for an individualized assessment of their necessity and proportionality.
- Banning a specific assembly pre-emptively must be a measure of last resort and may be justified only when all other less-intrusive restrictions are not effective to achieve the purported aim, on the basis of precise evidence collected through a thorough, individualized assessment.
- Participants must, as far as possible, be enabled to conduct assemblies within 'sight and sound' of their target audience.
- All public spaces should generally be available for assemblies. Limiting protests to a few locations within a city or country or to remote designated areas, or similar restrictions, are likely to be unnecessary and/or disproportionate. Blanket bans on protests in areas around courts, parliaments, other official buildings and sites of historical significance should generally be avoided.
- Restrictions on content and messages may be justified only in very limited circumstances, for example to address forms of speech amounting to advocacy of hatred constituting incitement to discrimination, hostility and violence. Messages that shock, disturb or offend are protected by the right to freedom of expression.

[569] See 'Racism in the police: how the case of the assaults at the Alfragide police station uncovered an uncomfortable reality' (in Portuguese), 17 November 2022, available at https://expresso.pt/revista/2022-11-17-Racismo-nas-policias-como-o-caso-das-agressoes-na-esquadra-de-Alfragide-destapou-uma-realidade-incomoda-c070f0b4

[570] Institute of Race Relations, "A threat to public safety: Policing, racism and the Covid-19 pandemic", 13 September 2021, https://irr.org.uk/wp-content/uploads/2021/09/A-threat-to-public-safety-v3.pdf

- The real or perceived identity of organizers and participants – including among other things their race, religion, nationality, gender, gender identity and/or expression or sexual orientation – must not be used as a basis for imposing restrictions on the right of peaceful assembly as this constitutes discrimination. Any threat to public order, national security, public health or the rights of others must be based on objective criteria and assessed on a case-by-case basis. Past occurrences of violent acts by a few protesters are not sufficient to justify pre-emptive bans on future protests.
- States should take urgent measures to ensure that marginalized groups, including LGBTI people, Black people, Arab people, Roma, Muslim People and people belonging to other racialized groups can enjoy their right of peaceful assembly without discrimination, stigmatization and fear of excessive use of force by law enforcement officials. These measures may include the collection of comprehensive data regarding bans and use of force by police, disaggregated by the real or perceived identity of the organizers and/or the causes or messages that they promote, as well as independent enquiries that aim to identify the barriers experienced by marginalized groups to enjoy their right to freedom of expression, including patterns of institutionalized racism and other forms of discrimination.

5. POLICING OF PROTESTS

5.1 INTRODUCTION

Law enforcement agencies have a duty to respect, protect and facilitate protests.[571] (see details on states' duty in Introduction/ The presumption in favour of peaceful assemblies). Facilitation should therefore not be understood as the 'management' of protests, nor protests as something that needs to be 'controlled'. Rather, genuine facilitation describes both the negative and positive obligations of states to refrain from undue interference with the right of peaceful assembly and to take measures to ensure its effective exercise,[572] including all available measures to enable and support protesters to hold the assembly as intended (see more on obligation to 'facilitate' in Introduction/ The presumption in favour of peaceful assemblies). This extends to the state's positive duty to protect organizers and participants from interference or violence by members of the public, counter demonstrators and private security providers.[573] The duty to facilitate and protect also extends to journalists, monitors and observers, and others involved in the monitoring or observation of protests.

Equally, the positive obligations regarding protests include the creation of an enabling framework, in both law and practice,[574] to ensure that all those who would like to exercise their right to peacefully organize and participate in assemblies can do so, without discrimination.[575] The recognition of the right of peaceful assembly imposes a corresponding obligation on States to 'respect and ensure its exercise without discrimination'.[576] States must therefore ensure that laws and practices do not result in discrimination in the enjoyment of the right of peaceful assembly, including on the basis of 'race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status'.[577]

State authorities must ensure that any use of force must comply with the principles of non-discrimination, legality, necessity and proportionality, and precaution, and those using force must be accountable for each use of force.[578]

In its General Comment 37, the HRC outlined that "where the presence of law enforcement officials is required, the policing of an assembly should be planned and conducted with the objective of enabling the assembly to take place as intended", indicating that such presence will not always be required.[579] Rather than starting from the point of deploying police to protests as a default measure, states should reflect and engage in efforts to reimagine the facilitation of assemblies, as well as alternative methods to deploying police and the use of force. In doing so, states should engage with communities, groups and individuals that are or have been affected by discrimination, that may face particular challenges in participating in assemblies, that are often subjected to disproportionate restrictions when participating in assemblies, unlawful or excessive use of force by police including in the context of assemblies, discrimination and racism by police, and who often encounter additional obstacles to access to justice when seeking accountability for unlawful use of force and other violations of their rights committed by authorities. This is particularly important considering that "historical roots of racism, including colonialism and the transatlantic slave trade

[571] HRC, General Comment 37, para. 74.
[572] HRC, General Comment 37, para. 8.
[573] HRC, General Comment 37, para. 24.
[574] HRC, General Comment 37, para. 30.
[575] International Covenant on Civil and Political Rights (ICCPR), Article 2 (1); HRC, General Comment 37, paras 8, 24, 25, 46, 78, 100.
[576] HRC, General Comment 37, para. 8.
[577] HRC, General Comment 37, para. 25.
[578] HRC, General Comment 37, para. 78.
[579] HRC, General Comment 37, para. 76.

in enslaved Africans, and their impact on key State institutions, including law enforcement and the criminal justice system… permeate present policing".[580]

Racism and discrimination are pervasive in law enforcement across Europe, and it disproportionately affects racialized individuals and groups who experience stereotyping, discriminatory profiling, checks, searches, unlawful arrests and unlawful use of force due to race, ethnicity, religion and/or migration status. While a lack of official data is often raised as a hindrance to effectively challenge structural racism within police, with only a few countries in the region collecting disaggregated data, numerous national, regional and international human rights bodies as well as NGOs and civil society organizations have published studies and reports on the prevalence of racism within policing.[581]

In the last years, an extensive number of instances of unlawful use of force against protesters by law enforcement have been reported in the context of policing of Black Lives Matter protests across Europe, organized in the aftermath of the Minneapolis Police Officers torturing and extrajudicially executing George Floyd in the United States.[582] Similarly, the enforcement of lockdown measures by law enforcement during the COVID-19 pandemic had a disproportionate and discriminatory impact on Black people, Arab people and people belonging to other racialized groups, including, although not limited to only such right, in relation to limitations of their right of peaceful assembly.[583] Furthermore, in the past years, but with a significant spike since October 7[584], policing of assemblies expressing solidarity with Palestinian people have been marked by undue restrictions including - but not limited to – police forces requesting discriminatory pre-emptive bans and unlawful and excessive use of force and detention of protesters in many of the countries examined in this report.[585] (For details on 'restrictions on Palestinian solidarity, see also Chapter 4).

This chapter will examine and articulate key human rights concerns in relation to the role of law enforcement officials in the context of assemblies, their powers in law and how the policing of protests takes place in practice. The following examples provided in each section are not an exhaustive list of incidents of concern across the countries studied, but rather examples which emerged and illustrate the prominent concerns from the research findings regarding the use of force by police in the contexts of protests. It is also worth noting that, as underscored at the outset of this report and indeed this chapter, police actions should be assessed with an intersectional lens, given some people have historically experienced abuses by police

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[580] Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, Report, 2023, UN Doc. A/HRC/54/69, para. 21(a).

[581] Fundamental Rights Agency, Report 'Being Black in the EU', 25 October 2023, https://fra.europa.eu/en/publication/2023/being-black-eu

[582] The death of George Floyd on 25 May 2020 in police custody in Minneapolis (United States), has spurred protests around the world and highlighted the pervasiveness of discriminatory policing and impunity in Europe as well. See, for example, Amnesty International UK, 'Black Lives Matter and the Right to Protest', 25 May 2021, available at https://www.amnesty.org.uk/blogs/campaigns-blog/black-lives-matter-and-right-protest; Amnesty International, "Justice for George Floyd: A year of Global Activism for Black Lives and Against Police Violence", 24 May, 2021, available at https://www.amnesty.org/en/latest/campaigns/2021/05/justice-for-george-floyd-a-year-of-global-activism-for-black-lives-and-against-police-violence/

[583] Amnesty International, 'Policing the pandemic: Human rights violations in the enforcement of Covid-19 measures in Europe', EUR 01/2511/2020, June 2020, available at https://www.amnesty.org/en/documents/eur01/2511/2020/en/

[584] On 7 October 2023, Hamas and other armed groups carried out attacks into southern Israel which included deliberate killings of civilians, launching indiscriminate rockets and the taking of hostages. Shortly afterwards, the Israeli army began a campaign of massive bombardment and then a ground offensive which has included indiscriminate attacks and direct attacks on civilians and civilian objects. The scale of civilian casualties and extent of destruction and damage to homes, health care, and infrastructure is unprecedented. Subsequently, people in Europe have been taking to the streets to demand a ceasefire and protest against war crimes, crimes against humanity, the risk of genocide in Gaza and Israel's system of apartheid over Palestinians. Since April 2024, students have erected protest camps in universities across the region to demand to cut off ties with and disinvest from Israel. The authorities in many European countries have responded to these protests by imposing disproportionate restrictions on the right of peaceful assembly, including pre-emptive bans based on "risks to public order and security", as well as banning certain chants, Palestinian flags, scarfs and other symbols. The authorities have proceeded to dispersing peaceful protests camps, including instances when they did not result in serious and sustained disruption. Protesters have also reported excessive use of force and arbitrary detentions in several countries. See more details on crackdown on Palestinian solidarity protests in Chapter 4 of this report.

[585] Amnesty International France, 'Bans on protests supporting Palestinians is disproportionate attack on the right to protest in France', 16 October 2023, https://www.amnesty.org/en/latest/news/2023/10/ban-on-protests-supporting-palestinians-is-disproportionate-attack-on-the-right-to-protest-in-france/; Amnesty International, 'Europe: Right to protest must be protected during latest escalations in Israel/OPT', 20 October 2023, https://www.amnesty.org/en/latest/news/2023/10/europe-right-to-protest-must-be-protected-during-latest-escalations-in-israel-opt/; Amnesty International Switzerland, 'Serious and disproportionate interference with the freedom to demonstrate' (in German), 20 October 2023, https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2023/eingriffe-in-das-demonstrationsrecht; Amnesty International Switzerland, 'Switzerland/Bern: Further inadmissible restriction of the right to protest' (in German), 17 November 2023, https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2023/weitere-unzulaessige-einschraenkung-des-rechts-auf-protest; Amnesty International, 'Concerns over restrictions on peaceful assembly and expression, in particular against people and organizations expressing solidarity with the Palestinian people', 18 December 2023, https://www.amnesty.eu/news/concerns-over-restrictions-on-peaceful-assembly-and-expression-in-particular-against-people-and-organisations-expressing-solidarity-with-the-palestinian-people/; Amnesty International Report 2023/24: The state of the world's human rights', available at https://www.amnesty.org/en/documents/pol10/7200/2024/en/, 24 April 2024; Amnesty International UK, 'UK: peaceful student protests on Gaza must be respected', 2 May 2024, https://www.amnesty.org.uk/press-releases/uk-peaceful-student-protests-gaza-must-be-respected; Amnesty International, 'Respect and protect the freedoms of expression and peaceful assembly ahead of Nakba remembrance Day', 10 May 2024, https://www.amnesty.eu/news/respect-and-protect-the-freedoms-of-expression-and-peaceful-assembly-ahead-of-nakba-remembrance-day/;

disproportionately to others, including being subjected to unnecessary and/or excessive force, including Black people, Arab people, Roma and other people belonging to racialized groups, or people who attended protests which often were marked by abuses by police (such as climate protests, and Palestinian solidarity protests, among others). In order to enhance compliance with international law and standards of the policing of protests, Amnesty International puts forward a set of specific recommendations to states at the end of the chapter.

This chapter should be read in conjunction with Chapter 6 (Accountability) which looks at the systems of accountability states must put in place – as per their obligations under international human rights law to ensure that actions of law enforcement officials are subjected to review and that any human rights violations committed in the context of assemblies are addressed.

5.2 USE OF FORCE AND DE-ESCALATION

5.2.1 INTERNATIONAL HUMAN RIGHTS STANDARDS

The use of force by law enforcement officials in the context of assemblies can affect not only the right of peaceful assembly but also, among others, the rights to life and freedom from torture and other ill-treatment. These rights are guaranteed in the International Covenant for Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) and in Europe via the European Convention on Human Rights as well. The fulfilment of state obligations in relation to these rights requires states to regulate the use of force by law enforcement officials. In this regard, there are additional international instruments that outline the standards for the use of force and firearms. These include the UN Code of Conduct for Law Enforcement Officials (1979),[586] the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)[587] and the UN Human Rights Guidance on Less-lethal Weapons in Law Enforcement (2020).[588]

As a starting point, there should always be a presumption in favour of holding assemblies (see also Introduction/ Presumption in favour of peaceful assemblies). Generally, the overall approach of authorities should be driven by transparent, clear and constructive communication before, during and after protests, seeking to establish trust and prevent conflicts from occurring through dialogue and mediation (as a voluntary option for organizers/protesters), as well as the objective of preventing, de-escalating and peacefully settling any conflicts that may occur in the context of assemblies.[589]

Any dialogue should be voluntary. If organizers or participants are unwilling or unable to engage, including where this is due to the lack of an organized body representing them, the absence of their engagement should not have a detrimental impact on the state authorities fulfilling their human rights obligations in relation to the assembly, nor be used as a "pretext" for arbitrary restrictions.[590]

The authorities should also consider whether alternatives to police presence at assemblies such as, for example, community mediators might be more appropriate as the facilitation of negotiations or mediated dialogue can "usually best be performed by individuals or organizations not affiliated with either the state or the organizer".[591] Where the presence of law enforcement officials is required, the policing of an assembly should be planned and conducted with the overarching/primary objective of enabling the assembly to take place as intended. The plan should detail the instructions and equipment for and the deployment of all relevant officials and units.[592]

As the HRC outlines, assemblies should be presumed to be peaceful.[593] The police response should therefore be guided by the exercise of restraint and the aim of achieving the de-escalation of tensions with a

[586] OHCHR, UN Code of Conduct for Law Enforcement Officials, 17 December 1979, https://www.ohchr.org/en/instruments-mechanisms/instruments/code-conduct-law-enforcement-officials
[587] OHCHR, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement
[588] OHRHC, UN Human Rights Guidance on Less-lethal Weapons in Law Enforcement, 2020, https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf
[589] HRC, General Comment 37, para. 17; Venice Commission Guidelines (2020), paras 21 and 169.
[590] Venice Commission Guidelines (2020), paras 57 and 88.
[591] Venice Commission Guidelines (2020), para. 169.
[592] Where law enforcement officials are prepared for the use of force, the authorities must also ensure that adequate medical facilities are available. Authorities should establish a clear chain of command and clear principles for escalation/de-escalation and when force might be used, with the view to minimize the potential for injury and damage to property.
[593] HRC, General Comment 37, para. 17; Venice Commission Guidelines (2020), para. 142.

view to avoid (or minimize) the need to resort to the use of force.[594] For an assembly to become 'non-peaceful' and thus stop enjoying the specific protection afforded to 'peaceful' assemblies under international human rights law, it must be "characterized by widespread and serious violence".[595] "[M]ere pushing and shoving", not meeting certain domestic legal requirements (i.e. notification and/or compliance with details of the notification provided; request for 'authorization', among others), disruption of traffic or daily activities, or isolated instances of violence do not render an entire assembly 'violent' (non-peaceful). In cases where there are isolated instances of violence, police may intervene, for example through targeted arrests of specific individuals engaging in violent conduct, while letting those behaving peacefully proceed with the assembly without interference. Where immediate intervention is not possible or may escalate tensions, rather than using force or imposing restrictions on the whole assembly, police should prioritize not intervening and consider initiating prosecutions or imposing other sanctions after the event, but only when necessary and proportionate to achieve a legitimate aim.[596]

Any use of force by police – during protests or in any other circumstances – should follow the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and strictly adhere to the *three-part test* of legality, necessity and proportionality (see details on the *three-part test* in Introduction/ Presumption in favour of peaceful assemblies). This means that, first, the use of force should be exhaustively regulated by domestic law including provisions setting out the specific circumstances that justify the use of force, as well as the level of force that is acceptable to deal with various threats. The laws must be precise enough to prevent arbitrary decision-making and be easily accessible to the public. Second, force must be limited to situations where it is strictly necessary for the achievement of a legitimate law enforcement aim (among those permitted by international human rights standards). Where the use of force is necessary, only the minimum necessary force needed to achieve the specific legitimate objective should be used, and the use of force must stop immediately once the objective has been achieved or turns out to be unachievable. The proportionality test further limits the amount of force that may be used for a particular law enforcement objective in that it needs to be strictly proportional to the legitimate objective, even if that results in the inability of authorities to achieve the objective. The harm caused by the use of force may never outweigh the harm that it is supposed to prevent.

Further, the use of force by law enforcement officials should also be guided by the principles of precaution, non-discrimination and accountability, and those using force must be accountable for each use of force.[597] In the context of assemblies, 'precaution' requires law enforcement officials to establish plans to effectively facilitate assemblies and address potential law enforcement challenges in order to reduce the need to resort to force.[598] 'Non-discrimination' means law enforcement officials must ensure that policing operations are not conducted in a discriminatory manner, for instance through unnecessary and disproportionate use of force, arrests, or stop and search measures against particular groups, including Black people, Arab people, Roma and people belonging to other racialized groups. The principle of 'accountability' requires states to ensure that actions of law enforcement officials are subjected to review and that any human rights violations committed in the context of an assembly are adequately redressed (see also more details in Chapter 6 on accountability).

At all times when using force, the police must respect international human rights law, including the right to life and the prohibition of torture and other ill-treatment, always taking all appropriate steps to minimize the risk of injury and death.[599]

Amnesty International has also developed Use of Force Guidelines as a practical and authoritative guide to support authorities when establishing a framework in accordance with the UN Basic Principles covering both the indispensable legal base to be established domestically and the broad range of operational instructions and practical measures to be taken by law enforcement agencies to ensure that daily law enforcement practice, including in the context of assemblies, is carried out in a lawful, human rights-compliant and professional manner.[600]

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[594] Venice Commission Guidelines (2020), para. 142.
[595] HRC, General Comment 37, para. 15.
[596] Venice Commission Guidelines (2020), para. 155.
[597] HRC, General Comment 37, para. 78
[598] UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 1 April 2014, UN Doc. A/HRC/26/36, para. 63.
[599] OHCHR, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement
[600] Amnesty International, Use of force - Guidelines for the Implementation of the UN Basic Principles on the use of force and firearms by law enforcement officials, August 2015, https://www.amnesty.nl/content/uploads/2017/07/guidelines_use_of_force_eng.pdf?x93186

The countries reviewed in this research have laws and regulations governing the use of force by the police. The principles of necessity and proportionality are also reflected in general terms in the laws. However, most of the countries did not have specific regulations on the use of force in the context of assemblies.

5.2.2 DE-ESCALATION

Most of the countries examined for this research do not explicitly outline in law an approach for de-escalation by law enforcement before resorting to use of force during a protest.[601] Instead, they have general laws or regulations on the use of force that outline the need for law enforcement to conduct a necessity and proportionality assessment before using force, some of which include the notion of progressiveness of tactics.[602] In the UK, law enforcement operates a "national decision making model" intended to take a more holistic approach and arrive at the appropriate response immediately, rather than work through a hierarchy of tactics.[603]

While a necessity and proportionality assessment outlines crucial principles to which police should adhere when using force, including in the context of assemblies, these principles are abstract and could be difficult to apply without detailed regulations, practical examples and training.[604] Where more detailed regulations on de-escalation exist, they are often not public, for example in Ireland and Greece,[605] preventing them from being assessed, including for compliance with international human rights standards.

One example of possible better regulations is in Switzerland, where regulations in the canton of Bern direct law enforcement to apply the so-called 3D strategy (dialogue, de-escalation and enforcement).[606] All law enforcement officials are trained in dialogue and de-escalation and must do their part to prevent escalations through their appearance and behaviour. As a rule, both dialogue and de-escalation must be fully exhausted before the third strategy level – enforcement – is applied. Only then can an assembly be broken up, once this procedure has been announced to the assembly participants. The cantons of Zurich, Lausanne, Geneva and Basel have similar approaches outlined in their regulations.

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[601] Exceptions: Germany: letter from Berlin Police, 27 April 2023; Greece: the law on public outdoor assemblies provides an approach to de-escalation in the provisions regarding dispersal, see Article 10 para. 2 of PD 73/2020, although the provided de-escalation procedure is rarely followed in practice; Ireland: Internal Policy on Use of Force, not publicly available; Switzerland: Correspondence with Cantonal Police of the City of Basel (received on 30 June 2023), Police of the City of Zurich (received on 5 May), the Canton of Geneva (received on 3 August 2024), the City of Lausanne (received on 23 August 2024), the Cantonal Police of Berne (received on 14 April 2023).

[602] Austria: on the use of force in general, see Art. 28a and Art. 29 Security Police Act (SPG); there are no specific regulation for assemblies; Belgium: Police Service Act, articles 37 and 38 https://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=1992000606&la=N#LNK0024 ; Czechia, the use of force and coercive measures are regulated in sec. 53 of the Law on the Police (No. 273/2008 Coll.), https://www.zakonyprolidi.cz/cs/2008-273; Finland, Police Act, Chapter 1, sections 2-6, https://www.finlex.fi/en/laki/kaannokset/2011/en20110872_20131168.pdf. For instance, in section 6, it is stated that the police shall seek to maintain public order and security primarily through advice, requests and orders); France, Code of ethics of the police and the gendarmerie in France, Article R.434-18, https://www.rightofassembly.info/assets/downloads/2014_Code_of_ethics_of_the_police_and_the_gendarmerie_in_France.pdf; Germany, Police Acts of the federal states; Hungary: Act XXXIV of 1994 on the Police, Articles 15-15A, https://www.refworld.org/docid/4c3483872.html;" Italy: Correspondence with the Department of Public Security (Ministry of Interior) on 19 May 2023; the Netherlands, Police Act 2012, art. 7 states that 'necessity and proportionality principles' are included, https://wetten.overheid.nl/BWBR0031788/2023-02-18/#Hoofdstuk2_Paragraaf2.2_Artikel7; Portugal: Article 266(2) of the Constitution stipulates that administrative organs and agents must act in accordance with the principles of equality, proportionality, necessity, justice, impartiality and good faith; Decree-Law 457/99 regulates the use of firearms and explosives by the security forces and services, including the need to ensure compliance with the principles of necessity and proportionality (art. 2); Article 8 of the Code of Ethics for the Police Service, approved by Council of Ministers Resolution no. 37/2002, on "Adequacy, Necessity and Proportionality of the Use of Force" includes reference to the progressiveness of tactics: Members of the security forces shall use appropriate means of coercion to restore law and order, security and tranquility only when they are indispensable, necessary and sufficient for the proper performance of their duties and when the means of persuasion and dialogue have been exhausted. Similarly, Decree-Law No. 265/93, approving the Statute of the National Republican Guard (GNR) (a military police force that can be deployed at assemblies and to guarantee public order and security), states: Article 13 (Use of appropriate means), (1) The military police of GNR defends and respects, in all circumstances, the life, physical and moral integrity and dignity of persons and uses persuasion as a method of action, only using force in cases of absolute necessity; Spain, Correspondence with Government of Catalonia, Department of the Interior received on 1 August 2023; Türkiye, Law no 2559 on Powers and Duties of the Police.

[603] College of Policing, National decision-making model, first published 23 October 2013 (updated 24 January 2024), available at https://www.college.police.uk/app/national-decision-model/national-decision-model

[604] Amnesty International, Use of Force – Guidelines, August 2015, p.91, https://policehumanrightsresources.org/use-of-force-guidelines-for-implementation-of-the-un-basic-principles-on-the-use-of-force-and-firearms-by-law-enforcement-officials

[605] Ireland, Alyson Kilpatrick, A Human Rights-Based Approach to Policing in Ireland (Irish Council for Civil Liberties, 2018), p12, available at https://www.iccl.ie/wp-content/uploads/2018/09/Human-Rights-Based-Policing-in-Ireland.pdf; Greece, According to Article 11 of Presidential Decree 73/2020, decisions by the competent Minister regulating the composition, tactics and in general the operational activities of the police in the framework of measures taken during public outdoor assemblies are not public due to their restricted character. However, the Guidelines and legislation on assemblies provide some information of how de-escalation should take place, nevertheless on the basis of the above provision, one can assume that detailed decisions are not public.

[606] Switzerland, Correspondence with the Cantonal Police of Berne, received on 14 April 2023.

In practice, however, even in countries where de-escalation approaches are set out in law or regulations, they are not always followed. For example, in **Austria,** during May Day demonstrations in 2021, obvious steps to de-escalate were not taken. These missed opportunities included the option of making announcements to the participants via the loudspeaker car that was present, including when coercive measures were taken. Instead, according to reports, participants were insulted by police officers, and a police dog unit was deployed, which can, as practice, increase tensions and be counter to a de-escalation approach. The Vienna Regional Police Directorate stated in its response to a parliamentary question that it was unaware of insults being made, denied the use of service dogs, and stated that there was no obligation for it to take any de-escalation steps.[607]

Several countries have dedicated dialogue units, mediators or anti-conflict teams that can be deployed to assemblies.[608] While the police's willingness to engage in dialogue and peaceful settlement of conflicts in order to facilitate protests is generally welcome, there must be no obligation on the part of organizers or participants to engage with them, nor any negative consequences if they do not. Embedding such units in the police structure might make meaningful engagement difficult if there is distrust of and resistance to policing, based on past examples and experience, particularly for certain groups and individuals, such as people who have historically experienced abuses by police, including unnecessary and/or excessive force, including Black people, Arab people, Roma and other people belonging to racialized groups, or people who attended protests which often were marked by abuses by police (such as climate protests, and Palestinian solidarity protests, among others). For example, in the **UK**, several NGOs advise protesters not to engage with so-called "liaison officers" due to their key role in gathering intelligence and directing surveillance and coercive police measures.[609] In **Greece**, ODOS, a police unit for the "management and ring-fencing" of "low and medium risk" assemblies, is usually deployed to monitor peaceful demonstrations, meaning that "it is difficult to assess its contribution to avoiding tensions".[610] In **Finland** police negotiators are often present in protests. In Helsinki, there is an established team of negotiators, and bigger cities appear to have more regular negotiator roles, but in other police departments their presence may be more sporadic. One problematic aspect of the employment of negotiators that has emerged in Finland is their lack of discretion - in practice, they often convey orders and the "negotiation" they have with the protesters appeared to be not genuine.[611]

5.3 LESS-LETHAL WEAPONS AND TACTICS

5.3.1 INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

There are very specific and limited circumstances in which less-lethal weapons can be used during protests, given the high potential for harm, including risk of death and serious injury and the risk to also harm peaceful protesters or bystanders. The Amnesty International's 'Use of Force Guidelines' and the UN Human Rights Guidance on Less-lethal Weapons in Law Enforcement set out detailed guidelines for the use – strictly regulated within the international human rights framework - of "less-lethal weapons, including those which are most commonly used in assemblies, such as kinetic impact projectiles, chemical irritants and water cannon.[612] It should be noted, however, that "virtually any tool can be used in such a way that it causes

[607] Philipp Sonderegger on behalf of Amnesty International, ‚May Day Demo: No effective investigation of police violence on 1 May 2021' (in German), December 2021, available at https://www.amnesty.at/media/9272/gutachten-im-auftrag-von-amnesty-international_jaenner-2022_polizeigewalt-bei-mayday-demo-1-mai-2021.pdf

[608] This is the case in Czechia, where there is an anti-conflict team present in each of 14 regional directorates since 2020; in 2023, they were deployed several times in each region, see information available on Police's website at 'Anti-Conflict Teams' at https://www.policie.cz/clanek/rspp-pp-cr-antikonfliktni-tymy-verbum-non-arma.aspx and 'Anti-Conflict teams of the Police of the Czech Republic' published in 2024 at https://www.policie.cz/clanek/antikonfliktni-tymy-policie-ceske-rerpubliky.aspx ; France, Greece, Germany, Italy, the Netherlands (albeit not in all municipalities), Poland, Spain, where in 2011 the Catalan Police (Mossos d'Esquadra) established a unit aimed at conflict resolution and de-escalation called "Àrea de mediació", see 'Mediation, alternative conflict management', https://mossos.gencat.cat/ca/els_mossos_desquadra/Unitats_PG_ME/Mediacio ; and UK.

[609] See, for example, NetPol, "Talking to the Cops – A Guide for Protest Groups", 13 March 2019, https://netpol.org/2019/03/13/talking-to-the-cops/

[610] Quote from the interview with Anastassia Tsoukala, Senior Researcher, University Paris Cité (France), Criminologist, March 2023.

[611] See Amnesty International Finnish section protest observation report 2023, p. 38, https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf

[612] Amnesty International, Use of force Guidelines, August 2015, Chapter 7. See also more specific guidance by Amnesty International in relation to specific weapons, in particular kinetic impact projectiles, batons and chemical irritants; 'Less-lethal weapons) (in Dutch), 12 January 2024, https://www.amnesty.nl/actueel/less-lethal-weapons; 'Kinetic impact projectiles in law enforcement. An Amnesty Position Paper', 2 March 2023,

death or serious injury, even if it was specifically designed to be less lethal".[613] Hence, the legality, necessity and proportionality test that applies to the use of force in general, becomes particularly relevant under the "protect life principle". This principle states that putting a life at risk is only ever acceptable if it is for the purpose of protecting somebody else against a risk to their life.[614]

Amnesty International has long documented the devastating impact less-lethal weapons have had on protesters globally, with deaths, many suffering life-long injuries and permanent disabilities, including in **Belgium**, **France, Greece,** the **Netherlands, Poland, Serbia**, **Spain, Türkiye** and the **UK**.[615] While they are 'safer' alternatives to firearms, and some can play a legitimate role in law enforcement (including at protests), these weapons have also been, at times, used to harass, intimidate and punish protesters, and caused injuries. Noting the rampant abuse and misuse of less-lethal weapons by law enforcement officials, particularly in the context of protests, Amnesty has been campaigning for governments to act and support an ongoing UN process to establish an international treaty to regulate trade in policing equipment. [616]

All law enforcement officials responsible for policing assemblies must be suitably equipped. Where needed, this should include protective equipment and appropriate and fit-for-purpose less-lethal weapons.[617] Firearms are not an appropriate tool for the policing of assemblies and must never be used to disperse an assembly nor be fired indiscriminately. The only potentially lawful use of firearms in assemblies is for the purpose of saving another life.[618]

Policing strategies during assemblies such as those involving 'containment' which temporarily deprive specific individuals of their freedom of movement, sometimes referred to also as "kettling", have a serious impact on the exercise of the right of peaceful assembly. The Special Rapporteur on freedom of peaceful assembly and of association expressed his opposition to containment because "this tactic is intrinsically detrimental to the exercise of the right to freedom of peaceful assembly, due to its indiscriminate and disproportionate nature" and noted its "powerful chilling effect on the exercise of freedom of peaceful assembly", since he had been informed, in the context of the **UK,** already in 2013, that "many people refrained from exercising their right to freedom of peaceful assembly for fear of being 'kettled'."[619]

In light of its inherent detrimental effect on the right of peaceful assembly, Amnesty International's stance on 'containment' (also known as 'kettling' in some contexts such as UK), is that containment may be used but *only* in exceptional circumstances to address actual violence or an imminent threat of violence from the specific individuals being contained, where their containment is necessary and proportionate in the circumstances, and with a view to avoiding dispersing the entire assembly.[620] Amnesty International's position on this is coherent with the perspective of expert UN bodies such as the HRC. Such strategies should *only* be used as a form of extremely limited and temporary measures, where other means of achieving the same aim have been exhausted, and only for as long as is necessary. If containment is used, police need to inform assembly participants on the reason for, anticipated duration of, and exit routes from any police containment; have clear signposting and access to basic facilities and amenities; and immediate access to emergency services including first aid. Police must ensure that any non-violent protesters and bystanders who become accidentally contained, as well as vulnerable or distressed persons, are able to leave.[621] Containment tactics which are used indiscriminately or punitively violate the right of peaceful

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https://www.amnesty.nl/actueel/kinetic-impact-projectiles-in-law-enforcement; 'Batons and other handheld kinetic impact weapons. An Amnesty Position Paper', 23 June 2022, https://www.amnesty.nl/actueel/striking-weapons-in-law-enforcement; 'Chemical irritants in law enforcement. An Amnesty Position Paper', 30 July 2021, https://www.amnesty.nl/actueel/chemical-irritants-in-law-enforcement

[613] Amnesty International, Use of force Guidelines, August 2015, p. 61.

[614] UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Report, 1 April 2014, UN Doc. A/HRC/26/36, para. 72.

[615] Amnesty International, '"My Eye Exploded": The Global Abuse of Kinetic Projectiles', ACT 30/6384/2023, 14 March 2023, available at "My Eye Exploded": the Global Abuse of Kinetic Impact Projectiles - Amnesty International; Amnesty International, 'Blunt force: Investigating the misuse of police batons and related equipment', 9 September 2021, available at Blunt Force: Investigating the misuse of police batons and related equipment - Amnesty International; Amnesty International, 'Global: Misuse of tear gas killing and injuring protesters worldwide – updated interactive website', available at Global: Misuse of tear gas killing and injuring protesters worldwide – updated interactive website - Amnesty International

[616] Amnesty International, 'Global: New short film highlights devastating impact less-lethal weapons are having on protesters globally', 3 April 2024, available at https://www.amnesty.org/en/latest/news/2024/04/global-new-short-film-highlights-devastating-impact-less-lethal-weapons-are-having-on-protesters-globally/; HRC, General Comment 37, para. 81

[617] HRC, General Comment 37, para. 81.

[618] Given the risk that such weapons pose to life, this minimum threshold should also be applied to the firing of rubber-coated metal bullets.

[619] Report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to the United Kingdom (14-23 January 2013), para. 36-38, available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-39-Add1_en.pdf

[620] HRC, General Comment 37, para. 84.

[621] Article 19, The Right to Protest: Principles on the protection of human rights in protests, 2016, Right_to_protest_principles_final.pdf (article19.org)

assembly and may also violate other rights such as freedom from arbitrary detention and freedom of movement.[622]

Law enforcement agencies should pay particular attention to potentially discriminatory impacts of certain policing tactics, including in the context of new technologies, and develop mitigation strategies. Thus, they should not use any -overt or covert- means of mass surveillance, or other forms of unlawful surveillance, in the context of assemblies. Mass surveillance of assembly participants constitutes a violation of their right to privacy and has a chilling effect on the exercise of their right of peaceful assembly. Any use of means of surveillance should be done using legitimate tools in a targeted manner and be clearly justified by a specific and concrete need to detect and prosecute a crime and without using tools that are considered by design to be incompatible with international human rights law. Tools of mass surveillance such as facial recognition technology have been used to intentionally target certain individuals or groups of people based on characteristics, including ethnicity, race and gender, without individualized reasonable suspicion of criminal wrongdoing.[623] (See also more details on 'surveillance and monitoring of protesters' data' in Chapter 9 of this report).

The military should not be used to police assemblies as they are not adequately instructed, trained and equipped for law enforcement.[624] Further, "their deployment… casts a shadow of fear and intimidation, and creates a chilling effect that in and of itself violates the right to freedom of peaceful assembly".[625] The military's lack of training in protection and de-escalation (in general but particularly concerning in relation to assemblies), their equipment which is not appropriate for assemblies (as designated for combat operations) and their overall general approach of using the maximum amount of weaponry and force run counter to the facilitation and human rights-compliant policing of assemblies.[626] In exceptional circumstances where they might be involved to support in the policing of assemblies, the military personnel must have received appropriate human rights training and they must comply with the international human rights principles and standards governing the use of force by law enforcement officials, and must always operate under civilian command.

5.3.2 LEGISLATION OR REGULATIONS ON USE OF EQUIPMENT, TACTICS AND WEAPONS

Only a few countries have specific legislation on equipment, weapons and tactics for policing assemblies, mostly concerning generic use of force (see section 5.2), dispersal (see section 5.4) and containment (see section 5.3.4).[627] Instead, most countries have generic legislation or regulations that apply to the use of firearms and less-lethal weapons by law enforcement in any circumstances.[628] While these often stress the need for the use of force to be assessed under the principles of proportionality, necessity and legality and/or establish the principle of least harmful means, generally there are no detailed, publicly available regulations which set out the circumstances and manner in which law enforcement officials can use specific less-lethal weapons, including during protests.

Instead, some countries' legislation is extremely broad, leaving decisions about when to use force and what weapon to deploy to the discretion of the individual law enforcement officer. For example, in Türkiye the main legislation regulating police use of force in general (not only for assemblies) states that "In the event that the police encounter resistance while performing their duties, they are authorized to use force in order to break the resistance and to the extent necessary to break it. The law instructs force – physical force, materials force […] and weapons may be used gradually increasing proportions according to the nature and

[622] Amnesty International, Use of Force Guidelines, August 2015, Chapter 7. Note also other risks such as containing people who are in need of assistance, people being exposed to harsh weather conditions, the need for access to sanitation facilities. The crowded situation caused by the containment may create an atmosphere of claustrophobia and panic, provoking uncontrolled reactions which could eventually result in damage and injury; HRC, General Comment 37, para. 84.
[623] See, for example: Amnesty International, *Automated Apartheid: How Facial Recognition Fragments, Segregates and Controls Palestinians in the OPT* (Index: MDE 15/6701/2023), 2 May 2023, https://www.amnesty.org/en/documents/mde15/6701/2023/en/; Amnesty International, *Automated Apartheid*; Amnesty International, "Ban dangerous facial recognition technology that amplifies racist policing", 6 January 2021, https://www.amnesty.org/en/latest/press-release/2021/01/ban-dangerous-facial-recognition-technology-that-amplifies-racist-policing/; See Amnesty International, "*Ban the Scan*", available at https://banthescan.amnesty.org/
[624] Amnesty International, Use of Force guidelines, August 2015, p. 160.
[625] Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, *Protection of human rights in the context of peaceful protests during crisis situations*, Report, (UN Doc. A/HRC/50/42), 16 May 2022, paras 30-31.
[626] Amnesty International, Use of Force Guidelines, August 2015, Chapter 7.
[627] Note that Türkiye also has regulation for special police units policing unlawful gatherings, that is Guidelines for Riot Police.
[628] Such regulations are listed for many of the countries researched in this report in the 'library' section of Amnesty International's 'Protect the protest' interactive map on protests across the world, available at https://www.amnesty.org/en/what-we-do/freedom-of-expression/protest/

degree of resistance and in a way to neutralize those resisting ".[629] Such a provision is overly broad and opens up the possibility of arbitrary and discriminatory use of force, especially when there is a lack of specific training in relation to the policing of assemblies and the duty of police to facilitate assemblies. In the UK, specifically in England and Wales, officers are directed to use force that is "'reasonable in the circumstances", with no further guidance.[630] In Zurich, Switzerland, police may "use direct coercion and appropriate means of action and weapons", "within the bounds of proportionality", with more detailed provisions on particular circumstances given only for the use of firearms.[631]

Where specific guidance exists on the use of less-lethal weapons, it is often not public. The lack of publicly available information makes it difficult for participants to know what to expect from police, as well as for monitors, observers or other third parties in assemblies to make assessments of when a less-lethal weapon is not being used in line with national or local regulations.[632] Neither can the public make an assessment whether the domestic regulations on the use of such weapons fully comply with international human rights standards. Only Serbia has publicly available regulations on specific less-lethal weapons and the general circumstances under which these can be used, including in assemblies. However, specific thresholds and risks are not clearly articulated. Furthermore, it is not clear whether the police can/should try to de-escalate potential violence before intervening, by using other means, such as negotiations. The expansive list of coercive means is not accompanied by a clear operational purpose and a clear threshold for use, and there is no mention of the potential risks involved and the need to first exhaust other less restrictive methods of de-escalation.[633] Such general listing of weapons without specific provisions on when and how to use each of them can be an indicator of absence of regulation.

In Spain, the Catalan police (*Mossos d'Esquadra*) has partially disclosed the protocol for the use of kinetic impact projectiles (foam rounds), and this is available on its website,[634] along with other documents related to the use of batons[635] and tasers.[636] On the contrary, the Spanish Ministry of Interior has denied access to the guide on the use of the KIPs used by the National Police and the Civil Guard on the grounds that it represents sensitive information for the protection of public security.[637] The Basque police told Amnesty International that they intended to render publicly available some of the regulations on the use of less lethal weapons, such as KIPs (foam rounds).[638]

Some countries' legislation requires that a warning must be issued before the deployment of less-lethal weapons, but this is not consistent across the region.[639]

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[629] Law no 2559 on the Powers and Duties of Police, Article 16 states: "[…] Within the scope of the authority to use force, physical force, material force and, when the legal conditions are met, weapons, may be used in gradually increasing proportions according to the nature and degree of resistance and in a way to neutralize those resisting", https://www.mevzuat.gov.tr/mevzuatmetin/1.3.2559.pdf. Further note that at gatherings which have been declared unlawful, Rapid Action Police Units are deployed to disperse groups with police chiefs at the scene having the authority to determine the degree of force to be used – a decision which is entirely unregulated and unlimited. Article 24 of the guide regulation gives containment authority to the police. Accordingly, the riot police/the rapid action unit contain the group and prevents them from going out or prevents people from attending the demonstration. Article 25 of the Regulation envisages the principles of proportionality and graduation in the use of force. Accordingly, before using force to disperse the meeting and demonstration, there must be two or three calm warnings that are heard from the furthest point in the crowd. After, law enforcement can use physical force, material force and weapons gradually. In that case, according to the Law No. 2559 on the Duties and Discretion of the Police, the police can employ less-lethal weapons against a group on case the group resist the police or prevent them to carry out their duty.

[630] United Kingdom, Police and Criminal Evidence Act 1984, section 117, https://www.legislation.gov.uk/ukpga/1984/60/contents. However, it is worth noting, that in the context of protests (or any other 'public order' situation), the decisions regarding the type of weapons and tactics, at least initially, are taken by the senior commanding officer who is responsible for equipping their subordinates and issuing orders regarding the approach to be taken.

[631] Switzerland, Zurich Police Law PolG 550.1, paras 5(1) and 17.

[632] This includes at least Austria, Belgium, Germany, Greece, Ireland, Poland, Spain.

[633] Serbia, Law on Ministry of Interior, 2016, articles 110 – 113, 115-117, 121, 122, https://pravno-informacioni-sistem.rs/eli/rep/sgrs/skupstina/zakon/2018/24/9

[634] ' Protocol for using the 40mm launchers and their projectiles' (in Spanish), updated on 27 October 2023, https://mossos.gencat.cat/web/.content/home/01_els_mossos_desquadra/eines_policials/doc/Protocol-dutilitzacio-de-les-llancadores-de-40-mm-i-dels-seus-projectils_16_07_2019-Revisio_27_10_2023-1.pdf

[635] 'Instruction 16_2013 of 5 September 2013 on the use of weapons and police tools' (in Spanish), https://mossos.gencat.cat/web/.content/home/01_els_mossos_desquadra/eines_policials/doc/Instruccio-16_2013-de-5-de-setembre-sobre-us-darmes-i-eines-policials.pdf

[636] 'Instruction 4/2018 on the regulation of the use of energy conductors devices by members of the General Police - Mossos Squads' (in Spanish), 20 April 2018, https://mossos.gencat.cat/web/.content/home/01_els_mossos_desquadra/eines_policials/doc/Instruccio-4-2018-de-20-dabril-sobre-la-regulacio-de-lus-dels-dispositius-conductors-denergia-per-part-dels-membres-de-la-PG-ME.pdf

[637] 'Circular for the use of anti-riot material' (in Spanish), 30 March 2021, https://www.interior.gob.es/opencms/documentacion/Portal-de-Transparencia/ResolucionesDenegatorias_2021/001-054852.pdf; and 'Circular for the use of anti-riot material' (in Spanish), 9 April 2021, https://www.interior.gob.es/opencms/documentacion/Portal-de-Transparencia/ResolucionesDenegatorias_2021/001-055556.pdf

[638] The interview with the Basque Government was held the 16th of October 2023, in particular with the Director of the Basque Police and the Director of Internal Affairs.

[639] Belgium: Article 37 Police Service Act, https://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=1992000606&la=N#LNK0024; Czechia, Finland: Police Act, Chapter 2, section 18, en20110872_20131168.pdf (finlex.fi) according to which: Persons who are targeted by official duties shall be

5.3.3 USE OF LESS-LETHAL WEAPONS IN PRACTICE

In all countries examined, law enforcement officials frequently use less-lethal weapons to police assemblies. These include pepper spray, smoke grenades, stun grenades, tear gas, water cannon and batons, with the latter three weapons being the most commonly deployed. Some countries also deploy mounted police (that is, on horseback) and police dogs to assemblies.[640]

In the countries examined, during the period January 2020 to September 2023, a very high number of examples of excessive and/or unnecessary use of force were reported during protests. This report cannot capture all of them. Instead, the headings and sub-sections below aim to provide illustrative examples for some common abuses of use of force and less-lethal weapons during protests, as well as some of the most severe examples, spanning different countries for the period examined. It should be noted that these are often a continuation of existing observed patterns of violations of protesters' rights and highlight the institutional failure to develop and implement human rights-compliant policing of assemblies which puts the facilitation of peaceful protest at the centre, using effective peaceful settlement of conflicts and de-escalation strategies.

MISUSE OF 'LESS LETHAL' WEAPONS LEADING TO INJURIES, INCLUDING SERIOUS OR PERMANENT INJURY

The misuse of less-lethal weapons during protests has led to serious and sometimes permanent injuries in some countries.

In Belgium, on 29 May 2024, police used water cannon, tear gas and batons when dispersing a reportedly unauthorized protest near the Israeli embassy in Uccle district. At least one protester was reportedly injured. Amnesty International expressed concern about the incident and questioned the decision to disperse and the violence deployed against protestors.[641] The mayor of Uccle said the demonstration had not been given authorisation and claimed objects were thrown.[642]

In France, at a Teknival music festival near the commune of Redon on 18-19 June 2021, police used tear gas, explosive GM2L grenades and sting-ball grenades against peaceful participants. One man lost his hand; a young girl suffered a hole in her cheek and several broken teeth after being hit by grenade shrapnel while she was sleeping; and an organizer's ribs were broken when police hit him in the back with a baton. Dozens of others were also injured. Over a period of several hours, police threw grenades at people who were gathered for a party, at night-time, making these already excessively harmful weapons even more dangerous due to the low visibility. The decision to use force and the amount and type of force used appeared unnecessary and disproportionate in the circumstances, even when taking into account reports that some of the people present threw some items at the police in response to the police using tear gas.[643] On 28 November 2020, a photojournalist covering a demonstration in Paris against the Global Security Bill was hit by a police officer with a baton. Ameer Al Halbi was clearly identifiable as a press photographer at the time of

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warned of the possibility that force may be used against them if such a warning is possible and appropriate. The warning shall be given in a way that is understood and suitable for the purpose. Germany: a warning must be issued, for example, for the use of water cannons, para 13 UzwG https://www.gesetze-im-internet.de/uzwg/__13.html; or in Berlin, for the use of taser and batons paras 19, 21 UzwG Bln https://gesetze.berlin.de/bsbe/document/jlr-UZwGBEV6P21. An exception in case of imminent danger exists, for example para 19 Abs. 3 UzwG Bln; Greece, Hungary: according to Ministry of Interior Regulation No. 30/2011. (IX. 22.) on the Police Rules of Service, Article 39 (3) a), the use of a less lethal weapon must be preceded by a warning; Italy; The Netherlands: for the use of batons, for example, warning must be given *unless circumstances reasonably do not permit for such a warning*. See art. 12f of the 'Official instruction for the police, the Royal Netherlands Marechaussee and other investigating officers', https://wetten.overheid.nl/BWBR0006589/2024-01-01/#Hoofdstuk2_Paragraaf2d_Artikel12f; Portugal: According to Law 5/2006 of 23 February 2006 (new legal regime for weapons and their ammunition)
Article 44 (Electric weapons, defensive aerosols and other weapons of reduced lethality)1 - The use of electric weapons, defensive aerosols and other non-lethal weapons must be preceded by an explicit warning of their nature and intended use, and the restrictions defined in article 42 shall apply mutatis mutandis. The requirement to give and explicit warning applies also to the use of extendable batons (see Order no. 8756/2019 of 3 October); Türkiye has regulations in place which require at least one warning issued.

[640] Dogs are used in Belgium, Finland, Hungary, the Netherlands, Portugal, Serbia, Slovenia, Switzerland; horses are deployed, at least occasionally, in Finland, the Netherlands, Serbia, Sweden, and the UK. In Finland horses are not categorized as equipment for the use of force, but police dogs are, and it is the National Police Board that lists (and defines what is to be considered) less-lethal weapons, rather than being prescribed in the legislation.

[641] Amnesty International, 'Amnesty International concerned about dispersal of protest at Israeli embassy' (in Flemish), 29 May 2024, available at: https://www.amnesty-international.be/nieuws/amnesty-international-bezorgd-over-het-uiteendrijven-van-protest-aan-israelische-ambassade;

[642] 'Dispersal at the demonstration in front of the Israeli embassy' (in Flemish), 29 May 2024, available at https://www.amnesty.be/infos/actualites/manif-ambassade-israel-bruxelles

[643] Amnesty International, France: Abusive and illegal use of force by police at Redon Rave highlights need for accountability, September 2021, https://www.amnesty.org/en/latest/news/2021/09/france-abusive-and-illegal-use-of-force-by-police-at-redon-rave-highlights-need-for-accountability/; for more information, see Amnesty International France, France violences policieres pendant une free party redon, September 2021 (in French) https://www.amnesty.fr/liberte-d-expression/actualites/france-violences-policieres-pendant-une-freeparty-redon

the blow, which broke his nose and left him unconscious. The NGO Reporters Without Borders filed a complaint against both the prefect of the Paris police and the unidentified police officer who hit him.[644]

In **Italy**, on 29 April 2024, an 18-year-old protester was injured reportedly by a tear gas canister thrown by police officers during a demonstration organized in Turin against the G7 summit.[645] He suffered a fractured nose which required surgery in the days after the incident. Due to its wide-area effect, the use of chemical irritants such as tear gas is restricted to very specific circumstances.[646] Also, hand-launched canisters are supposed to be rolled over the ground, whereas tear gas canisters fired with rifles are supposed to be aimed above the head of protesters and never thrown or fired at people, due to the risk of death or serious injury when directly hitting the body.[647]

In **Greece**, there are several reported examples of peaceful protesters and journalists suffering serious injuries caused by water cannon and stun grenades. In November 2021, Orestis Panagiotou, a photojournalist, sustained a fractured foot after being hit directly and at close range by a water cannon jet causing him to fall while covering a firefighters' demonstration.[648] In May 2022 a student sustained serious injuries to his mouth and jaw after riot police reportedly used unlawful force including firing stun grenades directly at people to disperse students peacefully protesting at Thessaloniki University.[649] On 5 March 2023, photojournalist Konstantinos Zilos suffered a second degree burn in the groin area while covering a demonstration on the Tempi rail accident in Athens after riot police reportedly fired chemical irritants and stun grenades at demonstrators. Konstantinos Zilos described how as a result of a stun grenade explosion his jacket caught fire and he suffered the burn on his body.[650] On 16 March 2023, journalist Nikos Christofakis suffered 55% hearing loss in both ears while covering another demonstration on the Tempi rail accident in Athens when police reportedly threw stun grenades at him and another colleague at head level.[651] The second photojournalist described how the explosion of a stun grenade near his ears resulted in him suffering partial loss of hearing and permanent tinittus. He also reported a small burn on his leg resulting from a second stun grenade's explosion.[652]

In **Germany**, during a May Day demonstration in the city of Frankfurt in 2021, protesters reported that several people suffered fractured bones due to excessive use of force by police who used batons, pepper spray and water cannon. The police justified their actions as a response to participants throwing bottles and stones at law enforcement officials.[653] Two participants suffered fractures to the base of the skull. Medical personnel reported that it was some hours before they were able to treat these injuries, as police had prevented them from doing so earlier.[654]

In **Spain**, police use of kinetic impact bullets has caused serious injuries on several occasions.[655] Due to the use of foam bullets by the Catalan Police, between 2018 and 2019, one person lost an eye, two people suffered from severe head trauma (one requiring surgical removal of damaged cranial tissue[656]), and another

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[644] See 'RSF files complaint about police violence against photographer Ameer Al Halbi during 'March for Freedoms' in Paris' (in French), 8 December 2020, https://rsf.org/en/rsf-files-complaint-about-police-violence-against-photographer-ameer-al-halbi-during-march

[645] Amnesty International Italy interviewed the victim and an eye-witness in June 2024. Amnesty International Italy's trained protest observers analyzed video footage showing a police officer throwing what looks like a tear gas canister by hand towards the demonstrators. See 'Clashes in Turin, a tear gas canister hits a student in the face: "Thrown at eye level"' (in Italian), 30 April 2024, https://www.torinotoday.it/video/scontri-lacrimogeni-faccia-studente-g7.html

[646] For more details on when chemical irritants can lawfully be used in assemblies, see Amnesty International – Use of Force guidelines, August 2015, p. 157.

[647] See Amnesty's position on chemical irritants, available at https://www.amnesty.nl/actueel/chemical-irritants-in-law-enforcement

[648] See 'Controlling the Message: Challenges for Independent reporting in Greece', December 2021, https://www.mfrr.eu/controlling-the-message-challenges-for-independent-reporting-in-greece/. Amnesty International has been informed that a police officer was indicted for bodily harm for the injuries sustained by Orestis Panagiotou. Interview with Orestis Panagiotou, May 2024. See post on X at https://twitter.com/RSF_inter/status/1458032615760465931

[649] Amnesty International Report 2022/2023, The State of the World's Human Rights, Greece, https://www.amnesty.org/en/location/europe-and-central-asia/greece/, p. 177.

[650] Interview with Konstantinos Zilos, May 2023 and May 2024; see also denouncement of incident by the Photojournalists' Union in Greece, 'HPS's complaint about the injury of a colleague by police forces' (in Greek), 18 March 2023, https://bit.ly/451WaMO. Konstantinos Zilos filed a criminal complaint but he reports that there has been no progress as of May 2024.

[651] Interview with Nikos Christofakis, May 2023 and May 2024.

[652] Interview with second photojournalist, May 2023; see also denouncement of incident by the Photojournalists' Union in Greece, 'HPS's complaint about the injury of a colleague by police forces' (in Greek), 18 March 2023, https://bit.ly/451WaMO and the Journalists' Union of Athens Daily Newspapers, 'New incident of police violence against a journalist' (in Greek), 21 March 2023, https://www.esiea.gr/neo-peristatiko-astynomikis-vias-kat/.

[653] See 'Violence at left-wing May Day demonstration: Arrests and injuries' (in German), 2 May 2021, https://www.zeit.de/news/2021-05/01/schlagstockeinsatz-bei-linker-mai-demo-in-frankfurt

[654] See 'Bloody May 1' (in German), 12 May 20221, https://jungle.world/artikel/2021/19/blutiger-1-mai

[655] Amnesty International, 'My Eye Exploded : the Global Abuse of Kinetic Impact Projectiles', 14 March 2023, p. 19, https://www.amnesty.org/en/documents/act30/6384/2023/en/

[656] The Catalan government accepted to compensate the victim for the injuries. See 'The Generalitat agrees to compensate the woman hit with foam on the head in 2019 with 69,000 Euros' (in Spanish), 13 March 2024, https://www.europapress.es/catalunya/noticia-generalitat-acepta-indemnizar-69000-euros-mujer-golpeada-foam-cabeza-2019-20240313083102.html

lost a testicle.[657] In 2021, another protester lost an eyeball due to the impact of a foam bullet. The judicial investigation of the case was closed in May 2024. Deeply troublingly, the judge stated that the victim "endangered himself" by participating in the protests. The decision is pending appeal.[658] In the Basque country, three people were severely injured by foam bullets between February and March 2024, one of them in a protest.[659] Besides internal investigations, an oversight body is conducting enquiries in relation to at least one of the cases.[660]

UNNECESSARY AND EXCESSIVE USE OF FORCE USING LLWs, AMOUNTING TO TORTURE OR OTHER ILL-TREATMENT

In many countries, as listed below, less-lethal weapons are used excessively and systematically, including to disperse peaceful protests, as a routine tactic and not as a measure of last resort. There are also reports of instances where the use of force may amount to torture or other ill-treatment.

For example, video, photographic footage and first-hand testimony[661] from a demonstration in **France** on 19 January 2023 shows a police officer hitting with a baton a man in the crotch while he lay on the floor after he was kicked to the floor by another police officer, resulting in life-changing physical injury and significant emotional trauma.[662] The IGPN[663] identified the implicated officers within days of the incident, but at the date of publication of the report, no one has yet been held accountable.

In Lisbon, **Portugal**, in February 2024, a group of around one hundred people were charged at by the police while taking part in a peaceful counter-demonstration against a protest organized by anti-human rights movements.[664] According to the counter-demonstrators, they were met by a police cordon when they arrived at Lisbon's Praça do Município, where the anti-rights march would end, although the march had not yet reached the location. Activists told Amnesty International Portugal that the police made no attempt at dialogue and no warning was given to disperse the counterdemonstration. A video of the moment shows police using batons on several people and shields to push the group back. Seven activists suffered various injuries, including serious injuries. Medical reports seen by Amnesty International Portugal show an open wound on the leg of a victim of police baton attacks, bruises, and broken ribs. Two journalists complained of being beaten by the police, even after they had identified themselves and shown their professional badges. In one of the videos seen by Amnesty International Portugal, a man can be seen lying on the ground and being hit at least twice by a police officer. The group of activists filed a complaint with the Directorate of Police, which has opened an investigation into the officers' actions. One of the journalists also filed a complaint with the public prosecutor. The police told journalists that the group had not notified the authorities, fearing clashes with the anti-rights protesters.[665]

In **Slovenia** on 5 October 2021, police used water cannon and tear gas to disperse protesters at a large demonstration, firing more than 400 tear gas cartridges. According to reports, not all protesters were peaceful, but police firing of tear gas was excessive and reckless. As of April 2024, the incident was still under investigation by the Specialized State Prosecutor's Office.[666]

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[657] Please note that four of these cases took place between 2018 and 2019, i.e. not in the period covered by this report, however they are mentioned due to the continuing police practice. See 'Dozens of people killed and thousands maimed by police misuses of rubber bullets' (in Spanish), 14 March 2023, https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/decenas-de-personas-muertas-y-miles-de-mutiladas-por-uso-indebido-de-balas-de-goma-por-la-policia/

[658] See Amnesty International's post on X on 23 May 2024, https://twitter.com/amnistiaespana/status/1793682942071328784

[659] See 'A third serious injury in a month from a foam bullet fired by the Ertzaintza' (in Spanish), 7 March 2024, https://www.elsaltodiario.com/pais-vasco/tercera-herida-grave-un-mes-bala-foam-disparada-ertzaintza

[660] See 'The Police Control Commission investigates the shooting of the Ertzaintza with a foam bullet that injured a minor in Tolosa' (in Spanish), 14 February 2024, https://www.eldiario.es/euskadi/comision-control-investigara-carga-ertzaintza-tolosa-dejo-joven-16-anos-herido-ojo_1_10922731.html

[661] See video containing first-hand testimony of the victim, available at **https://www.youtube.com/watch?v=yECSD4pjFS0**

[662] See' Emasculated demonstrator in Paris: an investigation entrusted to the IGPN' (in French), 23 January 2023, https://www.leparisien.fr/faits-divers/manifestant-emascule-a-paris-une-enquete-confiee-a-ligpn-23-01-2023-JW6XDR7HHVCJVNZR3YBKMDQIOQ.php. An investigation with the Paris disciplinary board is ongoing; See also 'A man emasculated by a police officer during the January 19 demonstration files a complaint' (in French), 22 January 2023, https://www.liberation.fr/societe/police-justice/un-homme-emascule-par-un-policier-lors-de-la-manifestation-du-19-janvier-porte-plainte-20230122_GFX5J4EA3VE6TJSNLKITOHE3GU/

[663] The bodies in charge of investigating cases of excessive use of force (IGPN, IGGN and other police units) are not independent from the police and gendarmerie. See more details in the report's Chapter 6 examining mechanisms of accountability for law enforcement.

[664] See 'Anti-fascist activists file a complaint with the MP and IGAI because of the PSP's batons during the anti-Islam march' (in Portuguese), 14 February 2024, https://expresso.pt/sociedade/seguranca/2024-02-14-Ativistas-anti-fascistas-avancam-com-queixa-no-MP-e-na-IGAI-por-causa-das-bastonadas-da-PSP-durante-a-marcha-anti-Islao-ecda2660

[665] Amnesty International Portugal interviewed some of the activists and one of the journalists involved in the immediate aftermath of the demonstration, between 6 and 13 February 2024, and reviewed the medical reports of the injuries sustained by some of the victims.

[666] See 'Watercannon sprayed water and tear gas at protests' (in Slovenian), 5 October 2021, https://n1info.si/novice/slovenija/oster-in-hiter-odziv-policije-vodni-top-in-solzivec/

In **Germany** in January 2023, police used batons, pepper spray and water cannon to disperse activists protesting the destruction of the hamlet of Lützerath to make way for a coal mine. The police's excessive use of force reportedly led to eight people being hospitalized and many more being injured.[667] Similar use of force was reported during the removal of a climate camp in Hamburg in 2022.[190]

Contrary to their obligation to de-escalate situations that might result in violence, on numerous occasions, law enforcement officials have resorted to unnecessary and excessive use of less-lethal weapons, sometimes even in a punitive manner, against a large number of people, which likely contributed or lead to escalating a situation, rather than seeking to pacify it.

For example, on 9 January 2020 in **France**, a police officer fired rubber bullets at two demonstrators in the capital, Paris, shouting at one of them: "Do you want more?"668 The Paris public prosecutor's office opened an investigation, and, in August 2023, the investigating judge ruled the officer should stand trial.[669]

In **Germany**, less-lethal weapons were used at several May Day demonstrations,[670] anti-fascist protests[671] and anti-Covid demonstrations between 2020 and 2022.[672] During a demonstration against the recently adopted assembly law in the state of North-Rhine Westphalia, that introduced disproportionate restrictions violating the right of peaceful assembly,[673] many participants were injured by batons and pepper spray, according to the organizers.[200]

In **Serbia**, during largely peaceful protests against government-imposed lockdown measures in July 2020, media and civil society organizations documented numerous examples of unnecessary and excessive use of force by police, including through the use of less-lethal weapons.[674] Television footage shows uniformed and plain-clothes police officers beating people, including children, who were on the ground and not resisting, with batons and kicking them.[675] Some recordings also show groups of police officers attacking a single protester, beating bystanders and firing tear gas directly at people.[676] There were instances of men in civilian clothes, allegedly acting on behalf of police and with acquiescence of authorities, using metal rods against protesters. One video clip shows officers picking up a protester who was lying in the middle of a road after having been beaten numerous times by multiple police officers. In the video, he is moved out of their vehicle's path on to the pavement, without the officers providing any further assistance to him, despite his injuries and inability to walk.[677]

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[667] Fundamental Rights Committee, Report 'Decision for violence. Report on the demonstration observation around the eviction of Lutzerath, January 2023' (in German), March 2023, https://www.grundrechtekomitee.de/details/entscheidung-fuer-gewalt-bericht-luetzerath

[668] See 'January 9 demonstration: an investigation opened into an LBD shooting in Paris' (in French), 10 January 2020, https://www.francetvinfo.fr/economie/emploi/metiers/armee-et-securite/manifestation-du-9-janvier-une-enquete-ouverte-sur-un-tir-de-lbd-a-paris_3779489.html; and 'LBD shot 'at close range' in 2020 in Paris: the police officer has been indicted' (in French), 21 June 2021, https://www.nouvelobs.com/justice/20210621.OBS45561/tir-de-lbd-a-bout-portant-en-2020-a-paris-le-policier-a-ete-mis-en-examen.html

[669] See ' A police officer will be tried in Paris for two illegal LBD shootings in 2020' (in French), 8 September 2023, https://www.lefigaro.fr/flash-actu/un-policier-sera-juge-a-paris-pour-deux-tirs-de-lbd-illegaux-en-2020-20230908

[670] For Frankfurt, Hamburg, Berlin and Leipzig in 2021 see ' Numerous demonstrations on May 1: Hamburg police use water cannons, firecrackers thrown in Leipzig' (in German), 1 May 2021, https://www.rnd.de/politik/zahlreiche-demonstrationen-am-1-mai-hamburger-polizei-setzt-wasserwerfer-ein-bollerwurfe-in-leipzig-DPAWBP55MVCYZIWMU4765T47YY.html; For Hamburg, Berlin, Weimar in 2022, see 'May 1st: Demo in Hamburg escalates – police use batons' (in German), 3 May 2022, available at: https://www.fr.de/politik/giffey-news-1-mai-demonstrationen-ausschreitungen-tag-der-arbeit-berlin-frankfurt-scholz-zr-91510256.html#id-pageApi-24hamburg; 'Berlin police speak of "most peaceful May Day in decades' (in German), 2 May 2022, available at: https://www.sueddeutsche.de/politik/berlin-1-mai-giffey-ei-1.5576281

[671] For example, in Leipzig: see 'Use of batons on the fringes of Leipzig's 'Monday demonstration' – police initiate investigation (in German), https://www.lvz.de/lokales/leipzig/leipziger-montagsdemo-polizei-ueberprueft-schlagstockeinsatz-B3GDNMIEFH6HXBUUK242RPQQ4A.html; Karlsruhe: see 'Antifa criticizes use of pepper spray and batons at police kettle in Karlsruhe' (in German), 'https://bnn.de/karlsruhe/karlsruhe-stadt/querdenker-antifa-demo-klotze-polizeikessel-kritik-schlagstoecke-pfefferspray-verletzte; Mainz: see 'Demonstrations in Mainz: Flying stones and pepper spray use' (in German), 16 July 2022, https://www.allgemeine-zeitung.de/lokales/mainz/stadt-mainz/demos-in-mainz-fliegende-steine-und-pfefferspray-einsatz-1796541; Braunschweig: see 'AfD party conference: Police use dogs and tear gas against demonstrators' (in German), 12 September 2020, https://regionalheute.de/braunschweig/afd-parteitag-polizei-setzt-hunde-und-traenengas-gegen-demonstranten-ein-1599909930/; Halle (Saale): see 'At Liebich counter-demonstrations: At the Bebel there was "pepper"' (in German), 22 October 2021, https://dubisthalle.de/bei-liebich-gegendemo-am-bebel-wurde-gepfeffert

[672] See '20,000 people at Corona demo in Kassel: Criticism of police' (in German), 21 March 2021, https://www.zeit.de/news/2021-03/20/massive-auseinandersetzungen-bei-corona-protest-in-kassel

[673] For a detailed analysis, see Amnesty International Germany, Statement on the introduction of the Assembly Act in NRW', September 2021 (in German), https://www.amnesty.de/sites/default/files/2021-10/Amnesty-Stellungnahme-Einfuehrung-Versammlungsgesetz-NRW-September-2021.pdf

[674] See report by Belgrade Centre for Human Rights, report on investigation of cases of police abuse at protests in 2020, in Serbian, https://pescanik.net/wp-content/uploads/2021/07/Protesti-tekst-6.7.2021.pdf

[675] See 'Proceedings due to torture, activists demand the release of other detainees' (in Slovenian), 16 July 2020, https://n1info.rs/vesti/a620452-postupci-zbog-torture-aktivisti-traze-oslobadjanje-ostalih-pritvorenih/

[676] See video posted on YouTube, 'Beating of a protester on the ground in Belgrade, July 2020', 9 July 2020, available at https://www.youtube.com/watch?v=2i60ixGw-8g

[677] See video posted on YouTube, 'Beating of a protester on the ground in Belgrade, July 2020', 9 July 2020, available at https://www.youtube.com/watch?v=2i60ixGw-8g

In **Spain**, in July 2023 in the context of strikes by metal workers in Vigo, Galicia,[678] the National Police recklessly fired rubber bullets against groups of protesters, as evidenced by footage.[679] The Council of Europe Commissioner for Human Rights expressed concerns over such use of kinetic impact projectiles to disperse crowds in March 2023.[680] Following an incident in October 2019, in Barcelona, when during a protest[681], a man lost an eye, the Ministry of Interior refused to provide compensation. In March 2024, the courts upheld this decision, stating that no causal link could be established between the injury and the National Police's action. The court decision states that it could not been proven whether the object that hit the victim was either a rubber bullet used by the National Police, or a foam bullet used by the Mossos d'Esquadra or any other material.[682]

In **Hungary**, the use of electric shock devices against peaceful protesters has been reported, for example to remove a protester from a bridge after the official end of a notified demonstration, and against an activist protesting against a forced eviction.[683]

5.3.4 CONTAINMENT AND KETTLING

At least eight countries have no regulations on containment or so-called 'kettling' tactics.[684] Those with regulations or jurisprudence in place allowing for containment tactics in the policing of assemblies include **France**, **Germany**, **Slovenia**, **Türkiye** and the **UK**.[685] **Hungary** outlaws kettling as a tactic for the dispersal of an assembly.[686]

In correspondence with the authorities, two countries – Hungary and Poland – explicitly stated that they did not use kettling or mass containment tactics.[687] However, in at least one of them, namely **Poland**, there is evidence that police do in fact use containment tactics.[688] The authorities in **Finland** and **Italy** stated that police can use various tactics to ensure public order and security, implying that kettling and containment tactics are permissible. [689] In **Türkiye** - Article 24 and 25/b (2) and (3) of the Rapid Action Police Units Regulation - allows the police to control entry and exit to the protest sites with barriers. Article 25 states that if the gathering does not disperse despite warnings, law enforcement officials are allowed to use force to

[678] See post by Amnesty International Spain on X, 11 July 2023, https://twitter.com/amnistiaespana/status/1678713838806396930?s=20
[679] See post by Amnesty International Vigo on X, 11 July 2023, at https://x.com/Amnistia_Vigo/status/1678738346149830656; and 'The National Police charge with rubber bullets against the metal demonstrators' (in Spanish), 6 July 2023, https://www.farodevigo.es/economia/2023/07/06/huelga-metal-quinta-manifestacion-vigo-89537006.html
[680] Council of Europe, Commissioner for Human Rights of the Council of Europe, Report following visit to Spain from 21 to 25 November 2022, November 2022, https://rm.coe.int/report-on-spain-following-the-visit-from-21-to-25-november-2022-by-dun/1680aaeb17, para. 108.
[681] See 'Thirty arrested and almost 90 injured on the fifth day of protests in Barcelona' (in Spanish), 19 October 2019, https://www.elconfidencial.com/espana/cataluna/2019-10-19/sentencia-proces-directo-hora-barcelona-huelga-cataluna-434_2287187/; 'Catalonia. Pitched battle through the streets of central Barcelona on the fifth day of pro-Independence protests' (in Spanish), 18 October 2019, https://www.rtve.es/noticias/20191018/enfrentamientos-entre-manifestantes-agentes-antidisturbios-ante-jefatura-policia-barcelona/1982975.shtml; and Amnesty International Spain, 'Authorities must de-escalate tensions and guarantee the right of peaceful assembly' (in Spanish), 18 October 2019, https://www.amnesty.org/es/latest/news/2019/10/spain-authorities-must-deescalate-tensions-and-guarantee-the-right-to-public-assembly/
[682] Court decision available at https://www.poderjudicial.es/search/AN/openDocument/96ec12301208d28ea0a8778d75e36f0d/20240327
[683] This case was confirmed by ally activists (Anna Magyary and Ákos Forczek) of AVM interviewed by Amnesty International.
[684] They include Austria, Belgium, Czechia, Greece, the Netherlands, Italy, Poland and Serbia.
[685] France, National Plan for Maintaining Public Order (*Schéma National du Maintien de l'ordre public)*; Germany, VG Hamburg judgement 30.10.1986 - 12 VG 2442/86; Slovenia, Police Tasks and Powers Act. III, https://www.policija.si/images/stories/Legislation/pdf/Police_Tasks_and_Powers_Act_EN.pdf (it is also regulated in Slovenia by the Rules on Police Powers which state that "Restricting people with a police cordon is considered a basic police procedure, it is a police tactic and not a means of coercion"); Türkiye, Police Rapid Action Unit Regulation, Articles 24 and 25, https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=9225&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5; UK: England and Wales, 'Public order public safety', available at https://www.college.police.uk/app/public-order/tactical-options; Scotland: Police have denied that they use the tactic of 'kettling' and instead call it 'containment' or 'facilitation'. This has been discredited by a number of legal observers, most comprehensively evidenced in Netpol's report 'Respect or repression report which documents several instances of the use of kettling against protesters', available at https://netpol.org/2021/12/16/respect-or-repression-an-independent-report-of-the-cop26-conference-in-glasgow/
[686] Hungary, Act of Police, Article 59 (3) states that, if a crowd that has gathered illegally or is exhibiting illegal behavior does not comply with a police call to disperse, "It is prohibited to restrict the crowd from leaving the scene."
[687] Hungary, Correspondence with the Hungarian Ministry of Interior, 13 March 2023, "In all cases the aim is to provide free exit from the assembly for the participants, therefore kettling is not used"; Poland, Response of the Police Headquarters to the request for public information, dated 6 March 2023, to Amnesty International.
[688] Poland, Amnesty International Poland, 'Conclusions and recommendations concerning freedom of assembly in Poland based on observations and monitoring conducted by Amnesty International in the years 2017 -2019, July 2020, available at https://www.amnesty.org.pl/wp-content/uploads/2020/11/Zgromadzenia-ENG.pdf;
[689] Finland, letter from the National Police Board, 22 March 2023. Furthermore, media sources and Amnesty International Finland observations confirm that containment is sometimes used, generally for a relatively short periods of time; Italy, Correspondence with the Department of Public Security (Ministry of Interior) received on 19 May 2023.

ensure that people stay where they are, which in practice usually amounts to containment by the security forces. [690]

In practice, most countries examined in this report use such tactics, often not in line with their national regulatory framework. For instance, kettling is sometimes used for intelligence-gathering purposes, by compelling peaceful protesters, and even bystanders, to disclose their names and addresses as they leave the kettle. This increases the chilling effect of kettling on potential future protest participants.[691] For example, in **Switzerland**, kettling followed by identity checks is a very common practice.[692]

In **France** in May 2021, about 200 people were kettled by law enforcement officers while protesting the Ministry of Agriculture's common agricultural policy. The Confédération Paysanne trade union stated that farmers were contained for several hours and had to give their identity details to be able to leave. A total of 75 farmers who subsequently received fines contested those fines.[693]

In **Belgium**, during a rally against police violence and "class justice" in the capital, Brussels, in January 2021, protesters reported a disproportionate police presence, with police responsible for beatings and injuries, as well as racist and sexist remarks against participants. Authorities also reportedly kettled the protesters, carried out mass arbitrary arrests of around 245 people, including many minors.[694] Authorities stated that the demonstration had not been authorized. Use of chemicals was reported. The Brussels chief of police announced an internal investigation. Eleven people, together with the Belgian NGO the Ligue des droits humains, filed a civil claim against the police, the Belgian state and the mayor of Brussels due to the excessive and unnecessary use of force by police at the demonstration.[695] In May 2024, a protest in support of Palestinian's human rights was dispersed near the Israeli embassy. Amnesty International publicly questioned the legality of the decision by authorities to disperse the protest, and the use of force, and called for a thorough investigation into the incident[696].

In the **Netherlands**, during a housing protest in Rotterdam in October 2021, a group consisting mostly of members of the Black Bloc[697] was separated by police from the rest of the demonstration, isolated, and forced to leave the assembly by tram. According to the organizers of the protest, prior to their release they were subjected to identity checks, searched and photographed. Five people were arrested for "possession of weapons, incitement, public defamation and insult". The "weapon" was a potato peeler. The measure was based on a vague and unsubstantiated suspicion that they "might commit crimes when reaching the city centre". This information about the Black Bloc's intentions, according to an investigative platform, came from Wikipedia.[698]

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[690] Police Rapid Action Police Units Regulation, https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=9225&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5

[691] Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland, UN Doc. A/HRC/23/39/Add.1, 2013.

[692] See for example demonstration on 1 May 2023 in Basel. A group of demonstrators who had covered faces were kettled and requested to show their ID to the police if they wanted to leave the kettle. See 'Basel May 1 demonstration stopped after just a few meters' (in German), 1 May 2023, https://www.srf.ch/news/schweiz/1-mai-in-basel-basler-1-mai-demonstration-schon-nach-ein-paar-metern-gestoppt This was confirmed by the Police on X, see post on 1 May 2023, https://x.com/Kapo_BS/status/1652982138885623810?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1652982138885623810%7Ctwgr%5E5af2559cd0b11dad429148757402e72cc25c472f%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.bazonline.ch%2Fein-tag-der-arbeit-unter-sp, as well as post on 1 May 2023, https://x.com/Kapo_BS/status/1653028865076330496?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1653028865076330496%7Ctwgr%5Ea9375b7360cdbc249d07656792c4bb6e32a05d8c%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.srf.ch%2Fnews%2Fschweiz%2F1-mai-in-basel-b

[693] See 'Farmers demonstration at the headquarters of Pôle Emploi to defend a 'CAP for employment' (in French), 27 May 2021, https://www.nouvelobs.com/social/20210527.OBS44567/manifestation-d-agriculteurs-au-siege-de-pole-emploi-pour-defendre-une-pac-pour-l-emploi.html

[694] See 'Banned demonstration led to 245 arrests' (in Flemish), 26 January 2021, https://www.standaard.be/cnt/dmf20210125_97979980 and 'Brussels police officers report police violence themselves' (in Flemish), 22 February 2021, https://www.knack.be/nieuws/brusselse-agenten-melden-zelf-politiegeweld/

[695] See 'Police summoned for use of force at demonstration against police brutality in Brussels' (in Flemish), 24 January 2023, https://www.hln.be/binnenland/politie-gedagvaard-voor-gebruik-geweld-op-betoging-tegen-politiegeweld-in-brussel~a98a6ebb/; and 'Ethnic profiling and encirclement techniques': police summoned for actions at demonstration against police brutality' (in Flemish), 24 January 2023, https://www.demorgen.be/snelnieuws/etnische-profilering-en-omcirkelingstechnieken-politie-gedagvaard-voor-acties-op-betoging-tegen-politiegeweld~b98a6ebb/

[696] Amnesty International Belgium, 'Dispersal at protest outside Israeli embassy' (in French), 29 May 2024, https://www.amnesty.be/infos/actualites/manif-ambassade-israel-bruxelles. Amnesty International also sent a letter with concerns to the authorities in relation to the incident.

[697] Black Bloc is a tactic used by protesters who wear black clothing, including face-concealing and face-protecting items, to conceal their identities and protect their faces and eyes from pepper spray; it also allows the group to appear as one large, unified mass. '(2022) Residential Revolt Rotterdam https://www.politie.nl/wet-open-overheid/woo-verzoeken/korpsstaf/2022-woonopstand-rotterdam.html)

[698] See this article by investigative platform Investico online: https://www.platform-investico.nl/onderzoeken/onderzoek-demonstratierecht-in-de-knel (scroll down to 'Onderzoek met bronnen. Demonstratierecht in de knel') https://www.platform-investico.nl/artikel/onderzoek-demonstratierecht-in-de-knel/#annotation-39162-63; see 'Police share images of arrests at Housing protest: "We responded to attack in the

Many other cases show that, apart from the unlawful use of kettling in violation of the right of peaceful assembly, the inherent difficulties with using kettling in an appropriate manner and the resulting poor implementation result in other violations of international human rights law. Most commonly, these include issues such as excessive duration of the containment amounting to a violation of freedom of movement;[699] a lack of communication to explain the purpose of the containment;[700] a lack of opportunities to leave the assembly for those who wish to; and a lack of assistance to persons in need.[701]

5.3.5 DEPLOYMENT OF MILITARY PERSONNEL

Using the military to police protests is inherently problematic due to their primary training, operational framework and their equipment, which is designed to be used during the conduct of hostilities in which (lethal) force is the first choice of action.[702]

In some of the examined countries, deploying military personnel to police protests is prohibited in law.[703] In **Belgium**[704] and the **UK**[705], such deployment is permitted only in exceptional circumstances. In **Finland**, **France**, **Germany**, **Serbia**, **Switzerland** and **Türkiye,** it is possible in limited and at times exceptional circumstances.[706]

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back' (in Dutch), 31 October 2021, https://archive.is/6RU9L#selection-2857.110-2857.277 (behind paywall: https://www.ad.nl/rotterdam/politie-deelt-beelden-van-arrestaties-woonprotest-we-reageerden-op-aanval-in-rug~a715f163/?cb=1988fbe7b2fc7a114aa2669e11fbc3dc&cb=da9e3c95160c655432e63b310f568eec&auth_rd=1&auth_rd=1

[699] See, for example Austria, 'The police operation against the "kill borders" demonstration in Innsbruck was illegal' (in German), 29 April 2021, https://www.bonvalot.net/der-polizeieinsatz-gegen-die-grenzen-toeten-demo-in-innsbruck-war-rechtswidrig-721/; France: Young migrants waiting for age determination camp in front of the Council of State with the hope of being given accommodation, were, according to Utopia, reportedly kettled from 3pm to 10pm, with the authorities refusing to let Utopia distribute water and blankets despite the freezing temperatures, see post by Utopia on X, 2 December 2022, https://twitter.com/Utopia_56/status/1598724110653308929, and interview with Utopia; Switzerland: See 'Basel May 1 demonstration stopped after just a few meters' (in German), 1 May 2023, https://www.srf.ch/news/schweiz/1-mai-in-basel-basler-1-mai-demonstration-schon-nach-ein-paar-metern-gestoppt This was confirmed by the Police on X, see post on 1 May 2023, https://x.com/Kapo_BS/status/1652982138885623810?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1652982138885623810%7Ctwgr%5E5af2559cd0b11dad429148757402e72cc25c472f%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.bazonline.ch%2Fein-tag-der-arbeit-unter-sp, as well as post on 1 May 2023, https://x.com/Kapo_BS/status/1653028865076330496?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1653028865076330496%7Ctwgr%5Ea9375b7360cdbc249d07656792c4bb6e32a05d8c%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.srf.ch%2Fnews%2Fschweiz%2F1-mai-in-basel-b

[700] See, for example, Spain, 'The Mossos admit possible 'communication errors' in the containment of demonstrators in Gran de Gracia' (In Spanish), 22 February 2021, https://es.ara.cat/sociedad/mossos-admiten-posibles-errores-comunicacion-encapsulamiento-manifestantes-gran-gracia_1_3880547.html

[701] See, for example UK (Scotland): Netpol, 'A report by the Network for Police Monitoring (Netpol) and the Article 11 Trust based on testimony of protesters, legal observers and local residents about the policing of the United National COP26 Climate Conference held in Glasgow from 1-12 November 2021', p.16, available at https://netpol.org/wp-content/uploads/2022/01/Respect-or-Repression-report-web-version.pdf.

[702] Amnesty International, Use of Force guidelines, August 2015, p. 160.

[703] For example, Hungary Article 7 (1) and (6), ARA; Slovenia: The mission and tasks of the Slovenian Armed Forces are laid down in the Defense Act. The tasks are defined in a concise manner. Protests are not mentioned.

[704] Belgium: The presence of the army in the Belgian public space was noticeable between 2015 and 2021. See for example: Operation Vigilant Guardian: https://www.mil.be/nl/onze-missies/belgie-operatie-vigilant-guardian/, using Article 167 of the Constitution, the Law of 20 May 1994 regarding the forms of operational engagement and preparatory activities for the deployment of the armed forces and the pecuniary rights of military personnel.
https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1994052033&table_name=loi, the accompanying Royal Decree of 6 July 1994 and Article 151 article of the Programme Law of 2 August 2002
https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2002080245&table_name=loi,
Article 43 of the Law organizing an integrated police service (WGP)
https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1998120731&table_name=loi

[705] United Kingdom, Civil Contingencies Act 2004. The law gives the government the legal right to ask the military to provide aid to civil authorities should the need arise. In practice this has not happened. It should be noted that the use of British troops in Northern Ireland would be a complete reversal of one of the major developments of the peace process and would be of international as well as domestic concern.

[706] Finland, Law on Defense Forces: The police may request assistance to maintain public order and security, prevent and suspend terrorist offences and other crimes which constitute a serious threat to the life or health of people and other forms of social security); France, Defense Code, Article R*1321-1 to Article D1321-10; Germany, according to Basic Law, article 35, the military can provide administrative assistance, and according to Art. 87a II the military can be deployed in special cases. Deployment in the sense of Art. 87a II GG has high legal requirements compared to administrative assistance. The relationship between the two options is well illustrated by the example of the use of Tornado fighter jets at the 2007 G8 summit. The jets were used to fly over a protest camp at an altitude of 114 meters and take aerial photographs. The Federal Constitutional Court ruled that this was only a case of administrative assistance as the use was limited to a purely technical support function. Based on this decision, the OVG Magdeburg have deemed the overflight disproportionate and thus illegal in 2021, see); Serbia: the Law on Military, Article 53 (8), states that "the military police can be engaged in providing assistance to internal affairs bodies (police) in peacetime and in a state of emergency based on the request of the competent authority with the approval of the Minister of Defense."). Article 53 (9) stipulates that conditions under which military police can use police powers against civilians include if it is assisting police in public places, but no further conditions are provided. Law on Military: https://www.paragraf.rs/propisi/zakon_o_vojsci_srbije.html. Over the past years, there have been no instances of military being engaged in

In **France,** in March 2019 during the "yellow vests" protests, President Emmanuel Macron announced the deployment of soldiers to secure specific sites[707] and to allow police to "focus on law enforcement".[708] On 22 March, the military governor of Paris stated that the soldiers, just like law enforcement officials, could open fire if their lives or the lives of the people they were defending were threatened.[709] While this merely re-stated the rules of engagement of the military, declaring it openly caused a public outcry. Two ministers subsequently clarified that military personnel would not engage directly with protesters.[710]

In the **Netherlands**, even though legislation does not permit the deployment of the military to assemblies, this has happened repeatedly in practice. Most recently, following the request of the mayor in one municipality for more police, the deployment of military police personnel was decided by the minister for justice and security in consultation with the Ministry for Defence during climate protests including blockades of a section of the A12 motorway in The Hague by XR,[711] and climate actions at Schiphol and Eindhoven airports in November 2022 and March 2023 respectively.[712]

5.4 DISPERSAL

5.4.1 INTERNATIONAL HUMAN RIGHTS STANDARDS

Dispersal of an assembly is a measure of last resort, in line with the principles of necessity and proportionality. An assembly should only ever be dispersed if it is no longer peaceful; that is, if there is "widespread and serious violence",[713] or an imminent threat of such violence, which cannot be contained by more proportionate measures such as, for example, individual arrests.[714] Isolated or sporadic acts of violence do not justify dispersal; nor does non-compliance with notification requirements or illegitimate prior restrictions (including authorization requirements).[715] In exceptional circumstances, an assembly that is peaceful may be dispersed if the disruption caused by the assembly is serious and sustained.[716] However, it is worth noting that causing disruption alone is not a legitimate reason for dispersing protesters, and both the European Court of Human Rights and the HRC stated that disruption is inherent in protest, and as long as the protest remains peaceful, the authorities must tolerate the disruption (and must only impose restrictions in narrowly defined circumstances to protect the rights of others). The HRC clarified that in order for a disruption to be considered 'serious and sustained', there must be a high threshold above temporary disruption of vehicular or pedestrian traffic. Such instances may include, for example, blocking major highways for many days, or blocking access to essential services such as a hospital. A similar principle has been reiterated by the European Court of Human Rights.[717] (see also Chapter 1.2 on peaceful/not peaceful assemblies and 7.4.1 on 'unnecessary dispersal by law enforcement officials of peaceful acts of civil disobedience).

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policing protests; Switzerland: Military Act (Militärgesetz;MG) and the Federal Constitution (Art. 58 Para. 2 and 185 Constitution); and Türkiye, Regulation on the implementation of Law No. 2911 on Meetings and Demonstrations, section 5 specifies that the governor can request military assistance when police forces are insufficient, and in sudden and extraordinary situations).

[707] France, Interior Ministry, Operation Sentinelle, (in French), https://www.defense.gouv.fr/operations/territoire-national/france-metropolitaine/operation-sentinelle; see also Cour of Audit, Operation Sentinelle, 12 September 2022 (in French), https://www.ccomptes.fr/fr/publications/loperation-sentinelle

[708] See 'How will the soldiers of Sentinelle intervene in a demonstration of the 'yellow vests'?' (in French), 21 March 2021, https://www.radiofrance.fr/franceinter/comment-les-militaires-de-sentinelle-vont-ils-intervenir-sur-une-manifestation-des-gilets-jaunes-8818261

[709] See 'Sentinelle soldiers mobilised on Saturday for the 'yellow vests' demonstration: "the orders will be clear enough so that they don't have to worry" (in French), 3 March 2019, https://www.francetvinfo.fr/economie/transports/gilets-jaunes/si-leur-vie-ou-celle-des-personnes-qu-ils-defendent-est-menacee-les-militaires-pourront-aller-jusqu-a-l-ouverture-du-feu_3244961.html

[710] See 'Yellow Vets: controversy over the use of forearms by the military' (in French), 3 March 2019, https://www.capital.fr/economie-politique/gilets-jaunes-polemique-sur-lusage-des-armes-a-feu-par-les-militaires-1332597

[711] See Police Act 2012, article 56 and 57; see 'Read here how the climate demonstration and farmers' protests in the Hague went' (in Dutch), 11 March 2023, https://www.omroepwest.nl/nieuws/4692255/lees-hier-terug-hoe-klimaatdemonstratie-en-boerenprotest-in-den-haag-zijn-verlopen

[712] See 'Climate protest at Schipol' (in Dutch), 2 October 2022, https://magazines.defensie.nl/kmarmagazine/2022/10/02_schipholdemonstratie_10-2022; and '103 of the 104 arrested Extinction Rebellion activists released after protest at Eindhoven Airport' (in Dutch), 25 March 2023, https://www.ad.nl/binnenland/103-van-de-104-gearresteerde-actievoerders-extinction-rebellion-weer-vrij-na-protest-op-eindhoven-airport~a3ee7ec4/

[713] HRC, General Comment 37, para. 15.

[714] HRC, General Comment 37, paras 85-86; Venice Commission Guidelines (2020), paras 165-168.

[715] Venice Commission Guidelines (2020), paras 131 and 163.

[716] HRC, General Comment 37, para. 85.

[717] In the case *Oya Ataman v Türkiye*, ECtHR stated that that where demonstrators do not engage in acts of violence it is important for the public authorities to show a "certain degree of tolerance towards peaceful gatherings" if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.

Domestic law should set out the detailed conditions under which the competent authority or duly authorized official may order the dispersal of an assembly. Such laws and any supplementary guidelines on dispersal should be accessible to the public.

Whenever the dispersal of an assembly is considered a necessary and proportionate response, law enforcement officials should avoid the use of force. Where that is not possible, only minimum necessary force should be used. After the order to disperse has been issued, people must be given sufficient time to comply with the order and disperse voluntarily before any means of force are used. Law enforcement officials therefore need to communicate clearly and effectively the orders to disperse to all protesters. Only if participants then fail to disperse may law enforcement officials intervene further.

If all other measures are exhausted, and force is used, this must only be to the extent necessary and proportionate to the level of resistance offered. Those passively resisting may be carried away, but not be met with a level of force that can cause more than negligeable injury. More serious force that is likely to result in injury may only be applied against the specific individual or group that is engaged in or threatening violence. Even then, it must be to the extent necessary and proportionate to the actions of the individual or group.[718]

The dispersal of an assembly does not terminate the right of protest observers, journalists and independent monitors to observe and record the policing operation (see details in Chapter 6.3.4 on the protests observers/monitors).

5.4.2 LEGISLATION ON DISPERSAL

Only **Finland**, **Germany**, **Spain** and **Sweden** recognize in law that dispersal is a measure of last resort.[719] In some of the other countries, legislation or policy guidance that includes the principles of legality, necessity and proportionality would also apply to dispersal of assemblies.

In **Austria, Greece** and **Serbia**, legal provisions in assembly laws allow for dispersal if an assembly is conducted in contravention of any provisions of that law, including notification or authorization requirements.[720] Such catch-all provisions, which would allow for dispersal simply because an assembly was not, for example, notified or did not meet other formal requirements are not in line with international human rights standards.

5.4.3 DISPERSAL IN PRACTICE

In the countries examined, law enforcement officials dispersed assemblies both in cases where dispersal was not lawful, as well as in cases where it was legitimate. In both cases, there were several instances where the means deployed for the dispersal including the use of force, were unnecessary and/or disproportionate.

Numerous examples exist of police unlawfully dispersing peaceful protests, often using excessive and unnecessary force.[721]

For example, in **Austria** in January 2021, the police dispersed a peaceful assembly in the city of Innsbruck using pepper spray, kettling tactics and arrests. A court later ruled, in a complaint brought by the organizers, that the dispersal and the use of force against the assembly participants was unlawful.[722]

In **Portugal**, while the Ministry of the Interior maintains that dispersal is used only as a last resort,[723] several examples show that police readily use dispersal and recklessly target protesters with less-lethal weapons, failing to consider the principles of necessity and proportionality. For example, in January 2019, police used rubber bullets and injured and detained several people when dispersing a peaceful protest against "police violence and racism" in the capital, Lisbon. The police latterly claimed that this was necessary as some

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[718] HRC, General Comment 37, para. 86.
[719] Finland, Assembly Act, Section 21; Germany, Assembly Law, para. 15 III; Spain, Public Security Law, Article 23.2; Sweden, Public Order Act, Chapter 2, Article 24.
[720] Austria, Assembly Law, para. 13(1); Greece gives wide discretion to the police to disperse an assembly. In Greece, some of the grounds of dispersal include not fulfilling notification requirements or breaching the restrictions imposed on the assembly. See Article 8 of Law 4703/2020; Serbia, Law on Public Assembly, Article 18(4).
[721] Cases have been reported in Austria, Finland, France, Germany, Italy, Luxembourg, Portugal, Serbia, Slovenia (in many cases, the protests were peaceful); Spain, Türkiye and UK;
[722] See 'The police operation against the "kill borders" demonstration in Innsbruck was illegal' (in German), 29 April 2021, https://www.bonvalot.net/der-polizeieinsatz-gegen-die-grenzen-toeten-demo-in-innsbruck-war-rechtswidrig-721
[723] Correspondence with the Ministry of Internal Affairs, 12 July 2023

participants threw stones towards police officers.[724] An 18-years old was reportedly hit in the forehead by a rubber bullet.[725]

In the **Netherlands**, street blockades are often dispersed even where there has been neither violence nor sustained and serious disruption. For example, in May 2022 a peaceful blockade of a roundabout in Rotterdam was dispersed because the mayor wanted the blockade removed before rush hour.[726] A peaceful blockade of the A12 motorway in The Hague by XR on 27 May 2023 was dispersed with water cannon only 15 minutes after it had started, as the mayor had ordered that the protest be moved to another location.[727]

In some cases, dispersal has been resorted to where procedural requirements such as notification were not met, or where the authorities prohibited or restricted the duration of the protests. For example, in **France**, peaceful assemblies are dispersed routinely if they are unnotified[728] or banned,[729] or to end protests early.[730] Recent examples include May Day demonstrations in the cities of Rennes in 2020[731] and Nantes in 2021,[732] Palestinian solidarity protests to commemorate the Nakba in 2021,[733] and protests against the Global Security Bill [Loi pour une sécurité globale préservant les libertés] in November 2020 in Paris and in December 2020 in Lyon,[734] Paris and Strasbourg.[735]

In **Spain**, in July 2023, a street talk on the climate crisis organized by a local community group in Madrid neighbourhood was dispersed by the local police on the grounds that it had not adequately notified. The participants were allegedly threatened by police with sanctions and even arrests.[736]

In **Greece**, in the demonstrations documented by Amnesty International in November and December 2020, the authorities introduced blanket (Covid-19) bans on assemblies and dispersed peaceful assemblies that took place on the days of those bans. The organization has also documented cases of peaceful

[724] See 'A demonstration. Lots of shots. Several detained. And two versions' (in Portuguese), 21 January 2019, https://www.dn.pt/pais/uma-manifestacao-muitos-tiros-varios-detidos-e-duas-versoes--10469494.html; and 'Fourt detained in clashes between police and protesters on Avenida da Liberdade' (in Portuguese), 21 January 2019, https://www.publico.pt/2019/01/21/sociedade/noticia/tensao-baixa-lisboa-apos-protesto-moradores-bairro-jamaica-1858814 An 18-year-old was reportedly hit in the forehead by a rubber bullet.

[725] See '"I only felt the bullet": protest against PSP intervention in Seixal ends with rubber bullets in downtown Lisbon' (in Portuguese), 22 January 2019, https://www.publico.pt/2019/01/22/sociedade/reportagem/protesto-intervencao-bairro-seixal-acaba-balas-borracha-psp-baixa-lisboa-1858843

[726] Hindrance to traffic' was the reason communicated to the police liaison during the protest (Amnesty was present with a team of protest monitors), and this was later confirmed upon request by XR in an email from the city government.

[727] On deployment of water cannon, and the reason (mayor had decided *before* the protest that it wasn't allowed on the A12, instead he referred activists to a different location), see 'A12 free of protesters, hundreds of arrests made' (in Dutch), 28 May 2023, https://nos.nl/regio/zh-west/artikel/399471-a12-vrij-van-demonstranten-honderden-aanhoudingen-verricht. The official decision by the mayor can be found here: https://denhaag.raadsinformatie.nl/document/12782488/1/Bijlage_1_-_Beperking_demonstratie_Extinction_Rebellion_27_mei_2023_Geredigeerd. For the time frame, see 'Here, the police use water cannons against climate activists' (in Dutch), 27 May 2023, https://www.telegraaf.nl/video/730949388/hier-zet-de-politie-waterkanonnen-in-tegen-klimaatactivisten. See also article, quoting XR's, 'Police force arrests 1579 peaceful climate activists, including Carice van Houten' (in Dutch), 27 May 2023,https://www.bnnvara.nl/joop/artikelen/me-zet-waterkanon-in-tegen-klimaatprotest-extinction-rebellion-op-a12, and XR tweet on the day: https://x.com/NLRebellion/status/1662403541095395328

[728] See, for example, a demonstration on 17 November 2020 against the Global Security Bill, 'Several thousand people demonstrated against the global security law' (in French), 17 November 2020, https://reporterre.net/Plusieurs-milliers-de-personnes-ont-manifeste-contre-la-loi-de-securite-globale

[729] See, for example, demonstration in Rennes on 1 May 2022, '1 May demonstration in Rennes: did the police misuse a grenade?' (in French), 5 May 2022, https://france3-regions.francetvinfo.fr/bretagne/manifestation-du-1er-mai-a-rennes-les-forces-de-l-ordre-ont-elles-derape-2534776.html

[730] See, for example, for the demonstration of 7 November 2020, the dispersal started at 7:30pm when the demonstration was supposed to take place until 8pm, according to the observers of the Ligue des Droits de l'Homme, 'Observation notes. Demonstration against the proposed Global security Law from 17 November 2020 in Paris', available at https://site.ldh-france.org/paris/files/2020/12/Note-dobservation-manif-17-novembre-2020-S%c3%83-%c3%82%c2%a9curit%c3%83-%c2%a9-globale.pdf

[731] See the use of water cannon and sting ball grenades, '1 May demonstration in Rennes: did the police misuse a grenade?' (in French), 5 May 2022, https://france3-regions.francetvinfo.fr/bretagne/manifestation-du-1er-mai-a-rennes-les-forces-de-l-ordre-ont-elles-derape-2534776.html

[732] See the use of tear gas and water cannon, 'May Day protests: Thousands take to the streets to 'defend workers' rights' (in French), 1 May 2021,https://www.francetvinfo.fr/economie/transports/gilets-jaunes/manifestation-du-1er-mai-des-milliers-de-personnes-dans-les-rues-pour-defendre-les-droits-des-travailleurs_4607139.html

[733] See the use of tear gas, 'Israeli -Palestinian conflict: demonstrations in support of the Palestinians throughout France' (in French), 5 May 2021, https://www.francetvinfo.fr/monde/proche-orient/israel-palestine/conflit-israelo-palestinien-des-manifestations-de-soutien-aux-palestiniens-dans-toute-la-france_4625043.html; and water cannon, 'Pro-Palestinian rallies in Paris: between 2500 and 3500 protesters, 44 arrested, a gendarme injured' (in French), 15 May 2021,https://www.leparisien.fr/societe/manifestation-pro-palestinienne-a-paris-la-police-mobilisee-et-les-commerces-fermes-suivez-les-evenements-en-direct-15-05-2021-UNQMURWHSRESNJYKLTUJJCGV6Q.php

[734] See the use of tear gas, 'Protests in Paris and the rest of France against the 'global security law' (in French), 12 December 2020, https://www.lemonde.fr/societe/article/2020/12/12/manifestation-sous-tension-a-paris-contre-la-proposition-de-loi-securite-globale_6063178_3224.html

[735] See 'Global security law: incidents in Paris, 21 people taken into custody, including two minors' (in French), 5 December 2020, https://www.leparisien.fr/faits-divers/loi-securite-globale-90-rassemblements-en-france-serieux-incidents-a-paris-05-12-2020-8412593.php

[736] See post on X, 8 July 2023, available at https://x.com/asamcarabanchel/status/1677751460128235526

demonstrations that took place when there was no prohibition in March 2021 where police resorted to dispersal and use of unnecessary and excessive force even before the demonstration started.[737]

In **Italy**, in months prior to the publication of this report, the authorities dispersed several peaceful demonstrations, in some cases resorting to excessive or unnecessary force. For example, a student protest organized in January 2022, in response to the workplace death of two high school students, was violently dispersed by the authorities. Several protestors, many of them minors, suffered injuries.[738] Police officers used unlawful force to disperse peaceful demonstrations held between 13 and 15 February 2024 in front of the Bologna, Naples and Turin offices of the national radio and television company (see 'Palestine solidarity protests' in Chapter 4), as well as two demonstrations in Florence and Pisa on 23 February 2024 (see Chapter 8 for more details). On 9 May 2024, a peaceful march of a few hundred people organized in Venice against the G7 summit was dispersed by riot police through shields and truncheons.[739]

In **Poland** on 7 August 2020, police used unlawful force to disperse a peaceful demonstration in Warsaw organized in solidarity with an LGBTI activist,[740] and arrested nearly 50 people. During the subsequent court hearing, it was revealed that the police officers were instructed to target LGBTI activists.[741] Also in 2020, during the Women's Strike protests against a Constitutional Court ruling restricting abortion rights, police arrested dozens of protesters and used excessive force to disperse the assembly.[742]

In **Serbia**, during numerous environmental protests in 2021 and 2022 the authorities employed various tactics to disperse the assemblies and intimidate protesters, including relying on private security companies and other civilians connected with the ruling political party to ensure "public order".[743] For example, during the protests against the mining of Starica mountain in Majdanpek in August 2022, activists and the local community reported that private security hired by the company conducting mining operations physically removed their sit-in camp seeking to prevent construction activities from taking place and dispersed the otherwise peaceful protest in order to resume development on the site. Private security company members themselves told media that they used force against protesters, many of whom belonged to the local Roma community, and were paid additional funds by the contracting company to use force during their removal from the site.

In **Türkiye**, unnecessary and excessive force to disperse peaceful protests is common, with various types of less-lethal weapons employed to disperse protesters. In some cases, law enforcement used tear gas to disperse assemblies, for example, during the reading of a press statement by the Turkish Medical Association;[744] at a march on International Women's Day in Istanbul;[745] during a labour union's demonstration;[746] and also at the Saturday Mothers/People vigil in Galatasaray Square, Istanbul, which faced long standing blanket bans (despite the Constitutional Court finding such bans unlawful).[747] In some protests, a combination of both tear gas and other less-lethal weapons were used. For example, an LGBTI student group's Pride march was dispersed using rubber bullets and tear gas;[748] a vigil to commemorate those killed in an ISIS bombing in Southeast Türkiye was dispersed using tear gas and water

[737] Amnesty International, Greece: Amnesty member of staff arbitrarily deprived of liberty after raising concerns on stop-and-search operation', 21 December 2022, available at https://www.amnesty.org/en/documents/eur25/6332/2022/en/
[738] See 'Turin: police violently charge students' demonstration' (in Italian), 28 January 2022, available at https://www.lindipendente.online/2022/01/28/torino-la-polizia-carica-violentemente-la-manifestazione-degli-studenti
[739] See 'Police charge against protesters during the G7 Justice Summit in Venice' (in Italian), 9 May 2024, available at https://www.ilpost.it/2024/05/09/video-corteo-venezia-carica-polizia/
[740] Margot had been arrested and charged with damaging a van bearing homophobic slogans and assaulting a driver recording the incident on 27 June 2020. This event has been referred to as the "Rainbow Night".
[741] One of the officers in their testimony stated: "We were instructed to stop all persons displaying the colours of LGBT, regardless of how they behaved. We treated that order as an order to be obeyed… I don't remember if he raised any shouts or slogans. I remember that these people were marked with LGBT colours."
[742] See Amnesty International, Poland crackdown on Women's Strike protests continues unabated, 20 November 2020, available at https://www.amnesty.org/en/latest/press-release/2020/11/poland-crackdown-on-womens-strike-protests-continues-unabated/
[743] Amnesty International, Serbia: Submission for European Union Enlargement Package/Opinion, 2023, 17 April 2023, available at https://www.amnesty.org/en/documents/eur70/6688/2023/en/
[744] See 'Police intervention against doctors protesting for the murdered doctor Ekrem Karakaya' (in Turkish), 7 July 2022, available at https://www.gazeteduvar.com.tr/katledilen-doktor-ekrem-karakaya-icin-eylem-yapan-doktorlara-polis-mudahalesi-haber-1572444
[745] See 'Intervention with tear gas against women who wanted to march for March 8 in Istanbul' (in Turkish), 8 March 2022, available at https://serbestiyet.com/haberler/istanbulda-8-mart-icin-yurumek-isteyen-kadinlara-biber-gaziyla-mudahale-86619/
[746] See 'Police intervention in the Turkstat protest of Birleşik Kamu-İş' (in Turkish), 9 June 2022, available at https://ilerihaber.org/index.php/icerik/birlesik-kamu-isin-tuik-eylemine-polis-mudahalesi-141547
[747] Amnesty International, Türkiye: Further information: Fully open Galatasaray square: Saturday Mothers/People, (Index: EUR 44/7419/2023), November 2023, https://www.amnesty.org/en/documents/eur44/7419/2023/en/

[748] See 'Police intervened in the Pride Parade at METU, many students were detained' (in Turkish), 10 June 2022, https://www.evrensel.net/haber/463489/odtude-onur-yuruyusune-polis-mudahale-etti-pek-cok-ogrenci-gozaltina-alindi

cannon;[749] authorities intervened in a student demonstration with tear gas, plastic bullets and physical force.[750]

As stated earlier in this report, before an assembly is dispersed, a clear and effective warning must be issued. Some of the countries have regulations in place that require warnings to be given prior to dispersal.[751] Others use similar systems in practice even if not required in law.752 Most often, such warnings are communicated verbally, via microphones. However, in several countries, cases were reported where such warnings were not always audible to all protesters.[753] In **France**, several examples show that law enforcement officials often failed to provide warnings at all,[754] or did not provide enough information to protesters.[755] In **Finland**, the police dispersed a peaceful counterprotest in December 2023 in Helsinki using disproportionate force. Police dispersal orders were not audible at the square where the protest took place. Half an hour after giving the first dispersal order, police surrounded the main body of the crowd, which made it difficult for the protesters to disperse voluntarily. Police use of force, pushing, shoving and especially the deployment of several mounted police among the crowd, created panic. Many hesitated to follow police orders to move, as they were directed towards a street where traffic, including trams, had not been stopped.[756] During arrests, they also dragged demonstrators along the ground, tied the hands of peaceful demonstrators with zip ties and held protesters to the ground and some 54 people were arrested.[757]

5.5 ARREST, DETENTION AND STOP AND SEARCH

5.5.1 INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

International human rights law prohibits arbitrary arrests or detentions.[758] Thus, law enforcement officials may not arrest a person unless there are grounds under domestic law for the arrest, such as the commission of an offence. Neither should they carry out mass arrests of large numbers of people without regard to their individual involvement in unlawful behaviour. Where an arrest is made, the reason for such arrest must be promptly given, and the person arrested promptly taken through judicial proceedings.

Arresting and preventively detaining individuals to prevent them from participating in peaceful assemblies constitutes an arbitrary deprivation of liberty[759] and should never be used against peaceful protesters.[760] In the context of assemblies, indiscriminate mass arrests prior to, during or following an assembly are arbitrary. Individual arrests and detentions should be used only in cases of an imminent threat of violence or serious

[749] See 'Police intervention with tear gas and water cannons in Suruç protest in İzmir: 19 people detained' (in Turkish), 20 July 2022, https://www.sonkaleizmir.com/haber/Izmir-de-Suruc-eylemine-biber-gazli-TOMA-li-polis-mudahalesi-19-kisi-gozaltina-alindi/117928
[750] See 'Police used tear gas and rubber bullets in Kadiköy, 94 people were detained' (in Turkish), 2 February 2021, https://www.evrensel.net/haber/425023/kadikoyde-polis-biber-gazi-ve-plastik-mermi-kullandi-94-kisi-gozaltina-alindi
[751] Austria, Internal guidelines of the ministry of interior; Czechia, Act on Freedom of Assembly, Section 12 regulates the dissolution of the assembly which was banned; France, Law on National Security Forces, Articles L. 211-9 and R211-11; Greece, 2021 Guidelines on the management of public outdoor assemblies also provide for clear warnings to the participants and organizers in cases of dispersal by means of high-volume speakers and they also provide for the possibility of using the social media of the Greek police (see: 27012021-ethniko_sxedio2.pdf (minocp.gov.gr); Hungary, Act on the Police, Article 59 (2), states that "before the dispersal of an assembly, the crowd must be warned that a specific tool would be used for the dispersal"
[752] Finland: in practice, police usually aim to ensure that a general dispersal order is given in a way that makes it audible and understandable. Police also issues a personal order to protesters to move, in order to minimize the amount of people apprehended and to make sure the order has been understood, see Police Act Chapter 2 section 9 on dispersing a crowd implies that a dispersal order has to be issued; Germany, Italy, Slovenia, Sweden: in practice, the police does use different tactics prior to dispersal, amongst others direct dialogue with the organizers, use of megaphones to get people to leave the place etc., see https://www.svt.se/nyheter/inrikes/polisen-upploser-demonstration-mot-coronarestriktioner and https://www.svd.se/a/0K3rgB/hundratalet-samlade-for-anticoronademonstration); Switzerland;
[753] Austria: Ombudsman's communications, and Slovenia, see 'Observation Report on 9 October 2021 protest' (in Slovenian), 1 November 2021, https://pravna-mreza.si/izjava-za-javnost-policija-je-z-uporabo-cestnoprometnih-pravil-29-oktobra-omejila-pravico-do-protesta/
[754] Amnesty International, France: Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France (Index: EUR 21/1791/2020), 29 September 2020, https://www.amnesty.org/en/documents/eur21/1791/2020/en/, p. 26, 27, 48.
[755] Ligue des droits de l'Homme, Observation Report, 'May 1, 2021 demonstration : Police deterrence against the right to protest' (in French), https://site.ldh-france.org/paris/files/2021/06/Rapport-dobservation-1er-mai-2021.pdf
[756] Amnesty International Finland, Report on protest observation 2023, executive summary, http://amnesty.fi/exec-summary-2023; Amnesty International Finland, Report on protest observation 2023 (In Finnish), https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf
[757] Amnesty International Finland, Report on protest observation 2023, executive summary, http://amnesty.fi/exec-summary-2023; Amnesty International Finland, Report on protest observation 2023 (In Finnish), https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf
[758] ICCPR, Article 9.
[759] Special Rapporteur on the rights to freedom of peaceful assembly and of association, Protection of human rights in the context of peaceful protests during crisis situations, Report UN Doc. A/HRC/50/42; See also HRC, General Comment 37, para. 82.
[760] Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, Protection of human rights in the context of peaceful protests during crisis situations UN Doc. A/HRC/50/42, 16 May 2022, para. 54.

criminal offence, or where such offences have taken place, with the intention of criminal prosecution based on an individualized and reasonable suspicion.[761] To avoid escalating tensions, authorities should delay as much as possible the arrest of assembly participants who commit offences prior to or during an assembly.[762] Where participants are arrested and detained, the detention must last no longer than is necessary and provided for in law.

Powers of "stop and search" or "stop and frisk" against participants or those perceived to be participants require a reasonable suspicion that an individual may engage in violence or other serious crimes, and not be based on discriminatory criteria, in particular people's (perceived) race, ethnicity, religion or national origin or other racialized criteria.[763] Participation in, or organization of, a peaceful assembly do not constitute reasonable grounds for stopping and searching people.[764]

To avoid arbitrary searching, arrest or detention of assembly participants, including racial profiling, states must put in place clear and narrowly defined protocols, which establish a high threshold for lawful searches.[765] In principle, a police search may only be justified if it is prescribed by law (which should require such measures only, for example, where there is probable cause or reasonable suspicion of a crime), necessary and proportionate, and respects human dignity.

Restrictions of peaceful protesters' freedom of movement, for the purpose of identity checks, must be as limited as possible. Otherwise, lengthy restrictions without lawful grounds can amount to arbitrary deprivation of liberty and can appear to have the sole aim of preventing protesters from exercising their right to participate in peaceful assemblies.

Similarly, the apprehension and removal of protesters to police stations for the sole purpose of identity checks, is an unnecessary, disproportionate measure that generates a chilling effect on the right of peaceful assembly and acts as a deterrent for potential protesters.

5.5.2 LEGISLATION AND PRACTICE ON ARRESTS AND DETENTION AT ASSEMBLIES

Several countries have legislation in place that permits administrative arrest or preventive deprivation of liberty, including **Belgium**[766], **France**[767], **Germany**[768] and **Switzerland**[769]. Such legislation is increasingly used in those countries to prevent people from participating in protests.

For example, in Germany, administrative detention has been increasingly used against climate activists in the state of Bavaria, Berlin and North Westphalia with activists to prevent them from participating in protests.[770]In Bavaria in particular, since October 2022, the police have placed several dozen climate

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[761] Venice Commission Guidelines (2020), para. 220.
[762] Venice Commission Guidelines (2020), para. 220.
[763] HRC, General Comment 37, para. 83.
[764] Joint report of the Special Rapporteurs, UN Doc. A/HRC/31/66, 4 February 2016, para. 43.
[765] Venice Commission Guidelines (2020), para. 219.
[766] In Belgium, police can detain a person for a maximum of 12 hours. The legal basis is article 31, 4° Police Service Act https://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=1992000606&la=N#LNK0024; see also other info available on 'How long can the police detain me in the event of an arrest' (in Flemish), https://www.watwat.be/politie/hoelang-mag-de-politie-mij-vasthouden, and 'The rights of detainee. Informative brochure by the League for Human Rights about the rights of citizens in contact with the police' (in Flemish), p. 3, https://mensenrechten.be/bestanden/uploads/publicaties/Brochure_rechten_arrestant.pdf
[767] France, Criminal Code of Procedure, Article 62.2 states that a person can be subject to pre-charge detention if there are plausible reasons to suspect that they committed or attempted to commit a criminal offence. If there are plausible reasons to suspect that an individual has participated in a group with a view to preparing acts of violence, he or she can be placed in pre-charge detention for 48 hours.
[768] In Germany, this is regulated in federal police laws; regulations vary widely: The maximum duration ranges from two days in Berlin (para 33 I No. 3 ASOG Bln) to two months in Bavaria (para 20 II BayPAG). The requirements also differ significantly. Detailed criticism of the Bavarian Police Law can for example be read at Amnesty International Germany, 'Statement on the planned changes to the Police Tasks Act in Bavaria' (in German), 8 May 2018, https://www.amnesty.de/sites/default/files/2018-05/Amnesty-Positionspapier-Stellungnahme-Polizeiaufgabengesetz-Bayern-Mai2018.pdf
[769] There is Preventive Police custody (Polizeigewahrsam) based in cantonal laws that can be used to arrest persons who pose a threat to security and prevent them from attending a protest (Art. 37 *Police custody).* There is also the possibility of issuing an order to leave and a prohibition to enter a certain area ("Wegweisung und Fernhaltung") - Art. 42 Order to leave and stay away. in a letter received by Amnesty International on 25 June, following the invitation sent to authorities to provide comments on the findings of the report, authorities in Basel indicated that "[t] Basel-Stadt cantonal police can carry out a personal check in accordance with § 34 PolG. If this identity check cannot be carried out on site due to security or discretionary concerns, persons can be taken to a police station to continue the identity check (so-called 'detention' in accordance with § 35 OpIG. The persons are released from the checkpoint as soon as the check has been completed".
[770] Amnesty International Germany, Germany: Preventive custody for climate activists is a clear violation of human rights' (in German), 4 September 2023, https://www.amnesty.de/allgemein/pressemitteilung/deutschland-klimaschuetzerinnen-praeventivgewahrsam-verstoss-menschenrechte

activists in preventive detention for up to 30 days[771] after activists repeatedly blocked street causing traffic congestion.[772] Law enforcement agencies have gone to increasingly extreme lengths to prevent people from organizing or participating in peaceful protest activities, such as in the case of a climate activist in the city of Regensburg, Bavaria, who was picked up by police at his home to prevent him from attending a protest announced for later that day.[773] The preventive detentions were ordered under section 17.2 of the Bavarian Police Tasks Act, which allows the police to request detention without concrete suspicion of a crime, which would enable the authorities to launch criminal proceedings, to prevent "an administrative offence 'of considerable importance to the general public' or to prevent a crime".[774] Amnesty International[775] and international human rights mechanisms have repeatedly criticized these laws as not meeting international human rights standards and have urged the federal states to amend them.[776] (see also Chapter 7.4.4. on 'administrative measures).

Arbitrary detention has been used during protests to unlawfully curtail freedom of peaceful assembly. In **France** on 12 December 2020, during protests in several cities which were attended by tens of thousands of protesters, Paris police arrested 142 people. Of these, 124 were placed in detention (garde à vue), including 19 minors.[777] In nearly 80% of these cases, the protesters were never prosecuted, indicating that the main purpose of their detention appears to have been to prevent them from exercising their right of peaceful assembly, rather than any legitimate ground.[778] The independent French human rights commissioner, the Défenseur des Droits,[779] and the Council of Europe Commissioner for Human Rights[780] as well as UN independent experts on arbitrary detentions, the situation of human rights defenders and the right to freedom of peaceful assembly and association [781] raised concerns about these arrests. In **Switzerland**, around 20 people were taken into police custody before a demonstration in Basel on 1 May 2023 to prevent them from attending the protest. According to experts interviewed by Amnesty International, they were apprehended by police due to them "carrying megaphones" and wearing certain clothes.[782]

In Emmen, the **Netherlands**, in November 2022, police arrested 12 activists as a means to disperse their peaceful sit-in in the city hall in which the activists were demanding that the municipality of Emmen no longer allow people to dress as "Black Pete" (*Zwarte Piet*) during the annual Sinterklaasavond festivities. The

[771] See 'Dealing with climate activists. Why Bavaria's preventive detention is controversial' (in German), 17 November 2022, https://www.tagesschau.de/inland/gesellschaft/praeventivhaft-klima-protest-bayern-101.html; and '33 climate activists in long-term custody' (in German), 14 November 2022, https://www.lto.de/recht/nachrichten/n/ag-muenchen-polizeigewahrsam-praeventiv-gewahrsam-klimaaktivisten-klima-blockaden-bayern/

[772] Amnesty International, Germany : Discrimination on the rise, Submission to the 44th session of the Universal Periodic review Working Group, 9 November 2023, https://www.amnesty.org/es/wp-content/uploads/2023/07/EUR2364812023ENGLISH.pdf

[773] See 'Before action in Regensburg: Climate activists 'dragged out of the house' and taken into preventive detention' (in German), 15 June 2023, https://www.merkur.de/bayern/regensburg/bayern-letzte-generation-klima-aktivist-praeventiv-gewahrsam-polizei-aktion-regensburg-92338061.html

[774] Amnesty International raised concerns regarding the human rights implication of this measure, including during a hearing at the Bavarian parliament. For a detailed analysis and concerns about the Bavarian Police Tasks Act, please see 'Amnesty position Paper: Statement on the planned changes to the Police Tasks Act in Bavaria', https://www.amnesty.de/amnesty-material/amnesty-positionspapier-stellungnahme-zu-den-geplanten-aenderungen-des

[775] Amnesty International Germany, Preventive detention for climate activists is a clear violation of human rights' (in German), 4 September 2023, https://www.amnesty.de/allgemein/pressemitteilung/deutschland-klimaschuetzerinnen-praeventivgewahrsam-verstoss-menschenrechte; Amnesty International Germany, „Climate activists in preventive detention' (in German), 5 November 2022, https://amnesty-polizei.de/klimaaktivisten-in-praeventivgewahrsam/; Amnesty International Germany, ‚Germany: Tightening of Berlin police law threatens civil liberties' (in German), 14 December 2023,https://www.amnesty.de/deutschland-berlin-polizeigesetz-verschaerfung-freiheitsrechte

[776] See, for example, Michael Forst, State repression of environmental protest and civil disobedience: a major threat to human rights and democracy, https://unece.org/sites/default/files/2024-02/UNSR_EnvDefenders_Aarhus_Position_Paper_Civil_Disobedience_EN.pdf, p.16

[777] Amnesty International France, 'Climate of total insecurity. Arbitrary arrests of peaceful protesters on 12 December 2020 in Paris' (in French), https://amnestyfr.cdn.prismic.io/amnestyfr/a0e97d09-c2b0-4b82-9ccf-a377e3b2711e_AIF_Climat_dInsecurite_Totale_FR.pdf

[778] Amnesty International France, 'Climate of total insecurity. Arbitrary arrests of peaceful protesters on 12 December 2020 in Paris' (in French), https://amnestyfr.cdn.prismic.io/amnestyfr/a0e97d09-c2b0-4b82-9ccf-a377e3b2711e_AIF_Climat_dInsecurite_Totale_FR.pdf

[779] French Human Rights Commissioner, Annual Activity Report, https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2019-282; See also 'Decision of the Human Rights Commissioner No. 2019-086' (in French), 28 March 2019, https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18895

[780] Council of Europe, 'Memorandum on the maintenance of order and freedom of assembly in the context of the 'yellow vest' movement' in France, 26 February 2019, https://rm.coe.int/memorandum-sur-le-maintien-de-l-ordre-et-la-liberte-de-reunion-dans-le/1680931add

[781] United Nations News, Rights of 'gilets jaunes' protesters in France, 'disproportionately curtailed', say UN independent experts', 14 February 2019, https://news.un.org/en/story/2019/02/1032741

[782] Interview with two expert lawyers in the area of freedom of assembly in Basel on 28 September 2022; see also 'Improvised street festival, next to the police operation' (in German), 1 May 2023, https://www.bazonline.ch/ein-tag-der-arbeit-unter-speziellen-vorzeichen-805932773129

court ruled later that the intervention should have been aimed at ending the occupation, and the protesters should have been given the opportunity to continue their protest outside the city hall.[783]

In **Portugal**, 12 Climáximo activists gathered near the Cascais half-marathon taking place in October 2023 in Lisbon were approached and searched by police officers. Their belongings were confiscated, and they were allegedly taken to the police station without being informed as to why they were being apprehended. Amnesty International Portugal requested information on the case from the National Police Directorate, which replied that the activists were not handcuffed or deprived of their liberty and claimed that they followed the officers without resistance.[784] The activists denied this and stated that they were detained for more than five-hours. One of the activists initially detained was a child and was released shortly after arriving at the police station. The rest of the group were charged with 'qualified disobedience' for failing to notify the authorities of a protest that did not take place. The public prosecutor dismissed the case against the activists.[785]

There are cases where law enforcement engages in arbitrary mass arrests and detention of assembly participants after the events. For example, in **Türkiye**, after the dispersal of the peaceful Trans and LGBTI Pride marches in Istanbul on 18 and 25 June 2023, law enforcement officials actively followed and looked for protesters on the streets across the city to arrest them.[786] In **Serbia** between 2020 and 2022 there were reports of several activists and demonstrators being detained for participating in assemblies and being kept in custody longer than necessary without access to lawyers and allegedly subjected to ill-treatment.[787]

Another reason given for detaining people in the context of assemblies is to conduct identity checks at police stations, including in **France**, **Greece**, the **Netherlands**, **Slovenia** and **Switzerland**.[788] For example, a legal expert told Amnesty International that in Lausanne, **Switzerland**, the police systematically apprehend protesters to perform identity checks.[789] In March 2020, an activist was arrested in Geneva for attempting to flee an arbitrary identity check during a protest. After being identified, he was taken to a police station and held for some 30 minutes.[790]

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[783] See 'Dismissal of prosecution for twelve Extinction Rebellion activists who disrupted Emmen Council meeting in solidarity with Kick Out Zwarte Piet' (in Dutch), 13 February 2023, https://extinctionrebellion.nl/ontslag-van-rechtsvervolging-voor-twaalf-extinction-rebellion-activisten-die-raadsvergadering-emmen-verstoorden-in-solidariteit-met-kick-out-zwarte-piet/

[784] Correspondence with relevant authorities by Amnesty International in the research for the report

[785] Amnesty International Portugal interviewed Climáximo activists in December 2023. See also Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, https://www.amnistia.pt/a-liberdade-como-bandeira/;

[786] Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of Protesters, 17 May 2024, https://www.amnesty.org/en/documents/eur44/8049/2024/en/

[787] See 'On Saturday in Majdanpek, a protest against police brutality and dynamiting without notice' (in Serbian), 5 October 2022, https://www.masina.rs/u-subotu-u-majdanpeku-protest-zbog-policijske-brutalnosti-i-dinamitiranja-bez-najave/

[788] France: Amnesty International, in its 2020 report 'Arrested for protest. Weaponizing the law to crackdown on peaceful protesters in France, collected the statements of 17 people who were arrested and placed in pre-charge detention ahead of or during public assemblies on suspicion of 'participating in a group with a view to preparing acts of violence'. They included protesters but also journalists, human rights observers and street medics who provide first aid to injured protesters. In all the cases analyzed by the organization, judicial authorities decided either not to prosecute them or opted for alternative measures to prosecution such as a caution (*rappel à la loi*). Amnesty International collected credible testimonies that protesters were arrested ahead of demonstrations in the absence of any tangible factor pointing to a reasonable suspicion that they were involved in the preparation of acts of violence. The report is available at https://www.amnesty.org/en/documents/eur21/1791/2020/en/#:~:text=Amnesty%20International%20calls%20on%20the,the%20rights%20of%20peaceful%20protesters; Greece: On concerns about the practice of bringing individuals to the police station without any apparent legal reason, See '2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents', p. 34. In December 2022, a member of staff of Amnesty International Greece was taken to a police station for an identity check and arbitrarily deprived of liberty following questions raised to police officers at a stop-and- search operation – see statement by the organization at https://www.amnesty.org/en/documents/eur25/6332/2022/en/. A member of an anarchist collective reported in May 2023: "Specifically, in the collective I participate, police implements as a revenge the method of transfer and long detention at the Attika Police Directorate (GADA) or other local police stations…The opening of a banner…that does not obstruct pedestrians or traffic always results in transfers to police stations and long-inconvenience, without any charges since there is no offence"; In the Netherlands, although conducting identity checks is not a reason for detaining people *per se,* people who refuse to comply with an order to show ID do risk being detained. See report 'Amnesty International, the Netherlands: Unchecked Power: ID Checks and Collection of Data from Peaceful Protesters in the Netherlands', EUR 35/6650/2023, 31 May 2023, available at https://www.amnesty.org/en/documents/eur35/6650/2023/en/; Slovenia: See 'Police procedures for establishing identity at the protest of 19 June 2020 in Ljubljana' (in Slovenian), 25 August 2020, available at: https://www.varuh-rs.si/sporocila-za-javnost/novica/policijski-postopki-ugotavljanja-identitete-ob-protestu-19-6-2020-v-ljubljani/; Switzerland: Correspondence with the Canton of Geneva, received on 3 August 2024; Correspondence with the City of Lausanne, received on 23 August 2024; Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022

[789] Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023.

[790] See 'In Geneva, judges hand out bad points in DJ Mitch case' (in German), 5 December 2022, https://www.letemps.ch/suisse/geneve/geneve-juges-distribuent-mauvais-points-laffaire-dj-mitch. Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022, Court of Justice, Judgement of 16 November 2022, P/3905/2021.

5.5.3 LEGISLATION AND PRACTICE ON STOP AND SEARCH

In most of the countries examined, law enforcement agencies have 'stop and search' powers which can be exercised in various scenarios, including at protests. In many countries, police may, for example, check a person's identity with the sole objective of establishing and confirming personal details.

Several countries also have legislation which allows for stop and search or stop and frisk practices without requiring a reasonable suspicion of a criminal offence or intent to commit an offence. These countries include **France**, **Germany**, **Greece**, **Hungary**, **Italy**, **Luxembourg**, **Poland**, **Serbia**, **Slovenia** and **Switzerland**.[791] Such legislations are not in compliance with international human rights law and standards as they violate the principles of legality, necessity and proportionality and carry the risk of discriminatory application.

Some countries also have legal provisions specific to assemblies which allow police to conduct searches without reasonable suspicion.[792] The possibility to stop and search participants, or those perceived to be participating in a protest, without reasonable suspicion of a criminal offence or of criminal intent also infringes on the right of peaceful assembly, right to be free from discrimination, and could have a chilling effect on protesters. In particular, for those who are already at heightened risk of arbitrary checks – as has been widely documented and denounced, including by Amnesty International, to occur for Black people, Arab people, Roma and people belonging to other racialized groups - without reasonable suspicion based on their perceived race, ethnicity, nationality, religion or other racialized criteria, such laws increase the risk of discriminatory application, as racial profiling is a long-standing concern and occurs systematically and routinely in practice.[793]

For example, in **Poland** the law does not provide a list of situations in which an officer may stop an individual and check their identity, and it is not necessary to have a reasonable suspicion that they have committed a criminal or petty offence.[794] A person may be searched if there is reasonable suspicion that they are in possession of an object that can constitute evidence in a criminal case, but also for preventing a crime from being committed.[795]

In **France**, law enforcement officials have powers to stop and search people under existing laws if, for example, there is a reasonable suspicion pointing to their involvement in committing or preparing to commit a criminal offence. Moreover, police powers allow for an identity check of anyone to "prevent threats to public order", without requiring that such a check be based on reasonable suspicion that the person stopped presents a threat to public order. In instances where a person cannot, or is not willing to, produce an identity document, law enforcement officials can restrict their rights to liberty and freedom of movement

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[791] France, Code of Criminal procedure, Articles 78.2.4, 78-2-3 78.2.2, 78.2.5; Germany: The distinction between "preventive" and "repressive" police action is fundamental and of central importance in assessing the legality of a measure for preventive measures, it is governed by assembly law or state police laws in the run-up to an assembly. For example, searches may be carried out at certain places without cause (e.g. according to para 39 I No. 4 in conjunction with 12 I No. 2 PolG NRW or para 34 II Nr. 2 in conjunction with 21 II Nr. 1 ASOG BIn). For the subject of a measure, it is often difficult to tell why he or she is being controlled. Here, a suspicion is not a requirement for a search. There is also the possibility to search persons "if facts justify the assumption that they are carrying things that may be confiscated" (para 39 I No. 2 PolG NRW or para 34 I Nr. 1 ASOG BIn) - this also offers the police extensive powers. Measures to determine identity can be performed generally "to avert a danger" (para 12 I No. 1 PolG NRW or para 21 I ASOG BIn). This term is formulated so broadly that almost anything can fit into it; Greece, Presidential Decree 141/1991, Article 94 on the "Competencies and internal actions of the staff of the Ministry of Public Order, and Organization of Services," see: https://www.kodiko.gr/nomothesia/document/421119/p.d.-141-1991; Hungary, Act of Police, Articles 13(1) and 30. According to the Ministry of Interior, as under Article 9, ARA, certain weapons or explosives may not be carried at an assembly. Police measures to seek these weapons or explosives are not done routinely, the police only take measures – excluding any racial profiling – if there is reasonable suspicion that the organizers or participants carry such weapons or explosives; Italy: The police power to "stop and search" participants in a public assembly, without a warrant of the Public Prosecutor, requires some criteria provided for by Article 13 of the Constitution and by ordinary law in order to be legitimate, including when that these are exceptional cases of necessity and urgency; In addition, Decree-Law No. 14/2017 introduced the so-called "deferred flagrancy" (art.10, para 6) for street demonstrations, extending a provision already used for sporting events; Luxembourg, 2023 Draft law, Article 8; Poland: Law on Police of 6 April 1990, article 15, Akt prawny (sejm.gov.pl) and https://polstops.eu/wp-content/uploads/2019/12/COUNTRY_REPORT_v2019.pdf; Serbia, Law on Internal Affairs, Article 97; Slovenia, Police Tasks and Powers Act, Articles 40, 51, 52; Switzerland, CPP Art. 215. See also cantonal laws: Vaud, Police Law, Article 20, Basel Stadt, Police Law Article 34, Zurich, Police Law (PolG; 550.1), paras 3 and 2.1.

[792] This is the case for France, Germany, Italy, Türkiye, England and Wales (public order bill) and Northern Ireland.

[793] See, for example, Amnesty International Netherlands, 'The Netherlands: Racial profiling, corporate crimes and detention of migrants. Submission to the 41st session of the UPR Working Group, November 2022', November 2022, available at https://www.amnesty.org/en/wp-content/uploads/2022/04/EUR3554042022ENGLISH.pdf, Amnesty International UK, 'UK: Police 'remain in denial' about deep-rooted racism in workforce', 24 May 2022, available at https://www.amnesty.org.uk/press-releases/uk-police-remain-denial-about-deep-rooted-racism-force, Amnesty International, 'Europe: Covid-19 lockdowns expose racial bias and discrimination within the police', 24 June 2020, available at https://www.amnesty.eu/news/europe-covid-19-lockdowns-expose-racial-bias-and-discrimination-within-police/; Amnesty International Belgium, 'You never know with people like you. Police policies to prevent ethnic profiling in Belgium', May 2018, available at https://www.amnesty-international.be/sites/default/files/bijlagen/ethnic_profiling_executive_summary_en.pdf

[794] Law on Police of 6 April 1990, article 15, Akt prawny (sejm.gov.pl) and https://polstops.eu/wp-content/uploads/2019/12/COUNTRY_REPORT_v2019.pdf

[795] Code of Criminal Proceedings, article 219

to check their identity.[796] Such powers have been abused and used as a basis for arrests of assembly participants. Amnesty International has documented and called for an end to the use of identity check powers to restrict protesters' rights through unlawful deprivation of liberty or restriction of movement.[797]

In **Austria**, while EU citizens are not obliged to carry an identity document with them, other citizens have to, otherwise they can get a fine.[798] If one refuses to provide information the police can search their belongings or arrest them in order to identify them. Similarly, in Belgium, if a person refuses or is unable to provide proof of his identity, as well as if their identity is in doubt, they may be detained for the time necessary for identification.[799] In **Hungary**, as well, if a person is not willing or able to be identified, and the police does not manage to identify the person on the spot (through friends or face recognition software), they can be escorted to a police station.[800] In **Portugal** also the police can request to identify any person who is in a public place, or a place open to the public or under police surveillance, if there is a reasonable suspicion that the person has committed a crime or has entered the national territory illegally or is the subject of extradition or expulsion proceedings.[801] The police must inform the person identified of their rights and of the specific circumstances which justify the obligation to identify themselves. If the identification is not possible or the person refuses to be identified, the person is taken to a police station for a maximum of two hours.

In practice, in many countries there are reports that protesters are stopped and searched by police before, during and after the protest, including in **Czechia, France**, **Greece**, **Ireland**, the **Netherlands**, **Slovenia**, **Spain**, **Switzerland**, **Türkiye** and parts of the **UK** (England, Wales and Scotland),[802] even where this contravenes national legislation.[803]

For example, in **Greece** in December 2022, a group was stopped by police on their way to participate in a protest related to the death of Kostas Frangoulis, a 16-year-old Roma boy who died eight days after he was

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[796] France, Code of Criminal Procedure, article 78.3

[797] Amnesty International, France: Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France, 29 September 2020, https://www.amnesty.org/en/documents/eur21/1791/2020/en/

[798] FPG, Art 32

[799] Belgium, Article 34, Police Office Act, https://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=1992000606&la=N#LNK0021

[800] Act on Police, article 29

[801] Law No. 5/95

[802] In Czechia, for example, police officers used stop and search practices to discourage activists from participating to climate protests blocking coal mines. Courts have declared this practice unlawful as there was no legitimate reason to identify protesters. In 2021, this was confirmed by the Constitutional Court, which declared the practice contrary to the constitutional right to freedom of assembly, see 'The police may not identify the participants of the assembly as a precaution' (in Czech), 20 October 2021, https://www.usoud.cz/aktualne/policie-nesmi-preventivne-ztotoznovat-ucastniky-shromazdeni and Klimarádi, *Právo v akci* (in Czech), December 2023, available at: https://klimaradi.klimazaloba.cz/wp-content/uploads/2024/02/kniha-editace-28.2.-Digital.pdf; France, Amnesty International, France: Arrested for protest: Weaponizing the law to crackdown on peaceful protesters in France, 29 September 2020; Greece: Amnesty member of staff arbitrarily deprived of liberty after raising concerns on stop-and-search operation - Amnesty International; 'Residents of Athens' historic Exarchia Square resist metro station plan', 17 August 2022, https://www.theguardian.com/world/2022/aug/17/residents-of-athens-lawless-exarchia-square-resist-metro-station-plan); Ireland, ICCL, National Consultations On The Right To Protest In Ireland Facilitated By The Irish Council For Civil Liberties (ICCL) and Supported by the International Network Of Civil Liberties Organizations (Inclo), 26 June 2019, available at https://www.iccl.ie/wp-content/uploads/2019/06/190626-ICCL-National-Consultations-Preliminary-Report.pdf; the Netherlands, ID checks, traffic stops and so-called preventive body searches do not require reasonable suspicion, see Amnesty report 'Uncontrolled Power' (on ID-checks), https://www.amnesty.org/en/documents/eur35/6650/2023/en/, Amnesty International, the Netherlands: 'We sense trouble: Automated discrimination and mass surveillance in predictive policing in the Netherlands', 20 September 2020, https://www.amnesty.org/en/documents/eur35/2971/2020/en/ and Amnesty International 'The Netherlands, Preventive Frisk' (in Dutch), 28 October 2013, https://www.amnesty.nl/content/uploads/2016/11/rapport_etnisch_profileren_ainl_28_okt_2013.pdf?x92076#:~:text=Proactief%20politiewerk%20vormt%20een%20risico,daarvoor%20geen%20objectieve%20rechtvaardiging%20bestaat; Slovenia, 'Police procedures for establishing identity at the protest of 19 June 2020 in Ljubljana' (in Slovenian), 25 August 2020, https://www.varuh-rs.si/sporocila-za-javnost/novica/policijski-postopki-ugotavljanja-identitete-ob-protestu-19-6-2020-v-ljubljani/; Spain, Amnesty International Spain, *Right to protest in Spain: seven years, seven gags that restrict and weaken the right of peaceful protest in Spain"* (in Spanish), November 2022, available at: https://doc.es.amnesty.org/ms-opac/doc?q=*%3A*&start=0&rows=1&sort=fecha%20desc&fq=norm&fv=*&fo=and&fq=mssearch_fld13&fv=EUR41700022&fo=and ; Switzerland, Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023; Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, Interview with two expert lawyers in the area of freedom of assembly in Basel on 28 September 2022, Türkiye, Amnesty International, 'Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of Protesters', 17 May 2024; and According to Article 9(3-a) of Law no 2559 Law on Duties and Powers of the Police provides that the police can exercise powers of "stop and search", and the police have been using this power for almost every demonstration; UK: England and Wales, see 'Police abuse stop and search powers to target protesters, suggest data', 18 August 2020, https://www.theguardian.com/law/2022/aug/18/police-abuse-stop-and-search-powers-to-target-protesters-suggests-data; Scotland, see Netpol's report 'Respect or Repression?, available at https://netpol.org/wp-content/uploads/2022/01/Respect-or-Repression-report-web-version.pdf

[803] Czechia, see 'Police may not identify the participants of the assembly as a precaution' (in Czech), 20 October 2021, https://www.usoud.cz/aktualne/policie-nesmi-preventivne-ztotoznovat-ucastniky-shromazdeni; See also: Klimarádi, *Právo v akci* (in Czech), December 2023, available at: https://klimaradi.klimazaloba.cz/wp-content/uploads/2024/02/kniha-editace-28.2.-Digital.pdf; UK (Scotland), see Netpol's report 'Respect or Repression?, available at https://netpol.org/wp-content/uploads/2022/01/Respect-or-Repression-report-web-version.pdf

shot during a police chase in the city of Thessaloniki.[804] Most often, stop and search practices in Greece lead to individuals being transferred to police stations for identity checks.[805]

In **Germany**, especially at large demonstrations or assemblies that authorities consider to be dangerous, preventive searches often take place.[806] The assembly law adopted in North-Rhine Westphalia in 2021 enshrines preliminary controls at "control points" that can be set up on the routes to assemblies if there is a danger that participants will carry weapons or objects for the use of violence.[807] According to reports,[808] use of such checkpoints has been abused by police at climate protests in Lützerath to deny journalists access to the protests.

In **Ireland**, the Irish Council for Civil Liberties (ICCL) raised concerns regarding intimidation and harassment experienced by protesters, among others, subjected to stop and search procedures and strip searches while in detention.[809]

In the **Netherlands**, Amnesty International's 2023 report *Unchecked Power* documented how identity checks are among the many ways in which protesters are subjected to surveillance.[810] The research also concluded that Dutch police have discretionary powers which are overly broad and vague, and the supervision and control of police surveillance methods fall short of both national laws and international human rights standards.[811]

In **Poland**, Amnesty International has documented practices such as police routinely containing protesters, sometimes for hours, for the supposed purpose of carrying out identity checks and, where applicable, proceeding with charging and fining people. In some of the cases, prolonged identity checks of up to two hours amounted to arbitrary deprivation of liberty.[812]

In **Slovenia**, the Ombudsperson criticized the authorities' practice of carrying out identity checks on large numbers of protesters and taking those without documents to police stations. Criticism was primarily aimed at querying whether such measures were carried out in accordance with the law and whether they resulted in an excessive interference with the right to privacy, among other rights.[813]

In Scotland, **UK**, there have been reports of stop and searches being used during assemblies. For example, at the COP26 climate conference in 2021, concerns were raised by protest monitors and legal observers over the use of stop and search as a method of intelligence gathering.[814] During COP26, Amnesty International was concerned by reports of police misusing their powers in individual interactions with protesters. Protesters reported being given no explanation of why they were targeted for search, nor provided with written receipts. (In the UK, the person searched should be able to immediately access a copy of the police record of the stop and search at the scene.[815]) In some instances, officers allegedly refused to provide

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[804] Amnesty International, Greece: Amnesty member of staff arbitrarily deprived of liberty after raising concerns on stop-and-search operation (Index: EUR 25/6332/2022), 21 December 2021, https://www.amnesty.org/en/documents/eur25/6332/2022/en/

[805] In his 2020 Special Report, the Greek Ombudsperson in his capacity as a 'National Mechanism for the Investigation of Arbitrary Incidents' noted that "the practice of bringing individuals to the police station without any apparent legal reason and in violation of the terms of Article 74 para 15 case ix PD 141/1991, is observed by the Mechanism in many cases". Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, p. 34 (official translation).

[806] See 'satirically packaged announcements' (in German), 1 May 2023, https://taz.de/1-Mai-Protest-im-Berliner-Grunewald/!5928512/ ; and 'Police clear climate blockade on the Straße des 17' (in German), 28 October 2023, https://www.rbb24.de/panorama/beitrag/2023/10/berlin-letzte-generation-strassenblockade-strasse-17-juni-grosser-stern-polizei-klima-protest.html

[807] Germany, Assembly Law Northrhine Westphalia, Article 15

[808] See 'Journalists' union dju complains about restrictions on press freedom' (in German), 11 January 2023, https://netzpolitik.org/2023/raeumung-in-luetzerath-journalistengewerkschaft-dju-beklagt-einschraenkungen-der-pressefreiheit/

[809] ICCL, National Consultations On The Right To Protest In Ireland Facilitated By The Irish Council For Civil Liberties (ICCL) and Supported by the International Network Of Civil Liberties Organizations (Inclo), 26 June 2019, available at https://www.iccl.ie/wp-content/uploads/2019/06/190626-ICCL-National-Consultations-Preliminary-Report.pdf, para. 30.1

[810] In addition to identity checks, police also collect and process data from social media, and deploy camera surveillance during protests, including with closed-circuit television cameras, police phones, telephoto-lens cameras and cameras mounted on police. Home visits were also reported by protesters who were asked questions about their participation at protests. Other surveillance technologies such as drones, facial recognition and online social media monitoring tool are being rolled out by police as experiments, in an uncontrolled and non-transparent manner.

[811] Amnesty International, Netherlands: Unchecked Power: ID Checks and Collection of Data from Peaceful Protesters in the Netherlands (Index: EUR 35/6650/2023), 31 May 2023, https://www.amnesty.org/en/documents/eur35/6650/2023/en/

[812] Amnesty International, Poland: On the streets to defend human rights, harassment, surveillance and prosecution of protesters (EUR 37/7147/2017), 19 October 2017, https://www.amnesty.org/en/documents/eur37/7147/2017/en/

[813] Slovenia, 'Police procedures for establishing identity at the protest of 19 June 2020 in Ljubljana' (in Slovenian), 25 August 2020, https://www.varuh-rs.si/sporocila-za-javnost/novica/policijski-postopki-ugotavljanja-identitete-ob-protestu-19-6-2020-v-ljubljani/;

[814] Amnesty International UK, 'Amnesty briefing on policing of COP26', August 2022, https://www.amnesty.org.uk/files/2022-08/Policing%20of%20Cop26.pdf?VersionId=EI9_3tjHeHQ9fKRdTe5tr6JsMbalkE0l

[815] Metropolitan Police, 'The stop and search process', https://www.met.police.uk/advice/advice-and-information/st-s/stop-and-search/stop-and-search-process/

receipts for stop and search unless activists gave their personal contact details – an action which would be unlawful.[816]

The identification of patterns of concern or best practice in this area is prevented by the lack of comprehensive statistics in relation to the practice of stop and search by law enforcement officials across the countries examined. Very few countries maintain a data system to monitor police checks. For example, **Belgium** lacks centralized and systematic monitoring of police checks and the Brussels authorities confirmed that they do not hold statistics related to increased checks on people going to demonstrations, including preventive searches.[817] According to the Irish Council for Civil Liberties (ICCL), in **Ireland**, statistics on stop and search are not made publicly available, and data on the potential profiling of persons during stop and search incidents is not kept.[818] In **France**, a 1978 law prohibits the collection of racial and ethnic statistics, with very limited exceptions.[819] However, overwhelming evidence of systemic racism in French law enforcement practices has added urgency to long-standing calls to the French authorities to acknowledge and address systemic racial and ethnic discrimination in French policing.[820] For example, the 2020 Defender of Rights' report recommended the establishment of a system of statistical monitoring of discrimination intersecting with people's origins.[821] In March 2024, Amnesty International requested the Ministry of Justice provide data about complaints related to use of excessive force in protests disaggregated by gender, age, ethnicity, residency status, country of origin, current and former nationality, of the claimants, including those living with or without disabilities. No response has been received at the time of the publication of the report.

5.6 TRAINING FOR LAW ENFORCEMENT

5.6.1 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW AND STANDARDS

Given the role of law enforcement as a main operative arm of state force, human rights should be an integral part of all training for law enforcement officials, to ensure compliance with international and national human rights law. It's important that human rights training is integrated in all training modules, and not treated as a stand-alone subject, separate from the day-to-day practice of policing. Law enforcement officials need to be specifically trained in the policing of assemblies, and only those trained should be deployed for that purpose.[822] The training should be practical and scenario-based, and should at a minimum include: a full understanding of the duty of law enforcement officials to facilitate and protect assemblies and the practical implications of that duty; the development of communication skills, in particular of de-escalation, negotiation, mediation and peaceful settlements of conflicts; the human rights compliant use of force, including how to avoid the need to resort to the use of force; and the human rights compliant handling of the equipment and weapons they are provided with.[823] Further, anti-discrimination and diversity modules should be included to sensitize law enforcement officials to the specific needs and situations that might arise during assemblies. This includes, among other things, training on the specific duties and obligations of the police in relation to individuals and groups most that have historically faced discrimination, or are otherwise marginalized or at

[816] Amnesty International UK, 'Amnesty briefing on policing of COP26', August 2022, https://www.amnesty.org.uk/files/2022-08/Policing%20of%20Cop26.pdf?VersionId=EI9_3tjHeHQ9fKRdTe5tr6JsMbalkE0l

[817] E-mail correspondence between Brussels' Police Commissioner dd. 9 March 2023 (on file with Amnesty International); PolStops, 'Stop and Search in Europe – Country report', available at https://polstops.eu/wp-content/uploads/2019/12/COUNTRY_REPORT_v2019.pdf; Amnesty International, Belgium: Submission to the UN Committee on the Elimination of Racial Discrimination 103rd session, 19-30 April 2021, available at https://www.amnesty.org/en/documents/eur14/3919/2021/en/

[818] ICCL, National Consultations On The Right To Protest In Ireland Facilitated By The Irish Council For Civil Liberties (IccL) and Supported by the International Network Of Civil Liberties Organizations (Inclo), 26 June 2019, available at https://www.iccl.ie/wp-content/uploads/2019/06/190626-ICCL-National-Consultations-Preliminary-Report.pdf, para. 28.6

[819] Law No. 78-17 of 6 January 1978 relating to data processing, files and freedoms, available at https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000037090124/2019-03-18

[820] See "Rights group complaint to the UN over French police racial profiling', April 2024, available at https://www.rfi.fr/en/france/20240411-rights-groups-complain-to-un-over-french-police-racial-profiling

[821] Defender of Rights, "Executive Summary: Discrimination and Origins: The Urgent Need for Action", 22 June 2020, available at https://www.defenseurdesdroits.fr/sites/default/files/2023-10/ddd_rapport_discriminations-origine_2020_synthese_EN_20200921.pdf

[822] HRC, General Comment 37, paras 80-81.

[823] 1990 Basic Principles, Principles 18-20; OSCE-ODIHR, Human Rights Handbook on Policing Assemblies, 2016, p.67-68; ACHPR, Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa, 2017, para. 21.2.8.

risk of facing a higher danger of human rights violations during peaceful assemblies.[824] Such groups may include LGBTI+ individuals and groups, young people, women, people with disabilities, racialized people, indigenous people, internally displaced persons, and non-nationals, including refugees, asylum seekers and migrant workers. Any officers deployed to police assemblies with weapons, including less-lethal weapons, should have received specific training on their appropriate use during assemblies.[825]

Generic contingency plans and training protocols should also be developed by the relevant law enforcement agencies, in particular for policing assemblies of which the authorities are not notified in advance and which may affect public order.[826]

Furthermore, the training curricula should be regularly reviewed and updated, including to incorporate lessons learned from past assemblies and legal developments at the national and international levels to enhance human rights protection in the context of law enforcement.

5.6.2 LEGISLATION AND PRACTICE ON TRAINING OF LAW ENFORCEMENT IN HUMAN RIGHTS-COMPLIANT POLICING OF ASSEMBLIES

There is little publicly available information on the training of law enforcement officials in human rights-compliant policing of assemblies. Such information and related curricula are often contained in internal police regulations, which Amnesty International was not able to access to assess their compliance with international and regional human rights law and standards.

Among the countries examined for this report, the requirements for law enforcement to observe human rights and attend human rights compliant training exists in many countries. However, most of the countries did not have specific legal requirements for training on human rights-compliant policing of assemblies, or that only police officers who have received such training be deployed to assemblies but had legal provisions requiring the police to observe human rights. For instance, in **Ireland**, one of the functions of police is 'vindicating the human rights of each individual'[827] and they also have a statutory 'public sector equality and human rights duty'[828] to respect human rights. Training on human rights or human-rights compliant policing is offered but there is no requirement to undertake it. This is likely to affect the policing of assemblies, especially where untrained police officers are deployed.[829]

In **Poland** there is no requirement for police to be trained in human rights-compliant policing. In **Luxembourg**, no specific training exists on policing assemblies. In **France** and **Slovenia**, law enforcement officials without training in human rights-compliant policing may still be deployed to assemblies.

Most state authorities approached for this research stated that training in human rights-compliant policing for law enforcement officials exists, to varying degrees. However, it is often unclear whether this includes specific training on the policing of assemblies, and whether such training is mandatory for all officers who are deployed to police protests. In **Portugal**, authorities told Amnesty International Portugal that assessment of past operations and lessons learnt are gathered and used to inform future trainings, however, no information was provided about whether there is specific training on policing of assemblies.[830] Some countries had started enhancing training in the policing of assemblies. In **France**, for example, the Direction Centrale du Recrutement et de la Formation de la Police Nationale confirmed that training for all units on policing assemblies was strengthened with a mandatory online training and 15 days of practical exercises for commanding officers and some other officers. However, they could not guarantee that all officers deployed to assemblies had undertaken this training.

Concerningly, some authorities' responses showed a lack of institutional understanding of the international human rights obligations for policing assemblies. For example, in **Italy** the Ministry of the Interior stated that "public force is employed as a priority to carry out a valid deterrence and containment action in order to achieve, especially in risk and critical situations, an effective de-escalation of any tensions that may have

[824] Amnesty International, Policing Assemblies, PHRP Short paper series No 1 https://policehumanrightsresources.org/content/uploads/2013/01/Short-paper-series-no-1-%E2%80%98Policing-Assemblies%E2%80%99.pdf?x49094; see also Venice Commission Guidelines, para. 84.
[825] HRC, General Comment 37, para. 81.
[826] HRC, General Comment 37, para. 77.
[827] section 7 of the Garda Síochána Act 2005, https://www.irishstatutebook.ie/eli/2005/act/20/section/7/enacted/en/html#sec7
[828] Irish Human Rights and Equality Commission Act 2014, section 42.
[829] A Freedom of Information request by ICCL in 2023 revealed that 'of the near 14,000 Garda members, only 23% had completed training in human rights', https://www.iccl.ie/news/not-enough-is-being-done-to-ensure-human-rights-are-at-the-heart-of-the-garda-reform-programme/
[830] Letter from the Minister of Internal Affairs received on 12 July 2023

arisen", whereas, according to international standards, the use of force must be the last resort, after non-violent de-escalation techniques have been tried.[831]

This is an additional reason for making police guidelines, training curricula and materials publicly available to ensure there is public scrutiny on whether authorities are upholding international law obligations, and to support building trust and transparency and creating a culture of accountability for police.

Overall, states should ensure that their legislation provides for an express requirement for law enforcement to observe human rights in the exercise of their duties to underscore the standing obligations to respect, protect and fulfil human rights pertaining under international human rights law, and to also reinforce the necessity for the police to receive training in human rights compliant policing (that addresses also policing of assemblies) including specifically non-discrimination, and that only law enforcement who have been through such training can be deployed to protests.

This research also noted the lack of public information on police training and guidelines used in the context of law enforcement, including during assemblies. This makes any possibility for scrutiny and suggestions for improvement extremely difficult for NGOs and others who want to engage with the situation in countries. There is also little data or transparent and publicly accessible evidence about whether and how law enforcement agencies examine incident reports and carry out evaluations of police operations regarding assemblies, including to examine whether any training for law enforcement officials on human rights-compliant policing of assemblies has resulted in changes in policy and behaviour.

5.7 CONCLUSIONS AND RECOMMENDATIONS

Evidence gathered from the 21 countries analysed suggests a very patchy and inconsistent approach to ensuring human rights-compliant policing of assemblies across Europe. While some domestic frameworks are more geared towards de-escalation and preventing the use of force, in many countries police practice raises serious concerns, particularly around arbitrary arrests, the misuse of less-lethal weapons, containment practices and the discriminatory policing of protests.

With discrimination and racism prevalent across Europe, coupled with a long list of situations where excessive and unnecessary force was used against people especially in the context of assemblies, at times with serious injuries and harm inflicted, it is paramount for authorities to urgently tackle the concerns raised above. While this research has limitations due to the nature of the methodology used, the findings point to a wide range of concerns that authorities must tackle with urgency to ensure that any policing of assemblies is done in a human -rights complaint manner.

This chapter should be read in conjunction with Chapter 6 (Accountability) which looks at the systems of accountability states must put in place – as per their obligations under international human rights law to ensure that actions of law enforcement officials are subjected to review and that any human rights violations committed in the context of assemblies are addressed.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

DE-ESCALATION AND THE USE OF FORCE

- States should translate the "necessity and proportionality" principles on the use of force into detailed regulations which outline a hierarchy of tactics including a de-escalation approach.
- States should develop guidelines for the policing of assemblies, which should focus on a facilitative approach, seeking to avoid the use of force, rather than contemplating only and immediately the use of force. When it comes to the use of force, guidelines should be specific and regulate how to avoid the need to resort to the use of force as well as when force may be used and when not. These guidelines should be made public.
- Where dialogue units exist, engaging with such units should be voluntary for organizers and participants, and not engaging should not result in detriment to the facilitation of assemblies.

[831] Italy, Correspondence with the Department of Public Security (Ministry of Interior) on 19 May 2023; France, Amnesty International, France: Call for suspending the use of rubber bullets fired with the LBD40 and for banning grenades GLI-F4 in the context of policing protests - Amnesty International, 3 May 2019, 21/0304/2019

EQUIPMENT AND TACTICS

- Regulations for law enforcement on the use of force should include details on appropriate weapons for use in particular circumstances, compliant with and citing international human rights and OSCE guidelines, the ECHR, the UN Human Rights Guidance on Less-lethal Weapons in Law Enforcement, and the UN Basic Principles on the Use of Force and Firearms. Such regulations should be made public.
- Specific operational purposes, thresholds of dangers that must be met, as well as precautions to be taken and prohibitions should be clearly defined for each type of weapon separately.
- Each state's legislation regulating policing powers should explicitly cite and commit to respecting the UN Basic Principles on the Use of Force and Firearms, and the European Code of Police Ethics. In particular, states should include provisions specifying that:
    - Law enforcement officials must apply non-violent means first, and may only resort to the use of force if all other means remain ineffective or without any promise of achieving the intended result.
    - Specific types of less-lethal weapons should be banned from use during assemblies, for example tear-gas grenade GLI-F4 and rubber bullets fired with the LBD40[832];
    - When using force, law enforcement officials shall exercise restraint and minimize damage and injury. Further, the use of force must be proportionate to the seriousness of the offence and the legitimate objective to be achieved.
    - Firearms may not be used against persons except in self-defence or in the defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.
    - Law enforcement officials are obliged to follow effective reporting and review procedures for all incidents when injury or death is caused by the use of force and firearms, to guarantee effective accountability.
- Law enforcement officials should avoid the use of containment tactics, for example by "kettling" or otherwise cordoning off or surrounding protesters and not letting them leave, unless such a measure is strictly necessary to isolate violent protesters, and as a measure of last resort to avoid having to disperse the entire assembly. Using such tactics during an outbreak of a communicable disease (such as during a pandemic) should be prohibited to avoid the spread of the disease between people who are being contained closely together.
- The military should not be used to police assemblies, unless in exceptional circumstances and on a temporary basis for which they must have received appropriate instructions, equipment and training to enable them to comply with international human rights law and standards applicable to law enforcement officials. Where the military is deployed, they must operate under civilian command. States must not use private security providers to police assemblies and must never delegate to them the authority to use force. Where they may be involved in the protection of property, there must be a clear regulatory framework governing their conduct and clearly defining the limits of their powers.

DISPERSAL

- Dispersal must be recognized as a measure of last resort in laws and regulations governing assemblies.
- States should develop comprehensive guidelines on the dispersal of assemblies in accordance with international human rights law and principles. Such guidelines should be made public and should include detailed provisions on circumstances that warrant the dispersal of an assembly, steps to take prior to making the decision to disperse and who may issue an order to disperse.
- Warnings must be audible, with appropriate equivalent means for those with hearing impairments, and participants must be given sufficient time to disperse.

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[832] Amnesty International, *France: Call for suspending the use of rubber bullets fired with the LBD40 and for banning grenades GLI-F4 in the context of policing protests - Amnesty International*, 3 May 2019, 21/0304/2019.

- Authorities should monitor the frequency of, and process and reasons for, dispersals to inform future reviews of their practices and ensure compliance with international human rights law and standards.

ARREST, DETENTION AND STOP AND SEARCH

- States should abolish administrative/preventive detention, even if there is a form of judicial review over such detention, where there is no intent to prosecute in a criminal trial, and in particular refrain from using such methods to curtail people's rights to freedom of peaceful assembly and expression.
- States should ensure that participation in a peaceful assembly does not serve, in law or in practice, as a reason to conduct an identity check, and that such checks are not conducted simply for the purpose of collecting information about peaceful assemblies or protesters. Such checks can be considered justifiable only if necessary to protect the rights and freedoms of others, for example if there is reasonable suspicion that the individual may engage in violence or other criminal behaviour, or other grounds for limitations contained in international instruments. Otherwise, such checks can be discriminatory and could have a chilling effect on participation in assemblies. As a minimum, states should, through legislation and in practice:
    - Clarify that such checks may not be carried out during peaceful assemblies, unless there is a reasonable suspicion of a sufficiently serious criminal offence based on individualized and objectively verifiable criteria.
    - Eliminate police powers that are not based on the standards of reasonable suspicion, and otherwise not compliant with international human rights law, and ensure that police actions can only be exercised based on a suspicion that is founded on objective criteria.
    - Ensure that stop, search and arrest protocols clearly define and prohibit racial profiling.
    - Establish the systematic use of stop forms, which record the circumstances of the check, the self-perceived ethnicity of the person subjected to the identity check and the grounds for the stop detailing the reasonable suspicion held. States should ensure that these forms are monitored in a systematic manner so that stops, searches and arrests are not used, directly or indirectly, in a discriminatory manner, and to address any indication of racial profiling by the police during these stops.
    - Ensure that effective remedies are available and accessible for persons subjected to unlawful identity checks and related unlawful arrests and detentions.

NON-DISCRIMINATION

- Tackle and eradicate racism and any other form of discriminatory policing to ensure that everyone can enjoy the right of peaceful assembly without any restrictions based on the real or perceived identity of organizers and protesters
- Collect disaggregated data by race, ethnicity, religion, nationality and migration status regarding apprehensions, arrests, incidents of use of force of protesters involved in assemblies. These data should be made available and inform policies that address any discriminatory impact of police laws and practices on Black people, Arab people, Roma and people belonging to other racialized groups;

TRAINING

- Training on human rights principles and standards should not be a stand-alone course but should be integrated in a practical manner across the entire police training curriculum to illustrate the application of human rights standards to all areas of policing.
- Training on human rights-compliant policing must be practical, scenario-based and include specific elements which address assemblies, focusing on actual situations that may be encountered in practice. The principles of de-escalation and non-discrimination, including on racism and sexism, as well as gender-based violence, should form core elements.
- Only law enforcement officials who have been trained on the policing of assemblies should be deployed to facilitate assemblies, and this requirement should be anchored in law. The training should also be conducted regularly to ensure that those officers are updated on the developments in law and practice that are relevant for their work.
- Training providers should develop a monitoring and evaluation mechanism for training, and its results should be used to inform continuous improvement of such training to address shortcomings and ensure that situations arising in practice are adequately incorporated into the future curriculum.

- States should disseminate information about the training of law enforcement officials on the policing of assemblies and ensure that guidelines used in such contexts are publicly available.

6. ACCOUNTABILITY

6.1 INTRODUCTION

Victims of human rights violations have the right to an effective remedy. Nobody is above the law, including those who have a duty to uphold it.

The principle of accountability requires states to ensure that the actions of law enforcement officials are subject to review and that any human rights violations committed in the context of an assembly are redressed. It also requires states to set up review mechanisms whereby organizers and participants can challenge the legality of any interference with their right of peaceful assembly, including the use of force.[833]

Amnesty International's research for this report found cases of impunity or lack of accountability in numerous countries including Austria, Belgium, France, Greece, Germany, Italy, Luxembourg, Portugal, Serbia, Slovenia, Spain, Switzerland, Türkiye and the UK.

This chapter presents what can only be considered to be a snapshot of concerns and illustrative examples. There are potentially a high number of unreported cases – not least in countries where there is a culture of impunity, since this in itself discourages reporting and fuels a reluctance to attempt to seek accountability through institutional channels.

Lack of accountability for human rights violations, including in the context of assemblies, is highly problematic. However, it is further exacerbated and harmful when coupled with – and at times maintained by - other factors such as inadequate legislation, systemic racism and other forms of discrimination, and an entrenched culture of impunity for abuses among law enforcement. Amnesty International's long-standing research has identified a worrying pattern of restrictions imposed on marginalized groups, especially LGBTI people, Muslim people, Arab people, Black people and people belonging to other racialised groups. It is important to note that there are communities, groups and individuals who are frequently subjected to discrimination and who may face particular challenges in participating in assemblies, who are often subjected to disproportionate restrictions when participating in assemblies, unlawful or excessive use of force by police, including in the context of assemblies, discrimination and racism by police, and who often subsequently encounter additional obstacles to access justice when seeking accountability for unlawful use of force and other violations of their rights committed by authorities. This is particularly important considering that "historical roots of racism, including colonialism and the transatlantic slave trade in enslaved Africans, and their impact on key State institutions, including law enforcement and the criminal justice system… permeate present policing".[834]

This chapter should be read together with chapter 5 that aimed to document extensive concerns in relation to policing of assemblies in the countries examined for the report.

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[833] UN Special Rapporteurs, Joint report, UN Doc. A/HRC/31/66, 4 February 2016, para. 64. Also, according to Principle 22 of the Basic Principles on the Use of Force and Firearms, and article 8 (with commentary) of the Code of Conduct for Law Enforcement Officials, states must establish effective reporting and review procedures to address any incident in relation to an assembly during which a potentially unlawful use of force occurs.

[834] Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, Report, 2023, UN Doc. A/HRC/54/69, para 21(a).

6.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW AND STANDARDS

States must provide equal and effective access to justice, irrespective of who ultimately may be responsible for the violation. This obligation includes the provision of effective remedies, redress and compensation, as well as guarantees of non-repetition.[835] The right to an effective remedy for human rights violations is recognized under numerous international and regional instruments, including Article 2 of the ICCPR.[836] States have an obligation to guarantee that affected persons can make effective complaints and to ensure that relevant allegations are investigated promptly, thoroughly and effectively by independent and impartial bodies, in a publicly verifiable manner where the affected persons are involved in the proceedings.[837]

Any abuse of state power and violations of human rights protections by state officials prior to, during, or in the aftermath of assemblies – including instances of unlawful dispersal or early termination of assemblies, discriminatory restrictions, use of force, or acts or threats of violence – should lead to prompt, thorough and independent investigations.[838] It is important to note that both "intentional and negligent action or inaction can amount to a violation of human rights".[839] In order to support and facilitate the right to remedy, unlawful use of force, as one of the most frequently reported abuses by law enforcement in relation to protests, should trigger an automatic and prompt review process.[840] The HRC has further clarified that there is no immunity from legal responsibility for anyone with official status,[841] and that "failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the [ICCPR]."[842] An evaluation of the necessity and proportionality of actions and omissions by state officials requires an objective process with a clear sets of rules set out in law and publicly accessible regulations against which restrictions and interventions, including the use of force, can be evaluated.[843]

Internal disciplinary proceedings, criminal or civil court proceedings, and investigations by police oversight bodies should thereby form an effective framework to ensure internal discipline, external control and supervision of law enforcement officials, who should also be held accountable in criminal and civil proceedings.[844] At a minimum, the different processes should not obstruct one another and should be allowed to be conducted in parallel as they address different aspects and have different functions. Where there is evidence of a criminal offence, investigations in criminal proceedings should be conducted as a priority. As discussed below (section 6.5.1) these different processes are not always complementary and do not always contribute to an effective accountability framework overall.[845]

To promote a culture of accountability for law enforcement officials during assemblies,[846] any use of police powers such as arrest and detention, stop and search, and the use of force, among others, should be assessed within an effective accountability system consisting of internal and external mechanisms to ensure compliance with laws and regulations based on international human rights law and standards, including the right to non-discrimination.[847]

Individual officials responsible for violations must be held accountable under domestic law in line with international human rights standards, as well as international law. [848] To facilitate this, law enforcement officials should always display a visible and easily recognizable form of identification during assemblies,[849]

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[835] UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 15 December 2005, https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation; see also Amnesty International, Short Paper Series No.2, January 2015, https://policehumanrightsresources.org/content/uploads/2015/01/Short-paper-series-no.2-Police-oversight.pdf?x54919 p.11

[836] ICCPR, Article 2(3). Others notably include article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 39 of the Convention on the Rights of the Child. See also ECHR, Articles 6 and 13.

[837] Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 15.

[838] Venice Commission Guidelines (2020), para. 234.

[839] HRC, General Comment 37, para. 90.

[840] Venice Commission Guidelines (2020), para. 33.

[841] HRC, General Comment 31, para. 18.

[842] HRC, General Comment 31, para. 15.

[843] ECtHR, İzci v. Türkiye, Application no. 42606/05, Judgment, 23 July 2013, paras. 98-99.

[844] Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials (Part I, B3,4)

[845] For example, in Austria, criminal proceedings unduly determine the outcome of disciplinary processes, and in Czechia, criminal proceedings preclude disciplinary proceedings.

[846] HRC, General Comment 37, para. 89.

[847] Amnesty International, Police Oversight, Police and Human Rights Programme Short paper series No. 2, January 2015, https://policehumanrightsresources.org/content/uploads/2015/01/Short-paper-series-no.2-Police-oversight.pdf?x54919, p.5

[848] HRC, General Comment 37, para. 90.

[849] HRC, General Comment 37, para. 89.

and clear command structures should be in place.[850] In exceptional circumstances where plain-clothes police officers are deployed, they must identify themselves before resorting to any use force, making an arrest or conducting a search.[851]

The Committee of Ministers overseeing the implementation of judgments of the European Court of Human Rights also recently urged that "law enforcement agents who have been charged with crimes involving ill-treatment are suspended from duty during the investigation or trial and dismissed if they are convicted."[852]

The use of force should trigger an automatic and prompt review process, including a written, transparent record of the kind of force used, with sufficient information to establish whether force was necessary and proportionate, and including a record of the weapons deployed and identification of officers.[853] Where injuries or deaths result from the use of force by law-enforcement personnel, an independent, impartial, transparent, prompt, effective and thorough investigation must be launched.[854]

External oversight mechanisms are crucial to ensure that misconduct is investigated impartially, to avoid any inherent bias. An external oversight body for police should therefore be equipped with the

> **"necessary powers, resources, independence, transparency and reporting, community and political support, and civil society involvement, including the ability to receive complaints from the public and to investigate them. In addition, a high degree of transparency is also required to ensure the long-term success of the oversight agency."[855]**

Just as internal police oversight mechanisms should consider how the structures, systems, policies, processes or practices being monitored have a differential impact on people, depending on their identities – for example, on racialised people, on people of different genders[856] - whether as staff, users or beneficiaries of police services, external oversight mechanisms should also consider such differential impacts, including by ensuring that disaggregated data on ethnic, racial, gender and other aspects of people's identity is recorded and reported.[857]

States must ensure that the public is aware of the right to remedy, and which laws and regulations apply to seeking accountability for potential violations before, during and after assemblies.[858]

Journalists, including community media workers and citizen journalists, and observers who are monitoring or reporting on assemblies should receive special protection to fulfil these functions, especially to monitor and record the actions of law enforcement officials.[859]

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[850] HRC, General Comment 37, para. 77.
[851] HRC, General Comment 37, para. 92.
[852] Committee of Ministers, 1483rd meeting, 5-7 December 2023 (DH), H46-18 Cestaro group v. Italy (Application No. 6884/11). ECtHR, *Cestaro v Italy*, App. No. 6884/11, judgment of 7 April 2015, para. 210.
[853] Venice Commission Guidelines (2020), para. 233. This includes details of the incident, including the reasons for the use of force, its effectiveness and the consequences of it.
[854] Venice Commission Guidelines (2020), para. 33; OHCHR, The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), New York/Geneva (2017), para. 22.
[855] Special Rapporteur on extrajudicial executions, Report, UN Doc. A/HRC/26/36, 1 April 2014, para. 84. Also the ECtHR has established five principles for the effective investigation of complaints against the police that engage Article 2 (right to life) or 3 (right to be free from torture or other ill-treatment) of the ECHR, that is an investigation of a death or serious injury in police custody or as a consequence of police practice: 1) *Independence*: there should not be institutional or hierarchical connections between the investigators and the officer complained against and there should be practical independence; 2) *Adequacy*: the investigation should be capable of gathering evidence to determine whether police behaviour complained of was unlawful and to identify and punish those responsible; 3) *Promptness*: the investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law; 4) *Public scrutiny*: procedures and decision-making should be open and transparent in order to ensure accountability; and 5) *Victim involvement*: the complainant should be involved in the complaints process in order to safeguard their legitimate interests.
[856] OSCE, Integrating Gender into Internal Police Oversight, Gender and SSR Guidance Note, 2014, https://www.osce.org/files/f/documents/2/a/118326.pdf
[857] The positive obligations on states regarding protests include the creation of an enabling framework, in both law and practice, to ensure that all those who would like to exercise their right to peacefully organize and participate in assemblies can do so, without discrimination (ICCPR/ article 2, HRC's General Comment 37). States must therefore ensure that laws and practices do not result in discrimination of people or groups in the enjoyment of the right of peaceful assembly, including on the basis of 'race, colour, ethnicity, age, sex, language, property, religion or belief, political or other opinion, national or social origin, birth, minority, indigenous or other status, disability, sexual orientation or gender identity, or other status'. Effective monitoring of the impact of legislation and policies on different groups and collection of accurate disaggregated data to use in identifying and addressing discrimination is paramount in order for states to be upholding such obligations. DCAF, OSCE/ODIHR, UN Women, "Policing and Gender", in Gender and Security Toolkit, 2019, https://www.dcaf.ch/sites/default/files/publications/documents/GSToolkit_Tool-2%20EN%20FINAL_0.pdf, p.37.
[858] HRC, General Comment 37, paras. 28, 90. See also UN General Assembly resolution 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 21 March 2006.
[859] UN Special Rapporteurs, Joint Report, UN Doc. A/HRC/31/66, 4 February 2016, paras. 69-71; HRC, General Comment 37, paras. 30, 74 and 94.

6.3 ACCOUNTABILITY FOR VIOLATIONS BY POLICE OFFICERS

6.3.1 REPORTING AND CHAIN-OF-COMMAND STRUCTURES

Most jurisdictions of the countries examined in this report have a chain-of-command structure in place. In some countries, this is established in law[860], and/or in internal and not publicly available police guidelines.[861] In the majority of the countries examined there was no detailed publicly available information on these structures, making it difficult from the outside to determine which department, unit or person would be responsible in a given situation.

There is little evidence available across countries to assess how, if at all, law enforcement bodies record use of force during assemblies. Some countries publish annual data related to police use of force; a few others collect statistics which could be obtained through 'freedom of information' requests or similar, but no country seems to be collecting disaggregated data specifically on the use of force during protests. For example, the police forces in the **Netherlands** and in **Slovenia** maintain a record of when less-lethal weapons and other equipment were used by law enforcement in general.[862]

6.3.2 VISIBILITY OF INDIVIDUAL IDENTIFICATION BADGES FOR POLICE OFFICERS

Five countries out of the 21 surveyed – **Austria**, **Italy**, **Luxembourg**, the **Netherlands** and **Serbia** – have no requirements for law enforcement officers to wear individual identification badges when performing official duties.[863] In **Germany** and **Switzerland**, only some federal states/cantons have such a requirement established in law. [864]

Several other countries, namely **Belgium**, **Czechia**, and **Slovenia**,[865] have a general obligation in law but allow for exceptions. For example, in **Czechia**, police may conceal their identities when engaging in so-called "spotting", a practice of attending assemblies to supervise and identify potentially 'dangerous' individuals in order to prevent 'criminal' activities. [866] In **Finland**, according to national legislation, police officers should be "identifiable where necessary".[867] In **Slovenia**, while the decree on police uniforms obliges officers to wear individual identifying badges, the same law allows the director-general of the police to determine via internal regulations the posts or tasks for which police officers are not obliged to wear an identification tag. [868] Protesters have repeatedly reported that police officers were not wearing identification tags.[869]

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[860] France, Finland, Germany, the Netherlands, Italy, Luxembourg, Portugal, Slovenia, and Sweden.
[861] Greece, Germany, Hungary, Poland, Türkiye, and the UK.
[862] The Netherlands, 'Increase of the use of force in 2023 (in Dutch), 18 April 2024 https://www.politie.nl/nieuws/2024/mei/6/00-toename-geweldsaanwendingen-door-politie.html; Slovenia, Ministry of Interior, Police, Report on the use of coercive means and attacks on police officers in 2021 (in Slovenian), March 2022, https://www.policija.si/images/stories/Statistika/DrugiDogodki/PolicijskaPooblastila/UporabaPS2021.pdf
[863] Austria, see Amnesty International Austria, 'Amnesty Statement on the Investigation Unit into Police Violence' (in German), 24 April 2023, available at: https://www.amnesty.at/presse/amnesty-stellungnahme-zur-ermittlungsstelle-bei-polizeigewalt/; Italy, see petition launched by Amnesty International Italy for law on identification codes for police forces, available at: https://www.amnesty.it/appelli/inserire-subito-i-codici-identificativi/;
[864] Germany: Amnesty International Germany, 'Compulsory Identification for Police Officers' (in German), September 2018, https://www.amnesty.de/sites/default/files/2019-03/Amnesty-Positionspapier-Kennzeichnungspflicht-fuer-Polizist_innen-November-2018.pdf; Switzerland: Bern, the Grand Council (cantonal parliament) rejected a motion by the green party for such an identification requirement in 2018, by 119 votes to 12, see: 'The name tag is not mandatory' (in German), 22 January 2018, available at:https://www.derbund.ch/das-namensschild-ist-nicht-pflicht-105767109380; Basel, see: Cantonal Police Ordinance; Geneva, see: Art. 46 Police Law Geneva (F 1 05); Zurich: Cantonal Police Ordinance, Article 24(a).
[865] Belgium, Police Service Act, 5 August 1992, Article 41. Czechia: Act on Police, section 12(3); Slovenia: '*Decree on police uniforms, rank insignia and symbols* (in Slovenian), 2014, available at: http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6720, available at: http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6720 but the Director General of the Police may, in an internal regulation, determine in which posts or tasks police officers are not obliged to wear an identifications tag.
[866] Act on Police, section 12(3).
[867] Police Act, Chapter 1 section 8.
[868] *Decree on police uniforms, rank insignia and symbols* (in Slovenian), 2014, Articles 26 and 46, available at: http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6720
[869] Information obtained from protesters through Amnesty Slovenia's work on the Legal Network for the Protection of Democracy in 2021 and 2022.

In **France**, **Greece**, **Hungary**, **Poland**, **Portugal**, **Spain**, **Türkiye** and the **UK**, requirements exist but are often not complied with in practice.[870] In several countries where identification badges are used, these are not always visible. For example, in **Greece**, where riot police officers should display their identification numbers on their helmets,[871] Amnesty International has collected testimonies from protesters and journalists, and has also viewed relevant images, stating that riot police either did not display such identification or that it was not visible due to being positioned on the back of the helmet. In one case, riot police officers involved in a demonstration on 6 December 2020 in the city of Chania had pictures of ancient warriors' helmets on their helmets, and not individual identifying numbers.[872] In **Portugal**, Amnesty International Portugal documented cases of protesters claiming that police officers did not wear identification badges, if they did, they were not visible. In December 2023, during a protest held opposite the Lisbon prison, a journalist was reportedly beaten by a riot police officer while filming. According to the journalist, the officer and several others were not wearing identification.[873] In **Türkiye**, some police units, especially those which deploy plain-clothes officers to protests, are required to wear vests with an identification number.[874] However, they do not always wear the vests.[875]

In **Spain**, while police officers are required to wear individual identification numbers, allegations of non-compliance are frequent. Some groups reported that, where numbers were worn, they were covered by the officers' anti-trauma vest.[876] Nonetheless, the Ministry of the Interior rejected a recommendation from the Spanish Ombudsman urging that identification numbers should be visible no matter what the officers were wearing.[877] Non-compliance constitutes a mere disciplinary infraction, which means that officers are

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[870] France, 'Code of ethics of police and Gendarmerie and the 24 December 2013 decree' (in French), 2014, available at: https://www.ensp.interieur.gouv.fr/content/download/14230/125799/file/Code-de-d%C3%A9ontologie-PN-GN.pdf; Please note that on 11 October 11, 2023, the French Council of State ruled that "the Minister of the Interior had not taken the appropriate measures to ensure effective compliance by members of the internal security forces with the requirement to wear their individual identifiers effectively and visibly, requesting that the "readability" of the identity and organization reference number be "sufficient for the public". The Court ordered the Ministry of the Interior to make the obligation for law enforcement officers to visibly wear their identification number more effective, see: 'Basis of Case Law' (in French), 11 October 2023, available at: https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-10-11/467771; Greece, see FN below; Hungary, Act of Police, Article 20 (3) "unless this would jeopardise the effectiveness of the police action"; Poland, Decree of the Minister of Interior and Administration, paras 24 and 28, note that legislation establishing this requirement does not mean that the badge needs to be visible; Portugal: Regulation on the uniforms of police officers of the Public Security Police (PSP), approved by Order no. 422-A/2021, of 27 September, Article 10; Spain, Instruction 13/2007 of the State Secretariat for Security (https://seguridadpublicasite.files.wordpress.com/2017/11/instruccion-13_2007.pdf, sections 1 and 2; Türkiye, Memorandum issued by the General Directorate of Security Affairs, the latter is stated in the 'Regulation on the Dress Code for members of the security services' (in Turkish), available at: https://www.mevzuat.gov.tr/anasayfa/MevzuatFihristDetayIframe?MevzuatTur=7&MevzuatNo=11510&MevzuatTertip=5; UK, PACE Act 1984 s2(2); Netpol, *Respect or Repression,* 24 January 2022, available at: https://netpol.org/respect-or-repression-report-web-version/

[871] See decision of the Chief of the Greek Police 7012/6/103 – οζ of 29 March 2021 amending Decision 7012/6/103 of 2009 (GOG 1426/Β/16-7-2009), available at: https://easya.gr/wp-content/uploads/2021/04/100521672886-%CE%B1%CF%80%CF%8C-01-04-2021.pdf; see also Hellenic League for Human Rights, 'Hellenic Police, Issues of Excessive Police Violence and Arbitrariness' (in Greek), 2022, available at: https://www.hlhr.gr/wp-content/uploads/2022/11/%CE%9A%CE%B5%CE%AF%CE%BC%CE%B5%CE%BD%CE%BF-%CE%B8%CE%AD%CF%83%CE%B5%CF%89%CE%BD-%CE%B1%CF%83%CF%84%CF%85%CE%BD%CE%BF%CE%BC%CE%AF%CE%B1-%CE%95%CE%BB%CE%95%CE%94%CE%91.pdf

[872] Amnesty International verified this by viewing images of this event.

[873] The General Inspectorate of Internal Administration (IGAI) confirmed to Amnesty International Portugal that an internal investigation was opened. See also Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, https://www.amnistia.pt/a-liberdade-como-bandeira/. Amnesty International Portugal interviewed the journalist on 2 January 2024.

[874] Police Services Class Members Dress Code, article 22, indicates that police officers are required to wear identification number on clothing (however the Police Chief does not wear ID) - https://www.mevzuat.gov.tr/anasayfa/MevzuatFihristDetayIframe?MevzuatTur=7&MevzuatNo=11510&MevzuatTertip=5; Police Force Disciplinary Regulation Article 5/A3 indicates that dressing in a manner contrary to the Police Class Members Dress Code, attending duty with incomplete attire, and not wearing the registration number are subject to disciplinary action - https://www.mevzuat.gov.tr/MevzuatMetin/2.5.717339.pdf;

[875] Amnesty International Türkiye, along with other human rights organizations (Human Rights Foundation of Türkiye, Truth Justice Memory Centre and Media and Law Studies Association) observed the Saturday Mothers/People's peaceful vigils and the police intervention to the vigils between 29 April 2023 and 25 May 2024. The monitoring organizations' reports show that plain-clothes officers do not always wear vests. See Amnesty International Türkiye Saturday Mothers/People Weekly Observation Notes, https://www.amnesty.org.tr/icerik/cumartesi-anneleriinsanlari-haftalik-gozlem-notlari.

[876] These reports refer to protests against the NATO summit in Madrid on 26 June 2022, and are confirmed by several images: either police were not wearing their police identification number or were wearing it under their anti-trauma waistcoat. Legal Sol filed a complaint with the General Directorate of the Police on 29 September 2022, without any consequences. A journalist who usually works covering riots and protests addressed the Ministry of Interior and the National Police on this issue, stating that he observed police officers without proper identification in several protests: 23 November 2021, Cadiz (strike of the metal sector); 25 November 2021, Madrid (feminist protest); 26 November 2021, Madrid (mobilization in support of strikers in Cadiz); 15 January 2022, Madrid (protests against detention of strikers in Cadiz). Amnesty International has access to these pictures, which showed police officers' backs, with no ID number. However, the Ministry of Interior informed the journalist that as the police officers were not wearing anti trauma waistcoats, the ID number was only visible from the front. As all pictures only show police officers' backs, this could possibly be true.

[877] See Spanish Ombudsperson, Characteristics of the personal identification number of the State Security Corps and Forces, https://www.defensordelpueblo.es/resoluciones/numero-de-identificacion-personal-de-las-fuerzas-y-cuerpos-de-seguridad-del-estado/

subjected to an internal procedure, the results of which are only accessible to citizens by making a request to the police, and released at the discretion of the police.[878]

In Catalonia, **Spain**, following a resolution and instruction in the Catalan parliament in 2020, the police officer's identification number must be worn on the back and front of their protective armour, as well as on both sides of the officer's helmet.[879]

6.3.3 INDEPENDENT RECORDING OF POLICE OPERATIONS

To support accountability and promote transparency, anyone, including protest organizers, participants and observers, may wish to record the actions of law enforcement officers.[880] This is expressly allowed only in **Finland**, **Italy** and **Slovenia**.[881] **Hungarian** jurisprudence allows for recording by media representatives.[882] There are no explicit regulations in **Austria**, **Germany**, **Greece**, **Spain** or **Sweden**,[883] but recordings are generally allowed.

In **Türkiye**, while there are no legal regulations, the authorities attempted to prevent audio and video recording of law enforcement officers at demonstrations in 2021.[884] The Council of State annulled the ban.[885]

In practice, a number of testimonies and videos attest to aggressive and intimidating behaviour by police officers against individuals filming police operations in **Belgium, Türkiye** and the **UK**.[886] Unnecessary use of

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[878] Amnesty International Spain, *Right to protest in Spain: seven years, seven gags that restrict and weaken the right of peaceful protest in Spain"* (in Spanish), November 2022, available at: https://doc.es.amnesty.org/ms-opac/doc?q=*%3A*&start=0&rows=1&sort=fecha%20desc&fq=norm&fv=*&fo=and&fq=mssearch_fld13&fv=EUR41700022&fo=and ; Switzerland

[879] See Government of Catalan – Department of Interior, 'General Directorate of the Police' (in Catalan), 16 October 2020, available at: https://mossos.gencat.cat/web/.content/home/01_els_mossos_desquadra/eines_policials/doc/Instruccio-8-2020-que-modifica-la-Instruccio-16-2014.pdf. In January 2024, Amnesty International Catalonia along with other NGOs (IRIDIA, NOVACT) submitted a complaint before the Catalan Ombudsman informing that in 8 police operations carried out in the context of protests, between September and December 2023, police agents were seen without 360º ID-tags. The Catalan Ombudsman addressed the Catalan Government, in February 2024 - https://www.sindic.cat/es/page.asp?id=53&ui=9917. AI Catalonia held a meeting with the Department of Interior of the Catalan government in January 2024, and discussed the eight cases included in the complaint.

[880] UN Special Rapporteurs, Joint Report, UN Doc. A/HRC/31/66, 4 February 2016, paras. 69-71; HRC, General Comment 37, paras. 30, 74 and 94.

[881] Finland, Constitution of Finland Section 12 on the Freedom of Expression and right of access to information; Italy, see GPDP, 'Newsletter N.359 of 7 June 2012' (in Italian), 7 June 2012, available at: https://www.garanteprivacy.it/home/docweb/-/docweb-display/docweb/1900376#1 although there is an exception provided for, namely 'unless this is expressly prohibited by the public authority'; Slovenia, Information Commissioner of the Republic of Slovenia, 'Filming of the police by citizens' (in Slovenian), 3 April 2013, available at: https://www.ip-rs.si/mnenja-zvop/snemanje-policije-s-strani-ob%C4%8Danov

[882] HCC Resolution No. 28/2014. (IX. 29.), HCC Resolution No. 16/2016. (X. 20.), HCC Resolution No. 17/2016. (X. 20.). In all these cases the Hungarian Constitutional Court held that it was lawful for the press to take and publish photos on police officers to illustrate public events

[883] Austria: Filming or photographing is restricted only to the extent that it must not interfere with police operations, Sicherheitspolizeigesetz, para. 81 https://www.jusline.at/gesetz/spg/paragraf/81; Germany: See 'When police officers may be photographed and filmed' (in German), 16 August 2023, available at: https://www.prigge-recht.de/wann-polizisten-fotografiert-und-gefilmt-werden-duerfen/; Greece: Photographers and journalists are not prohibited from photographing or video recording the policing of protests. In relation to protesters and other third parties, constitutional experts argue that "in view of the discretion of the police to record events on the basis of the provisions of Presidential Decree 75/2020 (on the use of surveillance systems in public spaces), the corresponding ability of the citizen to do the same is imperative on the grounds of equality of evidence". See '"Unexpected encounter": The video recording and publicizing of the police action by the citizens' (in Greek), 9 March 2021, available at: https://www.lawspot.gr/nomika-nea/anapanteho-synapantima-i-vinteoskopisi-kai-dimosiopoiisi-tis-astynomikis-drasis-apo-toys#footnote13_y3yfu88; Spain: Public Security Law (2015) incorporated a provision sanctioning the "non authorized publication of pictures of the security forces" (art. 36 para. 23). This led to police officers preventing journalists and citizens from recording them, sanctioning them or threatening them with sanctions if they kept recording or taking pictures, or even temporary seizing their devices. *Public Security Law*, 2015, Article 36(23). Sweden: Stockholm District Court, *NJA 2017 p. 393* (in Swedish), Supreme Court, 12 May 2017, https://lagen.nu/dom/nja/2017s393

[884] See 'Türkiye orders law enforcement to prevent all recordings of officers ahead of May Day', 30 April 2021, available at: https://ahvalnews.com/turkey-police/turkey-orders-law-enforcement-prevent-all-recordings-officers-ahead-may-day

[885] See Council of State decision, https://d.barobirlik.org.tr/2021/20211217_egmgenelge.pdf

[886] Belgium, Amnesty International, *Belgium: Submission to the UN Committee against Torture 71st Session*, 12-30 July 2021 (Index: EUR 14/4290/2021), 15 June 2021, https://www.amnesty.org/en/documents/eur14/4290/2021/en/; Amnesty International, Belgium: Submission to the UN Committee on the Elimination of Racial Discrimination 103rd session, 19-30 April 2021, (Index: EUR 14/3919/2021), 30 March 2021, https://www.amnesty.org/en/documents/eur14/3919/2021/en/; Amnesty International Belgium, 'Amnesty concerned about police actions during demonstrations' (in Dutch), 8 June 2020, available at: https://www.amnesty-international.be/nieuws/amnesty-bezorgd-over-politieoptreden-tijdens-demonstraties; Türkiye, for example a journalist was prevented from taking photograph of a pro-Kurdish party's press statement, see 'Police prevented HDP MPs from speaking to journalists' (in Turkish), 5 March 2021, available at: https://www.birgun.net/haber/polis-hdp-li-vekillerin-gazetecilere-konusmasini-engelledi-336480; another journalist's phone was also broken by the police to prevent her from recording the police intervention to the May Day protests, see 'Criminal complaint from Journalist Uyanık, who was prevented from shooting and whose phone was broken on May 1' (in Turkish), 5 May 2021, available at: https://artigercek.com/guncel/gazeteci-uyanik-tan-polisler-hakkinda-suc-duyurusu-163153h and another journalist's phone was seized by the police while she was taking photograph of a press statement, see 'Eryaman-Esat oppression continues in the Courthouse!' (in Turkish), 1 June 2021, available at: https://kaosgl.org/haber/eryaman-esat-zulmu-adliye-de-suruyor; UK, see 'Senior officers ordered 'unlawful' arrests of journalists at Just Stop Oil protests', 23 November 2022, available at: https://www.theguardian.com/media/2022/nov/23/senior-officers-ordered-unlawful-arrests-of-journalists-at-just-stop-oil-protests

force, and the apprehension and arrest of journalists by police, have been reported in **Austria**, **Belgium**, **Greece**, **Spain** and **Sweden**.[887] In **Finland**, although some bans on filming of police have been imposed, most were later declared illegal by the body within the police working to ensure the 'legality' control of their practices.[888] In **Serbia**, the authorities have brought misdemeanour charges against journalists whom they considered as organizers,[889] or approached journalists on the street or at their homes requesting that they do not cover protests.[890]

In **Belgium**,[891] due to the potential impact on the right to privacy of the individuals involved and depending on the circumstances, the distribution of recordings of law enforcement actions may be unlawful. Also in **Spain, Germany, and Portugal,**[892] the distribution of recordings of police operations may be unlawful in certain cases.

In **Portugal**, Amnesty International was alerted to reports by activists claiming that police requested or seized their mobile phones, preventing them from recording protests and describing how officers behaved in an intimidating manner towards activists filming protests at recent demonstrations for climate justice and in solidarity with Palestinian people.[893]

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[887] Austria: In Vienna, Austria, at several protests, police prevented journalists from observing and reporting protests or failed to adequately protect them from attacks by protesters. When evicting people from a protest camp in April 2022, police set up a separate press zone for journalists at such a distance from the camp that it was impossible to observe events adequately. See, for example, Amnesty International Austria's posts on X, in German, at https://twitter.com/AmnestyAustria/status/1580132625372434432?s=20, https://twitter.com/AmnestyAustria/status/1569283090144497664?s=20, https://twitter.com/AmnestyAustria/status/1512084407582003206?s=20, https://twitter.com/AmnestyAustria/status/1488512896011223041?s=20
Belgium: Amnesty International Belgium, 'Police concerned about police actions during demonstrations' (in Dutch), 8 June 2020, https://www.amnesty-international.be/nieuws/amnesty-bezorgd-over-politieoptreden-tijdens-demonstraties; Greece: See Amnesty International Greece, *Greece: Freedom of assembly at risk and unlawful use of force in the era of Covid-19* (Index: EUR25/4399/2021), 14 July 2021; Media Freedom Rapid Response, *Controlling the Message: Challenges for independent reporting in Greece,* December 2021, available at: https://www.mfrr.eu/controlling-the-message-challenges-for-independent-reporting-in-greece; and interviews with photojournalists and journalists between May 2022 and June 2023; Spain: Amnesty International Spain, *Right to Protest in Spain* (in Spanish), November 2022, pp. 31-36, 44-45, 48; Sweden: See, for example 'Unacceptable action by the police against journalists!' (in Swedish), 3 June 2022, available at: https://www.reportrarutangranser.se/oacceptabelt-agerande-av-polisen-mot-journalister/; 'The Court of Appeal gives TV4 the right to seize the memory card' (in Swedish), 28 March 2023, available at: https://www.journalisten.se/nyheter/hovratten-ger-tv4-ratt-om-beslagtaget-minneskort/; 'The police after the abduction of the two journalists in Stockholm: "It was clearly wrong"' (in Swedish), 28 June 2022, available at: https://www.journalisten.se/nyheter/polisen-efter-bortforandet-av-de-tva-journalisterna-i-stockholm-det-blev-uppenbart-fel/ 31-36, 44-45, 48; Sweden: See, for example 'Unacceptable action by the police against journalists!' (in Swedish), 3 June 2022, available at: https://www.reportrarutangranser.se/oacceptabelt-agerande-av-polisen-mot-journalister/; 'The Court of Appeal gives TV4 the right to seize the memory card' (in Swedish), 28 March 2023, available at: https://www.journalisten.se/nyheter/hovratten-ger-tv4-ratt-om-beslagtaget-minneskort/; 'The police after the abduction of the two journalists in Stockholm: "It was clearly wrong"' (in Swedish), 28 June 2022, available at: https://www.journalisten.se/nyheter/polisen-efter-bortforandet-av-de-tva-journalisterna-i-stockholm-det-blev-uppenbart-fel/

[888] See Police of Finland, 'Legality control investigated the ban on video documentation at Aalistunturi', 12 July 2023, available at: https://poliisi.fi/en/-/legality-control-investigated-the-ban-on-video-documentation-at-aalistunturi

[889] See 'Three journalists charged after covering protests in Sombor' (in Serbian), 6 May 2022, https://fom.coe.int/en/alerte/detail/107637519

[890] See 'NUNS: the police are intimidating journalists in Serbia because of the protests' (in Serbian), 4 December 2021, available at: https://www.slobodnaevropa.org/a/nuns-srbija-mediji-zastrasivanje-mup/31593714.html; 'Protests and blockades in Serbia: Mass brawl in Novi Sad' (in Serbian), 4 December 2021, available at: https://balkans.aljazeera.net/news/balkan/2021/12/4/srbiju-danas-ocekuju-masovni-ekoloski-protesti-i-blokade-puteva

[891] See 'Filming and distributing images of a police action. 'Part of the job', or is there a limit?' (in Dutch), 11 April 2022, available at: https://mensenrechten.be/nieuwsberichten/het-filmen-en-verspreiden-van-beelden-van-een-politieoptreden-part-of-the-j#:~:text=De%20nationale%20rechtspraak%20volgt&text=Hoewel%20het%20filmen%20van%20het,bevoegdheden%20buitensporig%20zou%20kunnen%20gebruiken

[892] Spain: Constitutional Court Ruling 172/2020, 19 November 2020, seventh legal ground (BOE núm. 332, 22 December 2020), https://hj.tribunalconstitucional.es/HJ/es/Resolucion/Show/26498; Germany: According to para 22 I KunstUrhG (Art Copyright Law), image recordings may only be published with consent. Exceptions are standardized in Section 23 KunstUrhG, for example, if the images are "portraits of contemporary history". Publication may also be lawful if the images are not portraits, but people "appear as an accessory next to a landscape or other location". Unlawful publication is punishable under para 33 I Kunst UrhG. These laws also apply to journalists. The Administrative Court Aachen considered the prohibition of photographing with the intention of publication during a police operation to be lawful. The journalist did not identify himself as such and attempted to photograph a police officer with his smartphone. The court classified the police officer's behavior as proportionate. The ruling also noted that a relevant factor was whether a journalist is identifiable as such and this must be included in the assessment of proportionality.; Portugal, Civil Code, Article 79 (2), (3).

[893] An activist was arrested, and their phone seized by police in September 2023. Amnesty International Portugal interviewed the activists on 20 December 2023. The activist was fined 250 EUR for disobedience (Criminal Code, article 348(1), however upon appeal, tin March 2024, the Lisbon Cour of Appeal acquitted the activist. Decision of the Court of Appeal is on file with Amnesty International Portugal. See https://www.dn.pt/sociedade/ativista-pelo-clima-condenada-a-250-euros-de-multa-por-filmar-protesto-em-oeiras-17093309.html/; https://observador.pt/2024/05/27/medio-oriente-estudantes-ocupam-nova-medical-school-em-lisboa-e-exigem-fim-da-guerra/; https://poligrafo.sapo.pt/fact-check/psp-pode-apreender-o-telemovel-das-maos-da-manifestante-e-obstruir-a-gravacao/?utm_term=Autofeed&utm_medium=Social&utm_source=Twitter#Echobox=1714850492

6.3.4 PROTECTION OF INDEPENDENT ASSEMBLY MONITORS AND JOURNALISTS IN PRACTICE

In none of the 21 countries examined are assembly monitors legally protected. In several of them, the lack of clear guidelines has exacerbated the possibility that treatment of monitors and journalists is left to the discretion of individual police officers, to the detriment of the people in those roles. In **Finland**, for example, this has led to instances of observers being moved away from protesters while the latter were being dispersed.[894]

In **Germany**, observers reported being forced by police to stop documenting a police operation, being asked to provide their identity documents and asked to leave the protest site, obstructing their observation work.[895] In **Greece**, a series of cases have been reported concerning police using unlawful force against journalists and photojournalists in the policing of demonstrations and/or obstructing them from documenting events.[896]

In Vienna, **Austria**, police at several protests have prevented journalists from observing and reporting on events or have failed to adequately protect them from attacks by protesters. When evicting people from a protest camp in April 2022, police set up a separate press zone for journalists at such a distance from the camp that it was reportedly impossible to observe events adequately.[897] In **Portugal**, in December 2023, towards the end of a protest taking place opposite the Lisbon prison building, a police officer used his baton against a journalist. According to reports, the journalist's mobile phone was then confiscated for a few minutes. The journalist filed a complaint. The General Inspectorate of Internal Administration (IGAI) opened an internal investigation.[898]

In the canton of Vaud, **Switzerland**, during the dispersal of a protest camp known as the ZAD du Mormont, in March 2021, the work of journalists was reportedly hindered by police. Journalists who wished to cover the protest had to agree to register in advance and could not freely move around or conduct their work, but instead had to follow a police escort that "walked" them around the site. In addition, the mobile network connection was not working[899] during the dispersal so that activists and journalists could not use their mobile phones.[900]

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[894] Amnesty International Finland, *Protest Observation Report 2023*, 29 February 2024, available at: https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf, p.20. Amnesty International Finland, *Protest Observation Report 2023*, 29 February 2024, available at: https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf, p. 20.

[895] See 'Demonstration monitoring groups coordinate nationwide legal action against obstruction of their work' (in German), 2023, available at: https://www.buerger-beobachten-polizei.de/oeffentlichkeitsarbeit/pressemitteilungen/demonstrationsbeobachtungsgruppen-koordinieren-bundesweit-rechtliche-schritte-gegen-behinderung-ihrer-arbeit

[896] See Amnesty International Greece, *Greece: Freedom of assembly at risk and unlawful use of force in the era of Covid-19* (Index: EUR25/4399/2021), 14 July 2021; Media Freedom Rapid Response, *Controlling the Message: Challenges for independent reporting in Greece,* December 2021, available at: https://www.mfrr.eu/controlling-the-message-challenges-for-independent-reporting-in-greece; See also observations by the National Mechanism for the Investigation of Arbitrary Incidents that "…videotaping police actions to prove allegations of excessive force is not an unlawful act that would justify the use of force by police officers or a trial against the alleged perpetrator. This is because, filming in such a context is not an act that violates the privacy or personal data of the officers involved, but rather, an act concerning the exercise of public authority by the police", 2022 Special Report, National Mechanism for the Investigation of Arbitrary Incidents, p. 80.

[897] See 'Protest camp at construction site in Lobau was cleared' (in German), 5 April 2022, available at: https://www.derstandard.at/story/2000134683726/protestcamp-zur-stadtstrasse-in-der-lobau-wird-geraeumt; 'Another protest camp cleared in Vienna' (in German), 5 April 2022, available at: https://orf.at/stories/3257940/; 'Eviction of Lobau protest camp: Accusations against police' (in German), 6 April 2022, available at: https://kurier.at/chronik/wien/raeumung-von-lobau-protestcamp-vorwuerfe-in-richtung-polizei/401964851; 'After the evacuation of the Stadtstraße protest camp: Reporters Without Borders criticizes Asfinag' (in German), 6 April 2022, available at: https://www.derstandard.at/story/2000134727695/nach-raeumung-des-protestcamps-reporter-ohne-grenzen-rsf-uebte-indes

[898] Amnesty International Portugal, 'Freedom of a flag' (in Portuguese), 15 March 2021, https://www.amnistia.pt/a-liberdade-como-bandeira/. Amnesty International Portugal interviewed the journalist on 2 January 2024.

[899] The activists observed that suddenly during the evacuation the network connection was gone for several hours. The police report, as well as media reports, confirm that the Swisscom network was down in all of Switzerland at around 14.30 for 15 minutes or more. See Cantonal Police, *Operation ZAD21 – Summary Report* (in French), 6 July 2021, available at: https://www.humanrights.ch/cms/upload/pdf/2023/ZAD-rapport-synthese-PCV-VF.pdf; 'Major disruption at Swisscom: mobile network affected throughout Switzerland' (in German), 30 March 2021, available at: https://www.fm1today.ch/schweiz/groessere-stoerung-bei-der-swisscom-mobilnetz-schweizweit-betroffen-141369245; 'Swisscom network suffers major outage' (in French), 30 March 2021, available at: https://www.lematin.ch/story/le-reseau-swisscom-victime-dune-panne-majeure-746455052340

[900] Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023. The lawyers' names have been withheld for privacy reasons.

6.4 IMMUNITY OF LAW ENFORCEMENT AND BURDEN OF PROOF

In law, none of the examined countries provides for immunity from liability for police while performing their official duties. Nonetheless, accountability systems in several countries are set up or implemented in such a way that can lead, in practice, to a lack of accountability for human rights violations committed by law enforcement officials. While the burden of proof in criminal proceedings is generally on the prosecuting authorities, in civil proceedings, in many countries, it is protesters as claimants who must prove that violations occurred. This is the case in **Belgium**, **France**, **Greece**, **Hungary**, and **Switzerland**.[901] While in civil cases, the standard of proof tends to be lower than in criminal proceedings, this doesn't necessarily mean that this results in some measure of accountability that would not otherwise have been obtained, as the inherent power dynamics between the police force and individual claimants persists, and within this situation, people with intersecting aspects of their identity may face more risks of being subjected to human rights violations, and subsequently more challenges accessing justice than others.

In administrative proceedings in **Spain**, police reports are presumed to be truthful, unless disproven by the claimant.[902] Effectively, this means that the burden of proof is shifted to the claimant. Moreover, the evidence that the claimant may present is not normally assessed by the public administration, which tends to accept the police version of events.[903] In an interview[904] with the NGO Legal Sol a representative stated that, in a period of 12 years, they have "won" only 30 proceedings - out of around some 7435 proceedings - due to such evidentiary problems. While in criminal proceedings there is no similar presumption, if there is no objective evidence available, the police version will prevail[905].

In **Luxembourg**, all acts by the public administration[906] are presumed to be lawful unless an administrative judge orders suspension of this effect.[907]

In practice, impunity for abuses of police powers occurs frequently in many countries examined for this research, for several reasons.

For example, in **France**, the authorities have denied that law enforcement officers used violence.[908] Such claims are aided by a wider lack of transparency by the state authorities that results in little to no consequences for the perpetrator. This leads to a vicious circle with victims choosing not to make complaints due to their lack of faith in justice systems; investigations not being conducted thoroughly, as there is no independent police oversight mechanism; police bringing counter-charges against victims; double standards in the judicial system which is more diligent to prosecute (and more severe in its application of the law) when law enforcement officials are victims than when they are perpetrators; sentences for police officers not being commensurate to the seriousness of the crime; and difficulties gaining access to reparations.[909] As a result,

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[901] Belgium, New Civil Code, Articles 8.3 and 8.4. See also Federal Public Service Justice, *Civil action before civil court (*in Dutch), available at: https://justitie.belgium.be/nl/themas_en_dossiers/wat_moet_u_doen_als/slachtoffer/als_slachtoffer_tussenkomen_in_de_procedure_4 For criminal proceedings, please see, for example, Cass. 14 January 2009, AR P.08.1860.F, AC 2009, nr. 32; France, Code of Civil Procedure, Article 9, Greece, Civil Code, Introductory Law, Article 105, Hungary, Civil Procedure Code, Article 265 (1); Switzerland, Civil Code, Article 8.

[902] Spain, Public Security Law, Article 52

[903] Amnesty International Spain, 'Go to the street if you dare. Three years of the application of the Organic Law on Citizens Security' (in Spanish), June 2018, https://media-edg.barcelona.cat/wp-content/uploads/2018/07/18141649/AI-Mordaza.pdf; case of Mikel Buruaga (pages 10 and 11); Amnesty International Spain, 'Right to protest in Spain "Seven years, seven gags that restrict and weaken the right of peaceful protest in Spain' (in Spanish), 2022, https://doc.es.amnesty.org/ms-opac/recordmedia/1@000035052/object/47075/raw; case of Tom Kuzarch (pages 13 and 14).

[904] Interview carried out on 7 July 2023.

[905] Amnesty International Spain, *'Right to protest in Spain "Seven years, seven gags that restrict and weaken the right of peaceful protest in Spain"'* (in Spanish), November 2022, see the case of Javitxu (p. 22) and the case of Alberto Rodríguez (p. 30); also relevant the cases of Guillermo Martínez (p. 32) and Albert García (p. 34).

[906] 'public administration' is intended as all state organs, all ministries and sub-national entities.

[907] Luxembourg, Law of administrative procedure, 21 June 1999

[908] For example, right after the death of Zineb Redouane, killed by a tear gas grenade launched by a policeman during a protest in Marseille, the then Minister of Interior stated on the radio France Inter on 19 March 2019: "I wouldn't want anyone to think that the forces of law and order killed Zineb Redouane, because that's not true." See details of the case in the text of the report. Also, during the protests against the pension reform in France: In the wake of spontaneous demonstrations in several French cities on 20 March 2023, and heavy-handed intervention by the police, relayed on social networks, the Prefect of Paris, Laurent Nunez, refuted any "disproportionate violence", see 'Pension reform: the police chief denies any "unjustified arrest" during improvised demonstrations' (in French), 21 March 2023, available at: https://www.lemonde.fr/politique/article/2023/03/21/reforme-des-retraites-le-prefet-de-police-nie-toute-interpellation-injustifiee-lors-des-manifestations-improvisees_6166399_823448.html

[909] Amnesty International, 'France: The Search for justice. End the de facto impunity of law enforcement officers in cases of shootings, deaths in police custody, torture and other ill-treatment', in French, 2005, https://www.amnesty.org/fr/documents/eur21/001/2005/fr/. The report concluded that law enforcement officials who committed abuses enjoyed de facto impunity, in a context where police, prosecutors and judges were reluctant to thoroughly investigate and prosecute such human rights abuses. Amnesty International,

lawyers interviewed stated that obtaining justice for police abuses in France was "very, very difficult", "virtually impossible" or "very long and disheartening". It is important to note that many of these challenges apply similarly to victims of police abuses outside of the context of assemblies.[910]

The case of the lack of progress towards securing justice, truth and reparation for the death of the Algerian national Zineb Redouane, who died after she was struck in the face by a tear gas canister fired by the police during a protest in 2018 is illustrative of the concerns raised above regarding France. On 1 December 2018, police were using tear gas in Marseille to disperse a protest organised to denounce inadequate housing conditions in the city after two residential buildings collapsed, killing eight people. As 80-year-old Zineb Redouane went to shut her window in her fourth-floor apartment, a police officer on the street below fired a tear gas grenade launcher in her direction. Zineb was hit in the face by an MP7 tear gas grenade and died from her injuries.[911] Despite media reports in 2021 that the inspectorate for the National Police had recommended an administrative sanction against the police officer who fired the canister, the director of the national police refused to apply any sanction and the case appeared to be stalled with the investigating judge.[912] To date, no one has been suspended or charged over her death, and her family still awaits justice.

Austria also suffers from a prevailing climate of impunity,[913] as confirmed by Amnesty International Austria's research and also by a comprehensive scientific study done by the Austrian Center for Law Enforcement Sciences (ALES). According to ALES, at the present time, allegations of abuse against police officers in Austria almost never lead to charges and the proceedings are usually dropped.[914]

In **Türkiye**, while law enforcement officials can be held liable in principle for misconduct, authorization by the highest administrative authority in the province where the respective official is employed is required by law, in order to prosecute members of law enforcement.[915] In practice, the public prosecutorial services generally dismiss charges brought by individuals, HRDs and NGOs, or the administrative authority does not grant permission for a prosecution, resulting in impunity.[916] For example, after a police officer beat a group of people reading a press statement in the city of Adana, the governor did not grant authorization for a prosecution, despite official complaints.[917] Similarly, following Istanbul Pride on 26 June 2022, the Istanbul Governor's Office refused to permit an investigation into a police chief who assaulted and threatened participants during the march.[918] In effect, the requirement of prosecutorial authorization acts as a presumption that use of force by law enforcement (and any of their other actions) are lawful.

Other barriers to accessing legal proceedings include the length and cost of proceedings, for example in **Finland, Greece** and **Switzerland**;[919] and the risk of counter proceedings including in **Austria**, **Greece**, **Spain**,

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'Public outrage. Police officers above the law in France', 2011, https://www.amnesty.org/en/documents/eur21/003/2009/en/. The 2011 report confirmed the findings of the 2005 report and illustrated how victims of such abuses and their families continued to be denied effective, independent, thorough, impartial and prompt investigations into their allegations, as well as adequate reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Amnesty International, 'France: "Our life on hold". Families of those killed at the hands of police wait for justice', November 2011, https://www.amnesty.org/fr/documents/eur21/003/2011/fr/ .

[910] Interviews by Amnesty France with 5 lawyers between December 2022 and January 2023

[911] Amnesty International, Petition 'Demand justice for Zineb Redouane', https://www.amnesty.org/en/petition/demand-justice-for-zineb-redouane/; Amnesty International, 'Killed by a tear gas grenade. Zineb Redouane', 2022, https://www.amnesty.org/es/wp-content/uploads/2022/10/POL3259482022ENGLISH.pdf

[912] Amnesty International, 'Amnesty International Report 2022/2023: The state of the world's human rights', March 2023, see entry on 'France' (page 167), https://www.amnesty.org/en/documents/pol10/5670/2023/en/;

[913] Amnesty International Austria, 'Amnesty criticises climate of impunity for police violence in Austria' (in German), 26 January 2022, https://www.amnesty.at/presse/amnesty-kritisiert-klima-der-straflosigkeit-bei-polizeigewalt-in-oesterreich/

[914] Austrian Center for Law Enforcement Sciences (ALES), Survey on the handling of accusations of mistreatment against law enforcement officials, 10 February 2018, https://ales.univie.ac.at/fileadmin/user_upload/p_ales/Infos_fuer_die_HP/2018_Missbrauch_englisch_HP.pdf

[915] Türkiye, Law no 4483 on The Prosecution of Officials and other Civil Servants, https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=4483&MevzuatTur=1&MevzuatTertip=5

[916] Between April 2023 and May 2024, Amnesty International Türkiye along with other human rights organizations (Human Rights Foundation of Türkiye, Truth Justice Memory Centre and Media and Law Studies Association) observed the Saturday Mothers/People's peaceful vigils and the police intervention to the vigils. The monitoring organisations' reports, among other observations, include information on cases where the administrative authorities did not grant permission to investigate law enforcement officials, Amnesty International Turkiye Saturday Mothers/People Weekly Observation Notes, https://www.amnesty.org.tr/icerik/cumartesi-anneleriinsanlari-haftalik-gozlem-notlari.

[917] See 'Governorship did not allow investigation of police brutality' (in Turkish), 7 January 2023, available at: https://artigercek.com/guncel/valilik-polis-siddetinin-sorusturulmasina-izin-vermedi-235043h

[918] See 'İstanbul governor refuses to permit investigation into police chief who beat LGBTI+ activists', 29 September 2022, available at: https://bianet.org/english/women/267816-istanbul-governor-refuses-to-permit-investigation-into-police-chief-who-beat-lgbti-activists

[919] Finland, European Commission, 2023 Rule of Law Report Country Chapter on the rule of law situation in Finland, https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en, p.7; Greece: see example below; Switzerland, Swiss Competence Center for Human Rights (SKMR), Strengthening human rights in Switzerland, *New ideas for politics and practice* (in German), 2022, p. 98, https://skmr.ch/assets/publications/220816_Menschenrechte_in_der_Schweiz_staerken.pdf; Swiss Competence Center for Human Rights (SKMR), *Legal protection against police attacks* (in German), 21 February 2016, https://www.humanrights.ch/cms/upload/pdf/150225_SKMR_Studie_Rechtsschutz_polizeiliche_Uebergriffe.pdf

Switzerland and Germany.[920] Together, these obstacles can result in a significant deterrent effect preventing victims being able to access justice. For example, in Finland, seven police officers were charged with assault and breach of duty for using OC-spray (pepper spray) against peaceful and passively resisting protesters in a Extinction Rebellion (XR) roadblock in Helsinki in October 2020. Only the officer in charge of the operation was sentenced to a fine for breach of duty. The prosecution has appealed the case.[921]

Where criminal or administrative trials are held, or victims were able to get reparations, this does not mean that the victims necessarily obtained justice. For example, in France, in the case of a trade unionist who lost an eye during a protest, a court ruled in December 2022 that the policeman be acquitted for acting in self-defence. The public prosecutor had requested a three-month suspended prison sentence and a ban on carrying weapons for five years.[922] In the case of a 16-year-old boy who was injured on the margins of a protest while shopping in Strasbourg, the case was closed given the impossibility of identifying the perpetrator; however, in March 2021, the Minister of the Interior acknowledged the strict liability of the state.[923]

In Greece in November 2023, an appeals court in Athens found police responsible for the life-threatening injuries sustained by a psychologist during a 2011 demonstration in Athens and awarded him compensation.[924] Questions persist however over the effectiveness of the disciplinary and criminal investigations into the incident as they did not bring any perpetrator to justice.[925] In November 2022, a court rejected the authorities' appeal against a first instance decision that found the Greek state responsible for the serious injury of a journalist by police in 2011. No police officer was held accountable during the criminal and disciplinary investigations.[926]

In the UK, a report by Her Majesty's Inspectorate of Constabulary exonerated London's Metropolitan Police of using excessive force at a vigil in March 2021 for Sarah Everard, who was murdered by a serving Metropolitan Police officer, despite reports by several civil society organizations that police intervened repressively in the gathering.[927] In March 2022, the High Court found that the Metropolitan Police had breached the rights of people who attended the vigil, but no sanctions were imposed.[928]

6.5 ACCOUNTABILITY MECHANISMS AND PROCEDURES

Police accountability mechanisms and procedures take various forms in the countries examined. They include internal investigations conducted by the police authorities themselves or by their supervisory body

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[920] Austria, Austrian Center for Law Enforcement Sciences (ALES), Survey on the handling of accusations of mistreatment against law enforcement officials, 10 February 2018, https://ales.univie.ac.at/fileadmin/user_upload/p_ales/Infos_fuer_die_HP/2018_Missbrauch_englisch_HP.pdf, see also Amnesty International Austria, *May Day Demo: No effective processing of police violence on 1 May 2021* (in German), December 2021, available at: https://www.amnesty.at/media/9272/gutachten-im-auftrag-von-amnesty-international_jaenner-2022_polizeigewalt-bei-mayday-demo-1-mai-2021.pdf; Greece, Interviews with lawyers representing victims of police violence, March to June 2023; see also 2022 Special Report of the National Mechanism Investigating Incidents of Arbitrariness, pp. 71-72. Spain, see for example, Amnesty International, *Right to Protest in Spain* (in Spanish), December 2022, p. 31-36; Switzerland, Swiss Competence Center for Human Rights (SKMR), Strengthening human rights in Switzerland, *New ideas for politics and practice* (in German), 2022, p. 98, https://skmr.ch/assets/publications/220816_Menschenrechte_in_der_Schweiz_staerken.pdf; Swiss Competence Center for Human Rights (SKMR), *Legal protection against police attacks* (in German), 21 February 2016, https://www.humanrights.ch/cms/upload/pdf/150225_SKMR_Studie_Rechtsschutz_polizeiliche_Uebergriffe.pdf; Germany, Laila Abdul-Rahman, Hannah Espín Grau, Luise Klaus, Tobias Singelnstein: *Violence in office. Excessive use of force by the police and how to deal with it* (in German), Frankfurt/New York: Campus Verlag, 2023.

[921] Helsinki District court decision R22/4140, 21 June 2023

[922] Politis, 'The CRS having mutilated Laurent Theron in 2016 definitively acquitted' (in French), 29 December 2022, https://www.politis.fr/articles/2022/12/le-crs-qui-a-mutile-laurent-theron-acquitte-aux-assises/

[923] Actu Info, 'The State recognizes its responsibility in the case of Lilian, 15 years old, her jaw crushed by an LBD shot' (in French), 17 March 2021, https://actu.fr/grand-est/strasbourg_67482/strasbourg-l-etat-reconnait-sa-responsabilite-dans-l-affaire-lilian-15-ans-la-machoire-broyee-par-un-tir-de-lbd_40283233.html

[924] Amnesty International, Report 2023/24, Greece, https://www.amnesty.org/en/location/europe-and-central-asia/western-central-and-south-eastern-europe/greece/report-greece/. p.183. Following an appeal by the state, the case is pending at the country's Council of State.

[925] Amnesty International, Greece: Court decision awards compensation to protester subjected to near fatal unlawful use of force (Index: EUR 25/4207/2021), 28 May 2021, https://www.amnesty.org/en/documents/eur25/4207/2021/en/

[926] For more information, see Greece: A law unto themselves: A culture of abuse and impunity in the Greek police - Amnesty International, https://www.amnesty.org/en/documents/EUR25/005/2014/en/, pp. 15-16, and Amnesty International, Report 2023/24, Greece, p. 183.

[927] See 'Liberty condemns policing of reclaim these streets vigil', 13 March 2021, available at: https://www.libertyhumanrights.org.uk/issue/liberty-condemns-policing-of-reclaim-these-streets-vigil/; 'Met's action at Clapham a sharp reminder to MPs to resist temptation to give police more powers', 14 March 2021, available at: https://www.amnesty.org.uk/press-releases/uk-mets-action-clapham-sharp-reminder-mps-resist-temptation-give-police-more-powers; 'Met police criticised for 'deeply disturbing' handling of Clapham Common vigil - as it happened', 13 March 2021, available at: https://www.theguardian.com/world/live/2021/mar/13/reclaim-these-streets-vigils-womens-safety-uk-latest-updates

[928] See Approved Judgement issued on 11 March 2022, https://www.judiciary.uk/wp-content/uploads/2022/07/Leigh-v-Commissioner-of-the-Metropolitan-Police-judgment.pdf, para 108.

(where this exists); independent (external) oversight bodies set up to monitor the police, and committees, inquiries and investigations that are either parliament-led or government-led. In relation to how they operate in practice in the countries examined, all of these mechanisms raise concerns to varying degrees about their competence, transparency, independence and impartiality, and thus compliance with human rights standards.

6.5.1 INTERNAL INVESTIGATION PROCEEDINGS

Most of the countries examined have an internal investigation process in place for unlawful use of force, with responsibility lying either with the police authority itself or with a supervisory body created to monitor the police force. In at least eight countries,[929] the use of force by police does not automatically trigger an investigation.

There were several other procedural concerns identified. For example, in **Austria**, if criminal proceedings are conducted simultaneously with internal disciplinary proceedings, the outcome of criminal proceedings usually determines the outcome of the internal disciplinary process, leading to impunity due to the high standard of proof required in criminal proceedings.[930] In **Greece**, reforms in legislation introduced in 2019 provide that criminal proceedings do not suspend disciplinary proceedings with the exception of cases where there has been an indictment.[931] However, Greece's police complaint mechanism expressed persistent concerns over the provision's proper implementation.[932]

Problems due to investigations not being transparent were reported in **France**, **Greece**, **Switzerland** (Geneva) and **Türkiye**.[933]

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[929] Austria, a review is triggered once a complaint is brought; Germany, federal or state disciplinary laws, for example in Berlin, the use of or threat of use of firearms is always subject to internal checks; Finland, according to the National Police Board, this is the case when there is a suspicion of abuse of force; France, Ministry of the Interior, *IGPN Annual Activity Report 2021* (in French), 21 July 2022, https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2021; Italy, Presidential Decree No. 737, 25 October 1981, Luxembourg: an investigation is triggered by a judicial, administrative or disciplinary proceeding, it is not automatic for each use of force – See provisions of the law available at https://legilux.public.lu/eli/etat/leg/loi/2018/07/18/a623/consolide/20230905; UK, Police Reform Act 2002 Part 2 and Schedule 3, and Home Office, *Home Office Guidance: Police officer misconduct, unsatisfactory performance and attendance management procedures,* June 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895928/Home_Office_Guidance_on_Police_Misconduct.pdf, Scotland Police, *A guide for complaint about the police,* August 2014, https://www.scotland.police.uk/spa-media/o4zjdnk1/a-guide-for-complaints-about-the-police-updatedaug18.pdf; Türkiye, An investigation authorisation is required for all public officials, including the police to be investigated. See, Law no. 4483 on Prosecution of Civil Servants and Other Public Officials (dated 2 December 1999), https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4483.pdf

[930] Amnesty International Austria, *Amnesty criticizes climate of impunity* (in German), 26 January 2022, https://www.amnesty.at/presse/amnesty-kritisiert-klima-der-straflosigkeit-bei-polizeigewalt-in-oesterreich/. See also ALES, Survey on the handling of accusations of mistreatment against law enforcement officials, 10 February 2018, p.35; see also Austrian Ombudsman Board, *Report of the Austrian Ombudsman Board to the National Council and the Federal Council* (in German), 2018, pp. 139-140, available at: https://www.parlament.gv.at/dokument/XXVI/III/240/imfname_749847.pdf

[931] Article 1 para. 3 of PD 111/2019; 2021 Special Report. National Mechanism for the Investigation of Arbitrary Incidents, p. 112.

[932] 2021 Special Report. National Mechanism for the Investigation of Arbitrary Incidents, p. 112. In its 2022 Special Report the Mechanism found cases where disciplinary investigations were '… suspended while the criminal proceedings are pending, despite the fact that such suspension is only allowed in exceptional and imperative situations'. See 2022 Special Report of National Mechanism for the Investigation of Arbitrary Incidents, pp.87-88.

[933] France: See, for example, ACAT, *IGPN Activity Report: Between the Increase in the Use of Weapons and Police Convictions,* 27 January 2022, https://www.acatfrance.fr/actualite/rapport-dactivite-de-ligpn---entre-hausse-de-lusage-des-armes-et-des-condamnations-de-policiers; Greece: Greece's police complaints mechanism has been critical about the narrow interpretation of the provision in the police disciplinary code regarding the information that victims of unlawful use of force receive regarding the outcome of their complaint. See 2021 Special Report, National Mechanism for the Investigation of Arbitrary Incidents, p. 140; Switzerland: Interview in writing with two expert lawyers in the area of freedom of assembly in Geneva, received on 4 September 2022. The lawyers' names have been withheld for privacy reasons; Türkiye: Constitutional Court in Türkiye have previously stated that one of the important elements of the effectiveness of the investigations is that they are open to public scrutiny and transparent to ensure an effective participation of victims in the process in order to protect their legitimate interests. The Court in these cases ruled that the effective participation of the applicants in the investigation processes, were not sufficiently ensured to protect their legitimate interests; Türkiye Constitutional Court Decision, *Hidayet Enmek and Eyüpsabri Tinaş*, Application no. 2013/7907, 21 April 2016, https://kararlarbilgibankasi.anayasa.gov.tr/BB/2013/7907, paras 114, 115 and 119; Türkiye Constitutional Court Decision, Ahmet Kortak and Others, Application no. 2016/14603, 10 December 2019, https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/14603, paras 53, 93, and 139.

In **France**, internal disciplinary decisions are not binding. Once an investigation by the Police or Gendarmerie Disciplinary Board has been concluded, it suggests a sanction to the managing officer, which can be followed or not.[934]

Other shortcomings include the lack of a designated time period in publicly available law or regulations stating how long an investigative process should take. This issue was reported in **France**, **Finland**, **Switzerland** and the **UK**.[935] Where there are clauses aimed at preventing undue delay, such as in **Germany** and **Greece,**[936] in practice disciplinary proceedings can still take a long time, sometimes even years**.**

In many countries, police officers can be suspended for misconduct while an investigation is ongoing, but such suspension is usually not automatic. Instead, the decision lies with the relevant (internal) authority and often depends on the seriousness of the misconduct. Suspension is not obligatory, even during investigations for criminal offences, in **Austria**, **Czechia**, **Finland**, **France**, **Greece**, **Serbia**, **Slovenia**, **Switzerland, Türkiye** and **UK**.[937] In **Luxembourg** the suspension only can occur once the investigation is concluded.[938]

[934] Ministry of the Interior*, IGPN Annual Activity Report 2021* (in French), 21 July 2022, https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2021

[935] Finland, See National Prosecution Authorities, *Criminal matters involving the police,* available at: https://syyttajalaitos.fi/en/criminal-matters-involving-the-police; France, apart from the general principle in French law that "justice decisions are rendered within a reasonable time" (Art L111-3 of the Code of judicial organization), no provision exists); Switzerland, there are no clear undue delay provisions; UK, Police Reform Act 2002 Part 2 and Schedule 3, see also Home Office, *Home Office Guidance: Police officer misconduct, unsatisfactory performance and attendance management procedures,* June 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895928/Home_Office_Guidance_on_Police_Misconduct.pdf

[936] Germany: There is no fixed time limit for disciplinary proceedings, but in disciplinary law (as in criminal law) the principle of acceleration applies, see for example para 4 BDG or para 4 DiszG BE. In correspondence with Amnesty International Germany, the Berlin police stated this means that disciplinary proceedings must be processed with priority and without culpable delays. If an official disciplinary procedure has not been conducted within six months, the official may apply to a court to set a deadline (e.g. para 62 BDG or para 41 DiszG BE). The Berlin police also said that complaints should be answered within two weeks. To address delays, the Federal Ministry of Interior is currently considering a new law, see https://www.bmi.bund.de/SharedDocs/gesetzgebungsverfahren/DE/GE-Reform-BDG.html; Greece, PD 120/2008, Articles 24, 26. However, the required time limits for the completion of these investigations are indicative and not binding. EMIDIPA (Greece's police complaint mechanism) has found shortcomings in relation to delays in the completion of disciplinary investigations by police, and informal extensions of the deadlines ordered for the completion of such investigations as well as cases where there were excessive delays in forwarding the disciplinary bodies' findings to the EMIDIPA in order to assess the completeness of the investigations. See Special Report, 2019, p. 134, and Special Report, 2020 p. 68.

[937] Austria, Civil Service Law (in German), 1979, article 112; Czechia, Staff Service Act; Finland, Information based on correspondence with the National Police Board, TG reply from the National Police Board on 22 March 2023; France, Ministry of the Interior*, IGPN Annual Activity Report 2021* (in French), 21 July 2022, https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2021; Greece, Article 15 para. 2 of PD 120/2008; Serbia, Law on internal affairs Article 217 states that a police official could be temporarily removed from duty/suspended if they are detained, if they are facing criminal charges and the court issued specific measures requiring the defendant to be present, or if it's necessary to ensure smooth and uninterrupted criminal proceedings which would not allow the official to conduct his tasks effectively. The suspension is not automatic and is made by the Minister of Interior or other authorised person; Slovenia, Article 61 of Organisation and Work of the Police Act the Director General of the Police; Switzerland, Geneva: Art. 39 Law on Police; Zurich: Art. 35 Personnel law (PR) and Art. 31 Application provisions of the Personnel law (AB PR). For other cantons, this information was provided in responses to letters to the cantonal authorities; Türkiye, Law on the Adoption of the Decree-Law on General Law Enforcement Disciplinary Provisions Law no. 7068; UK, Home Office Guidance, Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing, 6 February 2020, https://assets.publishing.service.gov.uk/media/5e3ae3efed915d09378bf705/Home_Office_Statutory_Guidance_0502.pdf

[938] Luxembourg, Law of 18 July 2018 concerning the disciplinary status of the staff of the police of the Grand-Duchy's Police, Article 24.

6.5.2 INDEPENDENT STATUTORY OVERSIGHT BODIES

A police oversight body exists in at least 15 countries, and in several federal states in **Germany**.[939] **Italy**, **Portugal**, **Spain**, **Serbia**, **Switzerland,**[940] as well as two federal states in **Germany,**[941] do not have any such body. Where they do exist, many fall short of international human rights standards in terms of independence, adequate resources, and mandate.

Concerns exists about the independence of the oversight mechanism in **Belgium**, **France**, **Hungary**, **Luxembourg**, the **Netherlands, Poland**, **Portugal**, **Slovenia**, **Sweden**, and **Türkiye**. For example, in **Poland**,[942] **Slovenia**,[943] and **Türkiye**,[944] oversight is provided by the Ministry of the Interior. In **Belgium** and **Luxembourg,** members of these bodies come from the police/former police.[945] In **Sweden**, the oversight body is a department within the police itself.[946] In the **Netherlands**, a two stage process is required before a complaint can go to the national ombudsperson, with police themselves handling any complaints at first, and the police commissioner deciding on the case at a second stage, with advice from an external complaints committee.[947] In **Hungary**, the silence of the ombudsperson's office regarding numerous human rights violations led to its demotion in 2022 by the Global Alliance of National Human Rights Institutions.[948]

In **Finland**[949] and **Greece,** the oversight body is not adequately established and funded. In **Greece**, this includes having insufficient staff to conduct its own investigations.[950]

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[939] Countries that have such a body are Austria, Belgium, Czechia, Finland, France, Germany (independent police commissioner in 8 federal states, independent complaints offices in four other federal states), Greece, Hungary, Ireland, Luxembourg, the Netherlands, Poland, Slovenia, Sweden, Türkiye, UK.

[940] Portugal: In 2018, Amnesty International Portugal made a recommendation to the government on the need to create an independent body to investigate the police, with greater investigative powers. In March 2024, Amnesty Portugal reiterated to the government the need to follow this recommendation, in line with the recent report of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which called for "a full and independent review of the current system for investigating allegations of ill-treatment by police officers". There have been long standing concerns regarding the lack of effectiveness of the General Inspectorate of Internal Administration (IGAI). With regards to the policing of protests, it is worth noting that Amnesty International Portugal has been able to confirm that, since 2016, only one disciplinary process was opened and resulted in the sanctioning of a police officer (telephone and email contact with IGAI in January 2024). See also Amnesty International Portugal, 'Freedom as a flag' (in Portuguese), 15 March 2024, https://www.amnistia.pt/a-liberdade-como-bandeira/; Serbia: In a review published in 2021, Serbia's Ombudsman's Office found numerous violations of human rights during the July 2020 protests and gaps in ensuring accountability for the abuses. The gaps included the failure of the Internal Control to conduct timely and effective investigations: https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6974-u-vrdi-i-dg-v-rn-s-z-n-z-ni-i-n-pr-viln-p-s-up-nj-p-lici-s-ih-sluzb-ni; In Concluding Observations in November 2021, UN CAT expressed dissatisfaction with Serbia's efforts to combat impunity of officials for torture and other ill-treatment. It noted the disproportionately low ratio of convictions as compared to acquittals and case dismissals, further observing that where penalties were imposed on public officials, these were largely inadequate and not proportionate to the gravity of the act of torture. The CAT also expressed regret that Serbia did not indicate whether victims of torture have received redress and compensation, or medical or psychosocial rehabilitation: CAT/C/SRB/CO/3: Concluding observations on the third periodic report of Serbia (20 December 2021); Switzerland: Out of the cantons examined for this report, only the canton of Geneva has a Police general inspection body, which is under the direction of the Police Commander. Some other cantons or cities have an Ombudsperson's office which can receive complaints but without any investigatory powers.

[941] States of Bavaria and Saarland

[942] Law of 21.06.1996 on specific forms of supervision carried out by the minister responsible for internal affairs, https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/szczegolne-formy-sprawowania-nadzoru-przez-ministra-wlasciwego-do-16797800

[943] Police Tasks and Powers Act. The appeals procedure is regulated from Article 139 onwards up to Article 156

[944] Regulation on The Implementation of The Law No. 6713 On the Establishment of Law Enforcement Supervision Commission 7 August 2019, https://www.mevzuat.gov.tr/MevzuatMetin/21.5.1401.pdf

[945] Belgium: See for example, UN Committee Against Torture, Concluding observations on the fourth periodic report of Belgium*, UN Doc. CAT/C/BEL/CO/4, 25 August 2021, paras 7-8, and *Alternative Report presented to the UN Committee against torture ahead of the consideration of the 4th periodic report of Belgium,* para. 33, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FBEL%2F45102&Lang=en; Luxembourg: Concluding observations on the combined sixth and seventh periodic reports of Luxembourg*, CAT/C/LUX/CO/6-7 https://www.ohchr.org/en/documents/concluding-observations/catcluxco6-7-concluding-observations-combined-sixth-and-seventh para. 16

[946] In 2019, the Special Prosecution Office, which investigates police officers for criminal offences, was inspected the first time by the Parliamentary Ombudsman. In general, the Ombudsman concluded that the activities are well managed and investigations correctly done. However, it was also noted by the inspection that several suspected offences committed by police officers have not been properly investigated. For example, in several cases where force was allegedly used by a police officer, investigations were closed without important checks having been carried out. In several other cases, the Ombudsman considers that the prosecutors should have taken more investigative measures before deciding not to open a preliminary investigation or to close an investigation. https://sverigesradio.se/artikel/7300594

[947] The Netherlands Police, Complaints, comments, reclamations, https://www.politie.nl/en/contact/file-a-complaint.html

[948] Hungarian Helsinki Committee, Assessment of the activities and independence of Hungary's Ombudsperson, 22 February 2021, https://helsinki.hu/en/assessment-of-the-activities-and-independence-of-hungarys-ombudsperson/. See also UNHCR and GANHRI, *Accreditation Status as of 27 April 2022,* available at: https://ganhri.org/wpcontent/uploads/2022/04/StatusAccreditationChartNHRIs_27April2022.pdf

[949] See IPCAN, External police oversight agencies: emergence and consolidation A comparative study of 25 agencies in 20 countries, 2023, https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=21542, p.18

[950] In April 2024, the Council of Europe Committee of Ministers called Greece to support the mechanism with providing the necessary staff and implementing its recommendations, see 'Press Release | The Council of Europe requests reinforcement of the National Mechanism for

Issues also exist in relation to the bodies' remits and mandates. Only in **France** and **Hungary,** mandates explicitly include unlawful policing in the context of assemblies.[951] In **Belgium,** the 'Committee P' relies on judicial authorities to enable it to conduct judicial investigations,[952] and in **Türkiye**, the respective body cannot conduct any investigations on its own initiative.[953] In Germany, many of the bodies in federal states lack investigatory powers so that in practice they depend on information from the ministries of the interior; most of them also cannot carry out their own investigations while criminal proceedings occur, meaning that they do not have access to relevant information, especially in serious cases.[954] In Greece, the body 'has no power to compel action and can only make recommendations to the police'.

6.5.3 PARLIAMENTARY COMMITTEES AND GOVERNMENT-LED INQUIRIES AND INVESTIGATIONS

Several countries have the option to set up parliamentary committees to investigate undue interferences with the right of peaceful assembly, including **France**, **Germany**, **Ireland**, and **Italy**.[955] In **Finland**, the Ministry of the Interior can carry out general reviews but not on individual cases.[956] In **Türkiye**, ministries have the authority to conduct investigations.[957] In the **UK**, ministries and parliamentary committees have the authority to commission independent investigations.[958]

In practice, these procedures may be under-used, and ineffective due to parliamentary groups publishing their own findings or being dependent on central government approval.

6.6 CONCLUSIONS AND RECOMMENDATIONS

Impunity gives authorities a license to commit abusive acts in the course of their duties. No police officer or any other state official must be above the law. Where law enforcement officials' actions are out of reach of oversight processes and impunity for violations persists, the public can lose their confidence in the police and wider state authorities. When this happens, police impunity contributes to a chilling effect, where would-

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the Investigation of Incidents of Arbitrariness' (in Greek), 22 April 2024, available at: https://www.synigoros.gr/el/category/e8nikos-mhxanismos-diereynhshs-peristatikwn-ay8airesias/post/deltio-typoy-or-to-symboylio-ths-eyrwphs-zhta-enisxysh-toy-e8nikoy-mhxanismoy-diereynhshs-peristatikwn-ay8airesias

[951] France: see , Ministry of the Interior, *IGPN Annual Activity Report 2021* (in French), 21 July 2022, https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGPN/Rapport-annuel-d-activite-de-l-IGPN-2021; Amnesty International, 'France: Abusive and illegal use of force by police at Redon rave highlights need for accountability', 14 September 2021, https://www.amnesty.org/en/latest/news/2021/09/france-abusive-and-illegal-use-of-force-by-police-at-redon-rave-highlights-need-for-accountability/. Amnesty International called for the creation of an independent body to investigate complaints against law enforcement officers. Hungary: the mandate covers all complaints against the police based on Chapters IV-VI of the Act of Police (AoP), including unlawful policing of assemblies;

[952] See Standing Police Monitoring Committee, *FAQ*, available at: https://comitep.be/faq.html

[953] See Law Enforcement Oversight Commission, 'The commission duties and authorities', available at: http://en.kollukgozetim.gov.tr/the-commission-duties-and-authorities

[954] German Institute for Human Rights, *Parliamentary Police Commissioner: Human rights recommendations for federal and state authorities, Analysis/Study* (in German), p. 9, available at: https://www.institut-fuer-menschenrechte.de/publikationen/detail/parlamentarische-polizeibeauftragte

[955] France: The National Assembly can set up an investigation committee, for example, one was set up after the yellow vest protests see *Investigation report n°3786* (in French), 20 January 2021, available at: https://www.assemblee-nationale.fr/dyn/15/rapports/ceordre/l15b3786_rapport-enquete); Germany: at federal level, an "Untersuchungsausschuss" (= investigation committee) in the Bundestag can be set up according to para 44 I Basic Law. Similar committees can also be formed in the state parliaments, e.g. under Art. 25 BayVerf (Bavaria) or Art. 48 BInVerf (Berlin). These committees have special rights with regard to the investigation of evidence and can access internal documents of the authorities. The establishment of such committees is decided by the parliaments. A special committee (not an investigation committee) on the G20 summit in Hamburg ended without a unified report. Instead, the different parliamentary groups published their own statements. Some of them noted errors in police procedure, while others focused on the handling of activists. For more info, see *Report of the special committee "Violent riots surrounding the G20 summit in Hamburg"* (in German), 20 September 2018, available at: https://buergerschaft-hh.de/parldok/dokument/63851/sonderausschuss_gewalttaetige_ausschreitungen_rund_um_den_g20_gipfel_in_hamburg_bericht_des_sonderausschusses_gewalttaetige_ausschreitungen_rund_um_de.pdf; Ireland: the Department of Justice and Equality and the Oireachtas (parliamentary) Committee on Justice and Equality); Italy: According to the Italian Constitution, Article 82, parliamentary committees can be established with the purpose of investigating matters of public interest. These parliamentary committees of inquiry are bestowed with powers that are similar to those of judicial authorities.

[956] Finland, TG reply from the Ministry of the Interior, 16 February 2023

[957] Law on the Prosecution of Civil Servants and Other Public Officials Law no.4483, Article 3, available at: https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4483.pdf; Regulations on the Working Principles and Methods of the Disciplinary Boards of the Police Force, available at: https://www.mevzuat.gov.tr/anasayfa/MevzuatFihristDetayIframe?MevzuatTur=7&MevzuatNo=9194&MevzuatTertip=5

[958] See Inquiries Act 2005 and UK Parliament, *Give evidence to a select committee*, available at: https://www.parliament.uk/get-involved/committees/give-evidence-to-a-select-committee/#A1

be participants fear the harmful consequences and potential repercussions of protesting in an environment where officers are not held accountable for their actions. Worryingly, Amnesty International's research found that impunity appears rampant and widespread across Europe.

There are a number of prerequisites to ensuring police officers' accountability for their actions during assemblies. These include, among other things: publishing information on chain-of-command structures to allow identification of command responsibility in each circumstance; ensuring that individual officers can be identified; not preventing anyone from making recordings or taking photographs of police during assemblies; and giving legal protection to independent assembly monitors, observers and media workers. Amnesty International's research found numerous contraventions of each of these prerequisites across the countries examined.

In addition, to ensure effective oversight, a system of multiple actors is required to balance and mutually reinforce one another. This necessarily comprises internal accountability structures within law enforcement, accountability mechanisms capable of scrutinizing the actions of the branches of the state (in particular the judiciary), and accountability to external oversight mechanisms. It is paramount that states ensure effective monitoring of the impact of legislation, policies and mechanisms on different groups and collection of accurate disaggregated data to use in identifying and addressing discrimination.

None of the examined countries has domestic legislation providing for immunity from civil or criminal liability for police officers while performing their official duties. Nonetheless, Amnesty International found that systems in several countries are set up or implemented in such a way that appear to lead, in practice, to favouring law enforcement officials during criminal and civil proceedings. Also, for this reason, establishing and maintaining independent external oversight bodies is crucial to investigate misconduct effectively and without bias. Several countries examined for this research do not yet have such bodies set up, and where they do exist, there are often significant shortcomings in their mandate or structure.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

IDENTIFICATION:

- States should have a requirement for police to wear identification badges should be introduced where this is not yet in place, with adequate sanctions for non-compliance.

ACCOUNTABILITY FOR USE OF FORCE

- Domestic legislation should establish clear command and accountability structures, and specific reporting obligations for all incidents involving the use of force.
- States should record data on the use of force including the use of firearms and less-lethal weapons in the context of assemblies for monitoring and accountability purposes, and to ensure that training in human rights-compliant policing of assemblies includes opportunities to learn from real examples as they arise in practice. In particular, data on deaths and serious injuries occurring in the context of assemblies must be collected and recorded accurately and made public.
- Compliance with human rights obligations should be enforced in practice by a commanding officer. A culture of accountability should be established and promoted by all law enforcement officials, especially those with command responsibility.

OVERSIGHT AND INVESTIGATION OF USE OF FORCE

- Authorities must ensure thorough investigation of all incidents involving the use of force and, where fault is determined, ensure criminal prosecution of the officers involved.
- All states need to establish independent, impartial, effective police oversight mechanisms with a broad mandate that includes specific powers including the investigation of abuse of police powers in relation to assemblies. The mechanism needs to fulfil at least the following criteria:
    - Ability to assess individual cases as well as general policing, including identifying and addressing discrimination, particularly racism, sexism and gender-based violence.
    - People outside law enforcement should be able to report to the mechanism, in an easy and accessible way, without having to pass additional steps or barriers.
    - Timely investigation within a set period.
    - Powers to investigate on its own initiative, and upon receipt of complaints.

- Powers to make binding recommendations for prosecution, disciplinary sanctions, reparations and police reviews. The authorities should be required to provide reasoned responses where findings require it.
- Sufficient funding, allocated by the legislature and made public.
- Appointment and selection criteria should be provided for in law; guarantee an open and transparent process; be based on skill, competence and personal integrity; and should not include members or former members of the police.
- Complainants should have the possibility to appeal against the findings of the mechanism.
- The mechanism should regularly reach out to the community to include affected people and civil society organizations in its work, raise awareness of its work, listen to their concerns and build public trust, including by tackling the specific concerns of those communities and groups who have commonly been disproportionately affected by human rights violations by law enforcement.

- It should be mandatory in law and/or regulations to suspend police officers while they are under investigation for serious misconduct, until the investigation is concluded.
- State authorities should refrain from making public statements indicating their views of the veracity of a complaint against a law enforcement official while the investigation and any prosecution or disciplinary proceedings are pending, to avoid any perception of bias.
- States should repeal legislation that effectively results in a presumption of truthfulness of police reports or statements and ensure that in practice the imbalance between police and affected persons is mitigated, including by specific training for judicial and prosecutorial authorities investigating and deciding on cases of police misconduct.

COLLECTION OF DATA

- To collect and publish regular, uniform and comprehensive statistics on complaints about misconduct, including human rights violations, by law enforcement officials. These figures should include information on the number of complaints of ill-treatment, the steps taken in response to each complaint, the outcome of any criminal and disciplinary investigations, statistics on allegations of discrimination, including racist abuse, and statistics and/or data disaggregated by race, ethnicity, gender, nationality and other protected grounds.

PROTEST OBSERVATION AND MONITORING

- The right of participants, journalists and monitors to use film, audio devices and photography to record law enforcement officials should be explicitly enshrined in law.
- Commanding officers should instruct law enforcement officers that filming/photography should not be prevented. States must ensure that any law enforcement officers engaging in aggressive or intimidating behaviour, including excessive use of force, against those peacefully filming/photographing at assemblies are adequately punished in line with human rights compliant domestic laws.
- Wilful attempts to confiscate, damage or break journalists' equipment to silence reporting must be recognized as a criminal offence under domestic law and those responsible should be held accountable under the law. Confiscation by the authorities of printed material, footage, sound clips or other reportage is an act of direct censorship and as such is prohibited by international standards. The role, function, responsibilities and rights of media workers should be integral to the training curriculum for law enforcement officers whose duties include crowd management.
- Distribution of recordings of police must not on its own serve as a ground for criminal prosecution.
- There should be specific protection in law for assembly monitors and observers – and their work should be protected and facilitated (including at assemblies that are regarded by the authorities as unlawful). NGOs and civil society organizations play a crucial watchdog role in any democracy and must therefore be permitted to freely observe the policing of public assemblies.

7. CIVIL DISOBEDIENCE

7.1 INTRODUCTION

Throughout history, people around the world have used civil disobedience[959] to contest unfair laws and challenge human rights abuses, including, for example, racial segregation in the USA, colonial rule in India and apartheid in South Africa. In the last 15 years, civil disobedience has acquired a renewed visibility in Europe and elsewhere, especially in the early 2010s following the Occupy movement, which used the occupation of public spaces to raise awareness of economic and social justice. In recent years, a growing number of people, organizations and transnational social movements have carried out acts of civil disobedience targeting states and business corporations to highlight concerns about the climate emergency and to formulate demands to protect the environment.[960]

A significant current trend observed across Europe, as well as across the world, is the harmful portrayal and clampdown by state authorities of acts of civil disobedience.[961] This concerning pattern sees states often framing civil disobedience as a threat to public order and/or national security and denying that these acts are protected under international human rights law and standards (see Chapter 1.4 on the stigmatizing discourse against protests and protesters by public officials). Additionally, Amnesty International's research has documented harsh responses by states to peaceful acts of civil disobedience, raising concerns regarding violations of the rights to freedom of expression, thought, conscience and religion, and peaceful assembly.

7.2 PROTECTION IN INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

Civil disobedience means an act – carried out individually or in a group – which involves the premeditated breaking of the law, for reasons of conscience or because it is perceived to be the most effective way to raise awareness, express social or political dissent or bring about change.[962] Acts of civil disobedience can include a range of activities such as media stunts, assemblies, sit-ins, occupations and protest camps and other tactics involving methods of disruption through direct and non-violent means. [963]

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[959] The US philosopher Henry David Thoreau coined the term "civil disobedience" in an 1848 essay where he argued for the duty of individuals to stand against unjust laws. He had been imprisoned following his refusal to pay taxes in opposition to slavery and the mass murder of Native Americans. See Henry David Thoreau, "On the duty of civil disobedience", 1848, available at https://www.gutenberg.org/files/71/71-h/71-h.htm

[960] UN Special Rapporteur on environmental defenders under the Aarhus Convention, Michel Forst, "State repression of environmental protest and civil disobedience: A major threat to human rights and democracy", February 2024, p. 4; UN Special Rapporteur on freedom of peaceful assembly and of association, *Thematic report: Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice*, 23 July 2021, UN Doc. A/76/222.

[961] UN Special Procedures have raised concerns regarding vilification and smear campaigns especially targeting climate activists. See, for example, UN Special Rapporteur on freedom of peaceful assembly and of association, UN Doc. A/76/222 (previously cited), para. 22.

[962] The Special Rapporteur on environmental defenders under the Aarhus Convention defines civil disobedience as "a form of political participation that refers to varied and evolving forms of mobilization, and that can broadly be described as acts of deliberate law-breaking, concerning a matter of public interest, conducted publicly, and non-violently", UN Special Rapporteur on environmental defenders, "State repression of environmental protest and civil disobedience" (previously cited), p. 5. The Venice Commission Guidelines describe civil disobedience as "non-violent actions that, while in violation of the law, are undertaken for the purpose of amplifying or otherwise assisting in the communication of a message": Venice Commission Guidelines, 2020, para. 228.

[963] Non-violent direct action (NVDA) is an umbrella term that includes civil disobedience as well as activities that do not infringe domestic law. It covers a spectrum of activities, from letter writing and collecting petition signatures, to rallies, demonstrations, and media stunts, and

International human rights standards clarify that, regardless of the infringement of a country's law, acts of civil disobedience involving gatherings of individuals constitute a form of assembly that, when enacted in a non-violent manner, is protected by the right of peaceful assembly.[964] This protection means that state responses, including any restrictions, on peaceful acts of civil disobedience must comply with the *three-part test* by adhering to the principles of legality, proportionality and necessity, as set out in Article 21 of the ICCPR and General Comment 37 of the HRC (see 1.2.2).

7.3 FAILURE TO ACKNOWLEDGE THAT PEACEFUL ACTS OF CIVIL DISOBEDIENCE ARE PROTECTED UNDER THE RIGHT OF PEACEFUL ASSEMBLY

Domestic courts in some of the 21 countries examined have explicitly or implicitly denied protection to acts of civil disobedience under the right of peaceful assembly. For example, the Higher Court in the town of Celle, Germany, ruled that civil disobedience could not be used as a justification for engaging in criminal behaviour, and that:

> **"anyone wishing to influence the political opinion-forming process [could] do so by exercising their fundamental rights under Article 5 of the Basic Law (freedom of opinion), Article 8 of the Basic Law (freedom of assembly), Article 17 of the Basic Law (right to petition) and Article 21(1) of the Basic Law (freedom to form political parties), instead of committing criminal offences."[965]**

The jurisprudence of domestic courts on civil disobedience is not consistent either across the countries or, in some cases, within the same country. In the Netherlands, despite some rulings against acts of civil disobedience[966], other courts have recognized such actions as a legitimate form of peaceful assembly.[967] Similarly, in the UK some courts have recognized the importance of civil disobedience as a tactic, including historically, and have granted some level of protection to these acts.[968] In one case from 2006, a UK judge stated that:

> **"civil disobedience on conscientious grounds has a long and honourable history in this country. People who break the law to affirm their belief in the injustice of a law or government action are sometimes**

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extending to higher risk activities such as banner drops, sit-ins and acts of civil disobedience. See Amnesty International, *Civil Disobedience Toolkit: A Guide to Civil Disobedience by Amnesty International* (Index: ACT 10/7471/2024), January 2024, https://www.amnesty.org/en/documents/act10/7471/2024/en/

[964] HRC, General Comment 37, para. 16.

[965] Higher Court of Celle, Decision of 29/07/2022 - 2 Ss 91/22, https://openjur.de/u/2457568.html.

[966] For example, in December 2023 the highest court ruled that the prosecution for "vandalism", subsequent trial and sentencing of a climate justice activist (to a 350 EUR fine) for putting an easily removable oil-like substance on the steps of a building was not in violation of Articles 10 and 11 of the European Convention on Human Rights, which cover the rights to freedom of expression and assembly. The court ruled that protesters could have expressed their protest in another way, that they committed a "reprehensible act", and overstepped the limit of what constitutes a peaceful protest. The court concluded that the fine was not so large as to have a chilling effect on others. See https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:HR:2023:1742
In another case, which remains pending, in January 2023 a climate justice activist was convicted and sentenced to 45 hours' community service for "preparing criminal acts" for blocking a highway. The first instance court ruled that the arrest and subsequent prosecution was lawful and served the legitimate aim of "protection of safety of traffic and prevention of disorder and crime". The court ruled that the act, although non-violent, was "reprehensible" and based its conclusion on the potential safety risks occasioned by the protest. However, it failed to acknowledge the ample preparation and risk-mitigation tactics the activists had put in place. See https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2023:174

[967] Decisions issued by courts in relation to cases of occupation of universities in 2014-2015: ECLI:NL:RBAMS:2014:7423; ECLI:NL:RBAMS:2014:9337 and ECLI:NL:RBAMS:2015:2071
In 2019, a Dutch court decided that the acts committed by Greenpeace while occupying a drilling platform were not punishable because they were committed in the context of a demonstration. In December 2022 a lower instance court ruled XR activists were found guilty of an infringement of property rights (the activists posted pamphlets/posters on the windows and doors of a bank) but did not apply a punishment: see ECLI:NL:RBMNE:2022:5240
See also Rechtbank Amsterdam, 2 May 2019, ECLI:NL:RBAMS:2019:4022: this ruling was confirmed on appeal, see Gerechtshof Amsterdam 12 June 2020, ECLI:NL:GHAMS:2020:2056

[968] See Judgement – R v. Jones (Appellant) (On Appeal from the Court of Appeal (Criminal Division)) (formerly R v. J (Appellant)), Etc, 29 March 2006, available at Jones, R. v [2006] UKHL 16 (29 March 2006) (bailii.org) (para. 89); Judgement Court of Appeal Case No: A3/2019/2391; A3/2019/2395, 23 January 2020, available at https://www.doughtystreet.co.uk/sites/default/files/media/document/A3-2019-2391%3B%20A3-2019-2395%20-%20Cuadrilla%20v%20Lawrie%20%20Ors%20-%20Final%20Judgment.pdf, https://www.doughtystreet.co.uk/sites/default/files/media/document/A3-2019-2391%3B%20A3-2019-2395%20-%20Cuadrilla%20v%20Lawrie%20%20Ors%20-%20Final%20Judgment.pdf, para. 97, 98 and 99; See The Guardian, "Not guilty: the Greenpeace activists who used climate change as a legal defence", 11 September 2008, https://www.theguardian.com/environment/2008/sep/11/activists.kingsnorthclimatecamphttps://www.theguardian.com/environment/2008/sep/11/activists.kingsnorthclimatecamp; See The Guardian, "Melchett cleared over GM crop damage", 20 September 2000, https://www.theguardian.com/environment/2000/sep/20/activists.gmcrops

vindicated by history… It is the mark of a civilised community that it can accommodate protests and demonstrations of this kind."[969]

However, activists in the UK have, in other instances, been charged with serious crimes and punished with sentences that may not be commensurate with the gravity of the offences committed (see more details below in the section on custodial measures). In Germany, while some courts have acquitted climate justice activists who engaged in acts of civil disobedience, others have punished similar acts with administrative and criminal sanctions.[970]

Some domestic courts have taken into account the argument that activists involved in civil disobedience acted for reasons of conscience. For example, in Switzerland the *état de nécessité* (state of necessity) can constitute a justification for criminal behaviour and has been used as a legal defence in cases of civil disobedience.[971] In 2020 the Lausanne Police Court acquitted, at first instance, a group of activists who had occupied Credit Suisse bank branches to draw attention to the bank's involvement in financing fossil fuel projects in 2018.[972] The court accepted that they breached the law for a greater interest: combating the climate emergency.[973] The Geneva Cantonal Court reached a similar conclusion in relation to an action by activists from Collectif Breakfree targeting the Geneva branch of Credit Suisse. The court found that the defendants had acted in a state of necessity.[974] A similar provision to the *état de nécessité* exists in other countries including France, Germany and UK, although its reliance by courts in cases against activists engaging in peaceful acts of civil disobedience varies (See more details in the section on the expressive element and proportionality below).

In the course of this research, Amnesty International found no guidelines for law enforcement officials or judicial authorities that emphasize this point, which directly stems from the protection accorded to peaceful acts of civil disobedience by international human rights law and standards. The adoption of guidelines for law enforcement officials and/or prosecutors and judicial authorities is an important action to ensure the protection of the rights of people who carry out acts of civil disobedience. These guidelines should clarify that peaceful acts of civil disobedience are protected under the right of peaceful assembly and that restrictions on civil disobedience, including through criminal laws and sanctions, must pursue a legitimate public interest and be necessary and proportionate to its achievement.

It is worth noting a troubling law passed in Hungary in 2022, which restricted the right to strike of teachers, explicitly excluded acts of civil disobedience, for example the teachers' refusal to take up work outside of a strike, from the protection provided to peaceful assemblies.[975] The explanatory memorandum to the law stated that "[c]ivil disobedience is not a legal category, it is not regulated by the Hungarian legal system, and due to its nature, it is not a legal institution related to the world of work, but a means of political expression".[976]In 2023, the Constitutional Court upheld the law. This is an example of the Hungarian

[969] UK, Judgement – R v. Jones (Appellant) (On Appeal from the Court of Appeal (Criminal Division)) (formerly R v. J (Appellant)), Etc, 29 March 2006, available at Jones, R. v [2006] UKHL 16 (29 March 2006) (bailii.org) (para. 89),
[970] See LTO, "Eine Blockade – Zwei Urtile" ["One blockade – two judgements"], 6 January 2023, https://www.lto.de/recht/hintergruende/h/ag-freiburg-unterschiedliche-rechtsansichten-klimaaktivisten-sitzblockade/
[971] Switzerland, Article 17 of the Criminal Code argues that a "state of necessity" exists when a person can safeguard an interest equal to or greater than that which that provision protects merely by infringing a criminal provision. If such a state of emergency exists, the acts committed are not contrary to the law. In order to serve as a justification, the state of necessity must pass a balancing of interests, in which the court examines whether the criminal violation was necessary, subsidiary and proportionate. Furthermore, the equivalent or overriding interest must be at real and immediate risk.
[972] SwissInfo, "Tennis climate activists go a set down at Swiss court", 24 September 2020, https://www.swissinfo.ch/eng/swiss-politics/tennis-climate-activists-lose-appeal-at-swiss-court/46055310
[973]In November 2018, the bank branches of Credit Suisse in Geneva, Basel and Lausanne were simultaneously occupied by activists. The action of Lausanne Action Climate group led to a trial. The first instance trial produced an acquittal on the grounds of a "legitimate act in a situation of necessity" (Tpol VD PE19. 000742, 13.1.2020). The outcome was overturned in the second instance, which found the defendants guilty of "unlawful entry", "prevention of an official act", and violations of the cantonal police act (TC VD PE19.000742, 22.9.2020). The Federal Supreme Court upheld the second-instance judgments, with the exception of the guilty verdict for "prevention of an official act", which was overturned on procedural grounds. In a leading judgment that has since been frequently cited (BG/TF 6B_1295/2020, 26.5.2021), the Federal Supreme Court held that conditions for a state of necessity under Article 17 of the Criminal Code were not met. To the judges, there was no short-term, immediate danger which could not have been averted in any other way. Moreover, no individual legal interests were affected. The court also found that the defendants could not rely on freedom of expression and assembly under Articles 10 and 11 of the European Convention on Human Rights because the (unauthorized) assembly took place in the private space of a bank branch. Lausanne Action Climate filed an application before the ECtHR in November 2021. The case is still pending in Geneva, and no charges have been brought against the activists in Basel.
[974] The Federal Supreme Court overturned the judgment (BG/TF 6B_1298/2020 & 6B_1310/2020, 28.9.2021), denying the state of necessity and considering the alleged "vandalism" to be outside of the protective scope of freedom of expression and assembly.
[975] Act V of 2022 on Regulations related to the Termination of the State of Danger, Articles 14-15.
[976] Act V of 2022 on Regulations related to the Termination of the State of Danger, Articles 14-15.

authorities proactively delegitimizing peaceful acts of civil disobedience and precluding their recognition as a legitimate exercise of people's rights.[977]

Domestic authorities must ensure that restrictions on peaceful acts of civil disobedience, including through criminal law and the imposition of sanctions, comply with the same criteria used to assess the permissibility of any restrictions on the rights to freedom of peaceful assembly and expression.[978]

Governments have a duty to assess whether their responses are human rights-compliant and take action where necessary to ensure the same. This assessment requires the recognition that peaceful acts of civil disobedience are protected under the rights to freedom of expression, peaceful assembly, and conscience, thought and religion (including freedom of belief). As in practice states often, they should change their laws, policies and practices to remove any retrogressive provisions and rather ensure that peaceful acts of civil disobedience are protected under the right of peaceful assembly, in line with the HRC. This can be achieved, for example, by reviewing and amending, when necessary, laws on public assemblies or other domestic laws.

7.4 DISPROPORTIONATE RESPONSES TO CIVIL DISOBEDIENCE

Amnesty International's research identified a wide range of disproportionate restrictions and sanctions on peaceful acts of civil disobedience that raise human rights concerns. These restrictions include, for example, unnecessary dispersals by police, including through the excessive use of force; arrests based on laws lacking legal clarity; and harsh charges that were at times upheld by courts.

7.4.1 UNNECESSARY DISPERSALS BY LAW ENFORCEMENT OFFICIALS

The fact that peaceful acts of civil disobedience entail the breaking of a domestic law does not per se warrant their dispersal. The dispersal of activists who engaged in these acts must comply with international human rights law and standards applicable to any peaceful assembly.

Peaceful acts of civil disobedience may result in some level of disruption, for example when they block roads and traffic. However, causing disruption alone is not a legitimate reason for dispersing peaceful protesters. Indeed, the dispersal of a peaceful assembly is a measure of last resort that may only be justified to respond to assemblies that are no longer peaceful, i.e., when violence is widespread and serious, entailing the use of physical force against others that is likely to result in injury or death, serious damage to property, or the disruption caused by the assembly is ''serious and sustained' (see Introduction/ Presumption in favour of peaceful assemblies and Chapter 5.4 on dispersal).

Both the European Court of Human Rights and the HRC have found that disruption is inherent in protest and that, for as long as the protest remains peaceful, the authorities must tolerate the disruption and must only impose restrictions in narrowly defined circumstances to protect the rights of others. The HRC clarified that disruptions must be accommodated unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions. It also concluded that protests that cause a high level of disruption may only be dispersed if that disruption is both "serious and sustained",[979] for which there must be a high threshold above the temporary disruption of vehicular or pedestrian traffic. Such instances may include, for example, blocking a major highway for many days, or blocking access to essential services such as a hospital.[980]

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[977] The Constitutional Court examined the provisions of the law and declared it constitutional in HCC Resolution 1/2023 (I.4). The ruling did not address the wording in the memorandum and the exclusion of acts of civil disobedience from the protection provided to peaceful assemblies.

[978] Restrictions must comply with the *three-part test* (see Introduction/ presumption in favour of peaceful assemblies). Also, acts of civil disobedience must be considered on a case-by-case basis; assess the 'intent' of the action, for example if it was to protest or express political or social dissent, to get the attention of the general public and contribute to the public debate, or to stop or prevent human rights abuses; and assess its overall "disruptive impact" (whether it caused "temporary" damage versus "permanent" negative consequences for the general public or the extent of harm to other people's rights and property).

[979] HRC, General Comment 37, para. 85.

[980] The UN HRC clarified that, while the mere inconvenience of others or the temporary disruption of vehicular or pedestrian traffic are to be tolerated, in cases where protesters block a major highway for days on end or block access to essential services, for example a hospital, then dispersal may constitute a proportionate restriction and be lawful.

Furthermore, acts of civil disobedience that block public roads or disrupt traffic should not be dispersed or prohibited solely based on the disruption they cause, given that urban space should not be considered only as an area for commerce or movement, but also as a space for public participation. According to the HRC, "assemblies are an equally legitimate use of public space as commercial activity or the movement of vehicles and pedestrian traffic" and thus "a certain level of disruption to ordinary life caused by assemblies, including disruption of traffic, annoyance and even harm to commercial activities, must be tolerated if the right is not to be deprived of substance."[981] A similar principle has been reiterated by the European Court of Human Rights.[982]

Amnesty International's research highlighted that, across Europe, protesters who engage in peaceful acts of civil disobedience are usually dispersed by law enforcement officials, often shortly after the start of their actions, and before they caused "serious and sustained" disruption. In some instances, law enforcement officials used excessive force while carrying out these dispersals. Peaceful protesters were often arrested and, in some cases, charged.

For example, in **Belgium** in October 2019, several testimonies emerged that police used excessive force to disperse protests addressing the climate crisis, organized by the group XR Belgium on the Place Royale in Brussels. Place Royale is a so-called "neutral zone" where protests are prohibited from taking place.[983] The unnecessary and excessive force employed by law enforcement included use of water cannons, pepper spray, batons, riot shields and dogs. Most of the people who tried to remain on the square were kettled by the police and arrested.[984] In **Finland**, the practice around the management of peaceful acts of civil disobedience by law enforcement has varied. In some cases, authorities reportedly allowed assemblies to continue for the time desired by the participants. On other occasions, they engaged in negotiations to move gatherings that were blocking roads or dispersed assemblies when protesters refused to comply with the order to relocate.[985] In the **Netherlands**, street blockades are often dispersed by police even when there has been no serious and sustained disruption. For example, in May 2022, a peaceful blockade of a roundabout in Rotterdam was dispersed by police on the mayor's orders for the road to be clear for rush hour.[986] On 27 May 2023, a peaceful blockade of the A12 motorway in The Hague organized by XR was dispersed with water cannons just 15 minutes after it had begun, as the mayor had ordered for the group to be moved to another location.[987]

In the **UK**, acts of peaceful civil disobedience tend to be quickly dispersed by police. Such practice is supported by legislation that criminalizes, among other things, "aggravated trespass" and "obstruction of major transport works".[988] In addition, since 2023, UK legislation has criminalized peaceful assemblies that

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[981] Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions, *Joint report on the proper management of assemblies*, 4 February 2016, UN Doc. A/HRC/31/66, para. 32.
[982] In the case of *Oya Ataman v. Türkiye*, the ECtHR stated that, where demonstrators do not engage in acts of violence, it is important for the public authorities to show a "certain degree of tolerance towards peaceful gatherings" if the freedom of assembly guaranteed by Article 11 of the European Convention on Human Rights is not to be deprived of all substance.
[983] The law of 2 March 1954 imposes a total ban on assemblies in so-called "neutral zones"; that is, specific areas near certain government buildings, including, in Brussels, the area around the Federal Parliament buildings, the Flemish Parliament, the Parliament of the French community and Place Royale. Such blanket bans are contrary to international human rights law. See more details on "protest-free zones" in Chapter 4
[984] Amnesty International sent a letter to the Belgian authorities on 20 December 2019 expressing concerns over the way the authorities reacted to the peaceful demonstration, seeking further information, outlining recommendations and seeking a meeting to further discuss the concerns. The concerns outlined in the letter – which is on file with Amnesty International – were based on media monitoring, interviews with a representative of XR and analysis of participants' written testimonies which were collected by XR and made available to Amnesty International.
[985] This analysis is based on direct observations of protests made by Amnesty International Finland, for example in Tampere (19 September 2022), Kemi (9 October 2022), Helsinki (on Pohjoisesplanadi and Eteläranta roads, 21 June 2022), Helsinki (Mannerheimintie road, 6 October 2022), Helsinki (Mannerheimintie road and Pitkäsilta bridge, 14 October 2022), Kouvola (22 May 2023), as well as analysis of media reports and social media monitoring: see https://poliisi.fi/-/poliisi-keskeytti-mielenosoituksen-hangon-lappohjassa, https://twitter.com/HelsinkiPoliisi/status/1490065460125184000, https://www.hs.fi/kotimaa/art-2000008591726.html, https://www.hs.fi/kaupunki/art-2000008586939.html. See also Amnesty International protest observation reports 2022 and 2023, https://www.amnesty.fi/uploads/2023/02/raportti_mielenosoitustarkkailu.pdf, https://www.amnesty.fi/uploads/2024/02/mielenosoitustarkkailun-vuosiraportti-2023_valmis.pdf
[986] "Hindrance to traffic" was the reason communicated to the police liaison during the protest. (Amnesty International was present with a team of monitors.) This was later confirmed upon request by XR in an email from the city government.
[987] Decision of the mayor available at https://denhaag.raadsinformatie.nl/document/12782488/1/Bijlage_1_-_Beperking_demonstratie_Extinction_Rebellion_27_mei_2023_Geredigeerd. See also https://www.telegraaf.nl/video/730949388/hier-zet-de-politie-waterkanonnen-in-tegen-klimaatactivisten, https://www.bnnvara.nl/joop/artikelen/me-zet-waterkanon-in-tegen-klimaatprotest-extinction-rebellion-op-a12
and XR tweet on the day itself: https://x.com/NLRebellion/status/1662403541095395 32
[988] Definitions and summaries of the offences are available at Crown Prosecution Service, "Protests: Potential offences during protests, demonstrations, or campaigns – Annex A", https://www.cps.gov.uk/legal-guidance/protests-potential-offences-during-protests-demonstrations-or-campaigns-annex#_an3

cause "serious disruptions".[989] Similarly in Spain, quick dispersal and excessive use of force by police has been used in several cases of civil disobedience. In April 2022, climate justice activists from Scientist Rebellion, after throwing paint at the Spanish parliament and sitting down to display a 'Listen to science' banner[990], were immediately removed by police. When they passively resisted, some were subjected to such force by police that they suffered dislocated bones.[991]

7.4.2 CRIMINAL RESPONSES

Acts of civil disobedience involve the premeditated violations of either two categories of domestic laws:

a. laws that purposefully prohibits the exercise of human rights, restricts expression of a particular belief or that conflicts with international human rights law and standards, for example a regulation imposing a blanket ban on protests or a law that criminalizes holding a demonstration without the authorities' prior authorization; or

b. laws that contains a prohibition or other form of restriction that complies with, and does not per se violate, international human rights law and standards, including provisions that criminalize an internationally recognizable offence,[992] for reasons of conscience or because it is perceived as the most effective way to protest or express dissent, to get the attention of the general public and contribute to public debate, or to stop or prevent human rights abuses. Examples of laws that are broken in acts of civil disobedience for this purpose include, for example, laws that prohibit trespassing, obstruction of roads and damage to property.

The assessment of the necessity and proportionality of criminal charges and sanctions on civil disobedience depends on which category of domestic laws is broken.

7.4.2.1 BREACH OF DOMESTIC LAWS THAT VIOLATE INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

Domestic provisions that contravene international human rights law and standards include, among others, vaguely defined laws purported to protect public order and national security that do not comply with the principle of legality; laws imposing a blanket ban on protests, for example at specific locations or during specific time;[993] and laws that impose authorization regimes for protests and/or that criminalize holding a demonstration in breach of mandatory notification requirements.[994]

Restrictions, including criminal or administrative charges and sanctions, on acts that break a domestic law which contravenes international human rights law and standards are usually unnecessary and disproportionate.[995] Instead of arresting, prosecuting and sanctioning those involved in such acts, states

[989] Before June 2023, "serious disruption" was intended to mean situations where a protest may cause significant delay to the delivery of a time-sensitive product; or cause prolonged disruption to the access of essential goods/services. The Regulations passed in June 2023, among others, amended what is intended by "disruption" and significantly lowered the threshold. "Serious disruption to the life of community" now includes any protest that may, "by way of physical obstruction" a) prevent, or hinder in a way that is more than minor, day-to-day activities (including journeys), b) prevent, or delay in a way that is more than minor, delivery of a time-sensitive product; or c) prevent, or disrupt in a way that is more than minor, access to essential goods/services. According to the organization NetPol, "in practice, this means anything considered by police as more than an insignificant inconvenience – particularly the blocking of roads or access to 'key infrastructure' – can now be criminalized using one of the new offences." See NetPol, "Explainer: The Public Order Act 2023", 18 May 2023, https://netpol.org/2023/05/18/explainer-the-public-order-act-2023/

[990] See Independent, "Spain 'arrests protesting climate scientists' amid earliest summer heatwave in history", 16 June 2022; Climatica, "A juicio los científicos y los activistas climáticos que arrojaron pintura al Congreso", 9 February 2024, https://climatica.coop/a-juicio-rebelion-cientifica-congreso/ (in Spanish); Criminal Code, Article 323.

[991] Amnesty International Spain, *Right to protest in Spain: seven years, seven gags that restrict and weaken the right of peaceful protest in Spain"* (in Spanish), November 2022, p. 38, available at: https://doc.es.amnesty.org/ms-opac/doc?q=*%3A*&start=0&rows=1&sort=fecha%20desc&fq=norm&fv=*&fo=and&fq=mssearch_fld13&fv=EUR41700022&fo=and ; Switzerland

[992] An internationally recognizable offence is a criminal offence that complies with the principle of legality and other requirements laid out in international human rights law and standards.

[993] Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions, *Joint report on the proper management of assemblies*, 2 February 2026, UN Doc. A/HRC/31/66, para. 30. For example, the ECtHR has stressed that banning demonstrations for a specific period or in specific circumstances can only be justified on the basis of a real danger of assemblies resulting in disorder which cannot be prevented by other less stringent measures, and only if the disadvantages of the ban are clearly outweighed by the security considerations. ECtHR, *Christians against fascism and racism v. the United Kingdom*, Application 8440/78, Judgment of 16 July 1980, https://hudoc.echr.coe.int/eng?i=001-74286

[994] HRC, General Comment 37, para. 71; ECtHR, *Akgöl and Göl v. Türkiye*, Applications 28495/06 and 28516/06, Judgment of 17 May 2011, https://hudoc.echr.coe.int/eng?i=001-104794 para. 43; ECtHR, *Yilmaz and Kilic v. Türkiye*, Application 68514/01, Judgment of 17 July 2008, https://hudoc.echr.coe.int/eng?i=001-87602 para. 67.

[995] For example, a criminal sanction based on a domestic law that violates the right of peaceful assembly is likely to result in arbitrary arrest and detention, which are prohibited and, as such, constitute an unnecessary restriction on that right. According to the HRC, an arrest or detention based on the legitimate exercise of a human right, including the rights to freedom of expression and peaceful assembly, is arbitrary and prohibited by Article 9(1) of the ICCPR. See HRC, General Comment 35, 16 December 2014, UN Doc. CCPR/C/GC/35, para. 17.

should repeal or substantially amend the respective laws to bring them in line with international human rights law and standards.

Amnesty International's research has identified such laws in at least 16 of the 21 countries analysed. The most common such laws that are present across the region include vaguely formulated provisions punishing "disturbing peace" or "disrupting traffic"; laws imposing a blanket ban on wearing face coverings at public assemblies; and laws criminalizing or otherwise penalizing conduct that is protected by the right of peaceful assembly, such as organizing or participating in "unannounced demonstrations", as well as laws punishing failure to adhere to an authorization regime in instances where the authorities need to grant permission for assemblies to take place. Examples include:

- "Criminal acts against the public peace" (**Austria**)[996],"breach of peace" (**Germany and Switzerland**)[997] and "disturbing public order and tranquillity" (**Portugal**)[998].
- Vaguely formulated traffic offences such as "interference with road or rail traffic" (**Germany**),[999]" malicious disturbance of traffic" (**Belgium**),[1000] "attack on road transport safety" (**Portugal**).[1001]
- Laws criminalizing or otherwise penalizing the non-compliance with authorization regimes (**Belgium, Sweden**, **Luxembourg** and **Switzerland**) (see Chapters 2 and 3).
- Laws criminalizing or otherwise penalizing the participation in an 'unlawful' public assembly (**France**, **Hungary**, **Italy**, **Switzerland** and **Türkiye**) (see Chapter 2).
- Laws foreseeing criminal sanctions or any other undue sanctions for the non-compliance with mandatory notification requirements (**France**, **Greece**, **Germany**, **Hungary**, **Italy**, the **Netherlands**, **Poland**, **Portugal**, **Serbia**, **Türkiye**, **UK**) (see Chapters 2 and 3).
- Laws criminalizing or other otherwise penalizing the non-compliance with blanket bans on face coverings during assemblies (for example, **Austria**, **Belgium**, **France**, **Germany**, **Hungary**, **Italy**, **Switzerland**, and **Türkiye**) (see Chapter 9).

States must ensure that their legislation is in line with international human rights law and standards by repealing or substantially amending the domestic laws mentioned above, as well as any other law that raises human rights concerns. Specifically, laws lacking legal clarity, as well as laws prohibiting or criminalizing conduct that is protected under the right of peaceful assembly, must be amended or repealed.

In the short term, while waiting for these legal reforms to be completed, prosecutorial authorities should adopt internal guidelines to discourage the prosecution of these offences, especially in jurisdictions where prosecutors can exercise discretion in prosecuting specific conduct, based on public interest.

7.4.2.2. BREACH OF DOMESTIC LAWS PROSCRIBING AN INTERNATIONALLY RECOGNIZED OFFENCE

When acts of civil disobedience break a domestic law which contains a prohibition or other restrictions that comply with international human rights law and standards, and the act was conducted due to reasons of conscience or the belief that it was the most effective way to achieve change, any restrictions must comply with the principles of legality, proportionality and necessity (the *three-part test*) and any sanctions must be commensurate with the recognizable offence committed.[1002]

The compliance with the principle of proportionality requires that states consider different elements when taking decisions regarding their responses to peaceful acts of civil disobedience. These elements include, among others: a) The *intent* of the action, for example if it was to protest, to express political dissent, to get the attention of the public, or to stop or prevent human rights abuses; and b) The *overall disruptive impact* of the action and whether it caused temporary, reversible and/or easily replaceable damages versus the

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[996] Criminal Code, Section 274 (1).
[997] Switzerland, Criminal Code, Article 260; Germany, Criminal Code, Article 125.
[998] Decree Law 406/74, Article 1(1).
[999] Criminal Code, Section 315.
[1000] Criminal Code, Article 406; See ABVV, 'Criminal prosecution for trade union action?! What are our arguments?' (in Dutch), 24 July 2018, available at https://www.abvv.be/strafrechtelijke-vervolging-wegens-syndicale-actie-wat-zijn-onze-argumenten; Court of Cassation, Conclusion of the Public Prosecutor's Office on 7 January 2020 (in Dutch), 16 January 2020, available at https://juportal.be/content/ECLI:BE:CASS:2020:CONC.20200107.2N.1/NL?HiLi=eNpLtDKwqq4FAAZPAf4=. Civil society organizations, in particular trade unions, are concerned by prosecution of protest actions for "malicious disturbance of traffic".
[1001] Criminal Code, Article 290.
[1002] See, among others, Rules 2.3, 3.2 and 8.1 of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) adopted by General Assembly resolution 45/110 of 14 December 1990; Article 40(4) of the Convention on the Rights of the Child; Article 4(2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Article 7 of the International Convention for the Protection of All Persons from Enforced Disappearance.

possibility of it causing permanent negative consequences for the general public, or the extent of harm to other people's rights and property.

When using criminal law provisions in response to peaceful acts of civil disobedience, states must take into account the principle of "minimum intervention", which requires that the criminal justice system be used only to the "minimum amount needed to protect society".[1003] This principle is closely intertwined with the principle of proportionality and implies that the use of criminal law may be disproportionate in instances where activists engaged in acts that did not threaten a public interest nor result in harmful behaviour. These include cases where the authorities justified an arrest based on the protection of public order or safety without a real and significant risk to the safety of persons or serious damage to property.[1004]

Amnesty International's research identified that the most common offences for which individuals have been prosecuted include:

- Laws against trespass or similar provisions were used to prosecute activists engaged in peaceful acts of civil disobedience in, for example, **Czechia**, **Finland**, **Germany**, **Ireland**, the **Netherlands**, **Poland**, **Spain**, **Switzerland** and the **UK**.[1005]

While laws against trespass do not per se violate international human rights law and standards, the right to freedom of peaceful assembly protects gatherings in private spaces. When imposing restrictions on those gatherings, including through criminal sanctions, states must take into account a variety of considerations, including the interference caused with the interests of others with rights in the property, whether the ownership of the space is contested and whether participants have other means to achieve their purposes.[1006]

- Provisions punishing damage, criminal damage or destruction of property, were used against protesters in some of the countries examined including **France**, **Germany**, **Greece**, **Ireland**, **Italy**, the **Netherlands**, **Poland**, **Spain**, **Switzerland** and the **UK**.[1007] For example, in **Italy**, two climate activists from the group Ultima Generazione (Last Generation) were sentenced by the Vatican court[1008] for the

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[1003] The UN Working Group on Arbitrary Detention (WGAD) and the UN Working Group on Discrimination against Women and Girls (WGDAWG) have emphasized that criminal law is an ultima ratio measure (a measure of last resort), which should be used to criminalize serious and harmful behaviour, rather than the status of a person. See UN Working Group on Discrimination against Women and Girls and UN Working Group on Arbitrary Detention, *Joint amicus curiae in the Federal High Court of Nigeria, Joy Moses & 5 ORS vs. The Minister*, 3 February 2020, p. 11; ECOSOC Resolution 2002/13, "Action to promote effective crime prevention", https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution_2002-13.pdf
International Commission of Jurists (ICJ), "The 8 March Principles for a human rights approach to criminal law proscribing conduct associated with sex, reproduction, drug use, HIV, homelessness and poverty", https://icj2.wpenginepowered.com/wp-content/uploads/2023/03/8-March-PrinciplesReport_final_print-version.pdf Principles 2, 7 and 13.

[1004] HRC, General Comment 37, para. 43.

[1005] Czechia, Majda Slamova, "Activist from Prague went through long ordeal for writing 202 with a washable spray", Stop Activists Persecution, https://stop-persecution.org/activist-from-prague-went-through-long-ordeal-for-writing-202-with-a-washable-spray; A2larm, "Soud s lidmi z Greenpeace, kteří protestovali proti elektrárně Chvaletice, dnes skončil peněžitým trestem" ["The trial of people from Greenpeace who protested against the Chvaletice power plant ended today with a fine"], 27 January 2021, https://a2larm.cz/2021/01/soud-s-lidmi-z-greenpeace-kteri-protestovali-proti-elektrarne-chvaletice-dnes-skoncil-pokutami/; iDNES, "Aktivistka policistou trhla, ale trestný čin to nebyl, řekl odvolací soud" ["Activist yanked police officer, but it was not a crime, appeals court says"], 14 September 2017, https://www.idnes.cz/zpravy/domaci/aktivistka-katerina-krejcova-policista-zada-odvolaci-soud.A170913_135133_domaci_hell; Finland, "violation of privacy relating to public premises" (Criminal Code, Chapter 24, section 3) and "aggravated violation of privacy relating to public premises" (Criminal Code, Chapter 24, section 4), Poliisi [Police of Finland], "National Police Board issues decision on the Elokapina demonstration", 16 December 2022, https://poliisi.fi/en/-/national-police-board-issues-decision-on-the-elokapina-demonstration; Germany, Criminal Code, Article 123; Ireland, The Irish Times, "Climate activist charged with trespassing at TCD to spend Christmas in jail", 23 December 2020, https://www.irishtimes.com/news/environment/climate-activist-charged-with-trespassing-at-tcd-to-spend-christmas-in-jail-1.4444880; the Netherlands, Criminal Code, Article 138; De Stentor, "Rechter: politie greep te hard in bij actie Zwarte Piet Emmen" ["Judge: police intervened too hard during Zwarte Piet action Emmen"], 13 February 2023, https://www.destentor.nl/hardenberg/rechter-politie-greep-te-hard-in-bij-actie-zwarte-piet-emmen~a9fa7a96/?referrer=https%3A%2F%2Fukc-word-edit.officeapps.live.com%2F; Poland, among others, one of the provisions used against activists was related to "entering a woodland without permission", see Judement of Bielsko Podlaskie Regional Court of 31.01.2018, case no. VII W 610/17; Spain, Criminal Code, Article 203; Switzerland, Criminal Code, Article 186; UK, "aggravated trespass" is one of a number of offences used by authorities to curtail public protest and is an offence under section 68 of the Criminal Justice and Public Order Act 1994 which carries a penalty of up to three months' imprisonment or fine of up to 2,500 GBP (approximately 3,000 EUR), or both, and is also an offence to return to the same land within 12 months of committing aggravated trespass.

[1006] HRC, General Comment 37, para. 57.

[1007] France, Criminal Code, Article 322-1; Germany, Criminal Code, Article 303; Greece, Special law for the protection of antiquities and monuments and Article 189 of the Criminal Code; Ireland, Criminal Damage Act 1991, Section 4; Italy, Criminal Code, ex Article 635 (currently, Article 635 is the subject of possible amendments through Bill No. 693, on which Amnesty International has already taken an initial position in a press release); the Netherlands, Criminal Code, Article 350; Poland, Criminal Code, Article 261; Portugal, Criminal Code, Articles 212 and 218; Spain, Criminal Code, Articles 263 ("damages") and 323 (offences against historical heritage assets); Switzerland, Criminal Code, Article 144; UK, Crown Prosecution Service, "Criminal damage", 16 August 2023, https://www.cps.gov.uk/legal-guidance/criminal-damage

[1008] The Vatican State has its own jurisdiction; however, the relations between Italy and the Vatican are governed by the Lutheran Pacts of 1929 and under these Pacts, the police powers of the Italian authority are to prevent, detect and suppress crimes in Vatican territory. The Vatican State exercise criminal jurisdiction, but only for certain so-called minor offences (theft, embezzlement, personal injury, abuse of office) for which it proceeds directly; that is, without the jurisdictional assistance of the Italian state.

offence of damaging "a public monument of inestimable historical and artistic value" in relation to an action in May 2023 in which they glued their hands to the base of a statue in the Vatican Museums. They were each sentenced to nine months' imprisonment, suspended for five years, and a EUR 1,500 fine, and were ordered to pay compensation to the Vatican of around EUR 28,000.[1009] In a separate action, in March 2024, three activists from Last Generation were sentenced to eight months' imprisonment and a provisional fine amounting to 60,000 EUR after using washable paint on the facade of the Senate in January 2023.[1010] The offence of "damage" is punishable in Italy by three years' imprisonment, and up to five years if the action took place during a public demonstration.[1011] Activists in **Spain** have also faced charges of aggravated damages. Activists who glued themselves to the frames of two Goya paintings in El Prado Museum in the capital, Madrid, in November 2022 were charged with "damage to cultural heritage". Fifteen members of the activist group Scientist Rebellion involved in throwing paint at the Spanish parliament in April 2022 currently face charges for damaging assets of historical/monumental heritage.[1012]

Criminal sanctions for damage to property caused by acts of civil disobedience (whether civil, administrative or criminal penalties) must reflect the overall disruptive impact, specifically whether they caused temporary, reversible and/or easily replaceable damage versus serious damage. These acts must be considered as peaceful, and thus protected by the right of peaceful assembly if they do not involve the use of physical force against others that is likely to result in injury or death, or serious damage of property.[1013] Some of the cases highlighted above raise concerns regarding the use of harsh charges that are not commensurate with the recognizable offence.

- Criminal charges related to road blockades were identified in some of the countries examined. For example, in the **Netherlands**, protesters faced charges for blocking a road, which may attract a maximum punishment being nine years of imprisonment or a fine of over 100,000 EUR.[1014] In the **UK**, protesters have faced charges for "obstruction of the highway"; a provision punishable under new legislation with up to 51 weeks' imprisonment and/or a fine.[1015] In **Portugal,** Amnesty International has documented nine sit-ins by the climate justice group Climáximo that involved the blocking of roads between October 2023 and March 2024. All the sit-ins were dispersed by police during which 50 activists were detained and subsequently 46 were charged. So far, 10 activists have been sentenced to imprisonment for one year for the "attack on road transport safety" and disobedience. The imprisonment was converted to fine of between 600-1000 EUR per activist. The rest of the cases against the activists are pending or ongoing at the time of writing.[1016] In **Italy**, the offence criminalizing "road-blocks" was re-introduced in 2018 and is punishable by six or twelve years' imprisonment depending on the number of people involved.[1017] In **Spain**, environmental activists engaged in traffic blockades faced investigations and/or charges including "serious disobedience" punishable with 3 months to 1 years imprisonment (or a fine), and other public order disorder charges punishable with 6 months to three years imprisonment.[1018] In **Sweden**, activists

[1009] See Sky TG24, "Ultima Generazione, 9 mesi agli attivisti che si incollarono a Laocoonte: "Faremo ricorso"" ["Last Generation, 9 months for the activists who glued themselves to Laocoön: "We will appeal""], 13 June 2023, https://tg24.sky.it/cronaca/2023/06/13/attivisti-ultima-generazione-condanna-vaticano#:~:text=Gli%20eco-attivisti%20Guido%20Viero,1500%20euro%20di%20ammenda%20ciascuno

[1010] The Senate, the Ministry of Culture and the Municipality of Rome had asked for damages totalling 190,000 EUR, but the court granted them a provisional payment pending the final decision. See: Il Post, "Il tribunale di Roma ha condannato a 8 mesi i tre attivisti di Ultima Generazione che avevano imbrattato la facciata del Senato" ["The Rome court sentenced the three Ultima Generazione activists who had defaced the facade of the Senate to 8 months"], 5 March 2024, https://www.ilpost.it/2024/03/05/condanna-attivisti-ultima-generazione-senato/

[1011] The aggravating circumstance was introduced by Decree-Law No. 53/2019, available at https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2019-06-14;53

[1012] See Independent, "Spain 'arrests protesting climate scientists' amid earliest summer heatwave in history", 16 June 2022; Climatica, "A juicio los científicos y los activistas climáticos que arrojaron pintura al Congreso", 9 February 2024, https://climatica.coop/a-juicio-rebelion-cientifica-congreso/ (in Spanish); Criminal Code, Article 323.

[1013] HRC, General Comment 37, para. 15.

[1014] Criminal Code, Article 162. See Het Parool, "Lees terug: Demonstratie XR I XR dreigt volgende blokkade A10 niet meer aan te kondigen, alle aangehouden demonstranten weer vrij" ["Read back: Demonstration XR I XR threatens not to announce the next blockade of the A10, all arrested demonstrators are released"], 30 March 2024, https://www.parool.nl/amsterdam/lees-terug-demonstratie-xr-xr-dreigt-volgende-blokkade-a10-niet-meer-aan-te-kondigen-alle-aangehouden-demonstranten-weer-vrij~b5d916fd/; AD, "U bent allen aangehouden wegens artikel 162, daar staat negen jaar gevangenisstraf op" ["You have all been arrested because of Article 162, which carries a prison sentence of nine years"], 13 October 2021, https://www.ad.nl/binnenland/u-bent-allen-aangehouden-wegens-artikel-162-daar-staat-negen-jaar-gevangenisstraf-op~a62ecb71/

[1015] Crown Prosecution Service, "Offences during protests, demonstrations or campaigns", 4 April 2024, https://www.cps.gov.uk/legal-guidance/offences-during-protests-demonstrations-or-campaigns
Institute of Public Rights of Way and Access Management (IPROW), "Increased penalty for obstruction", 22 September 2022, https://iprow.co.uk/index.php/news/2022/09/22/increased-penalty-obstruction

[1016] Interviews by Amnesty International with two activists and their lawyers conducted between October 2023 and March 2024.

[1017] The offence was introduced by Decree 113/2018.

[1018] Information provided to Amnesty International by Legal Sol, a group of lawyers which represent many protesters who face administrative or criminal proceedings, see https://legal15m.wordpress.com/about/
Criminal Code, Articles 556 (serious disobedience) and 557.

conducting road blockades have faced charges of "sabotage";[1019] a crime that carries a penalty of up to four years in prison.[1020] Several other countries enforce provisions that punish various types of disturbances to traffic, including **Finland**, **France, Germany**, the **Netherlands**, **Poland** and **Switzerland**.[1021] Moreover, the offence of "coercion" has been used in this context in at least two of the countries examined. For example, in **Germany**, roadblocks are punishable as "coercion"[1022] where coercion serves a reprehensible purpose. In **Switzerland**, "coercion" is also a punishable offence[1023] and has been used to charge people engaged in acts of peaceful civil disobedience.[1024] Five UN Special Rapporteurs have expressed concern about prosecutions of climate activists using this provision in connection to peaceful protests organized in the Swiss city of Zurich in 2020 and 2021. The Special Rapporteurs highlighted that the prosecutions might constitute an unreasonable and unjustified restriction on the rights to freedom of expression and peaceful assembly.[1025] Although not exclusively traffic-related, in the **UK** a newly codified offence of "intentionally or recklessly causing public nuisance", which carries a sentence of up to 10 years' imprisonment,[1026] was introduced in 2022 and has been used against protesters.[1027]

Road blocking may be subject to certain restrictions. However, states must tolerate a certain level of disruption given that peaceful assemblies are a legitimate use of public and other spaces.[1028] When using criminal provisions against activists blocking roads, the authorities must ensure that criminal charges are commensurate with the recognizable offence and avoid using broadly formulated and/or excessively harsh charges.

Some of the traffic-related offences mentioned above – for example the crime of "coercion" or provisions punishing "public nuisance" – violate the principle of legality. These provisions are not sufficiently narrowly defined and grant a wide discretion, especially to law enforcement officials, to misuse them to silence dissent. The lack of legal clarity prevents protesters from foreseeing what behaviours would be considered as unlawful and could thus result in a chilling effect, preventing others from exercising their rights. They also fail to establish the high threshold required to justify restrictions on peaceful assemblies. As the HRC has clarified, such restrictions, which might be required to tackle traffic disruptions, can only be justified if the disruptions are "serious and sustained".[1029]

The Special Rapporteur on freedom of peaceful assembly has emphasized that "broader and more general offences of nuisance and disorderly conduct, must be tightly defined in order to comply with human rights law and prevent undue interference with the right of peaceful assembly".[1030] He further emphasized that "road blocking is a legitimate means of protesting, which has long been central to social movements around the world. While road blocking may be subject to certain limited restrictions, it should never be subject to the incurring of criminal penalties".

- A wide range of provisions are in force that criminalize disobeying police orders. For example, in **Finland**, protesters who refused to follow orders to disperse and move away from a road they were blocking have been charged with "insubordination to the police" or "obstructing a public official".[1031]

[1019] See Amnesty International Sweden, Activist Anders arrested in Stockholm on his way to climate demonstration (in Swedish), 31 August 2022, https://www.amnesty.se/aktuellt/aktivisten-anders-gripen-i-sverige-pavag-till-klimatdemonstration/; Sentence issued by the Solna District Court in the case of '12 indicted climate activists for blocking traffic on the E4 on August 29', 24 October 2022, available at https://www.domstol.se/nyheter/2022/10/tolv-klimataktivister-doms-for-sabotage/

[1020] Sweden, Criminal Code (1962:700), Chapter 13, Article 4.

[1021] Finland, Criminal Code, Chapter 23, section 11a; France: Code de la Circulation, Article L412-1; Germany, Criminal Code, Article 315; the Netherlands: Criminal Code, Article 162; Poland, Code of Petty Offences, Article 90; Switzerland, Criminal Code, Article 237 and Federal Road Traffic Act 1958, Article 90.

[1022] Criminal Code, Article 240.

[1023] Criminal Code, Article 181.

[1024] See Swiss Info, "Credit Suisse climate activists found guilty of coercion", 14 May 2021, https://www.swissinfo.ch/eng/business/credit-suisse-climate-activists-found-guilty-of-coercion/46619192

[1025] See Amnesty International Switzerland, UN points out Switzerland's shortcomings (in German), 2 April 2024, https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/dok/2024/uno-weist-auf-versaeumnisse-der-schweiz-hin

[1026] Police, Crime, Sentencing and Courts Act 2022, section 78.

[1027] See Rabah Kherbane, "The use of the new statutory public nuisance offence to prosecute political and environmental protest", 15 March 2023, https://insights.doughtystreet.co.uk/post/102iagn/the-use-of-the-new-statutory-public-nuisance-offence-to-prosecute-political-and-e. The offence previously existed in the common law, but in 2022 was codified and brought into statute.

[1028] HRC, General Comment 37, para. 47.

[1029] HRC, General Comment 37, para. 85.

[1030] Special Rapporteur on freedom of peaceful assembly and of association, *Thematic report: Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice*, 23 July 2021, UN Doc. A/76/222, para. 63.

[1031] "Insubordination to the police" is criminalized by the Criminal Code, Chapter 16, section 4; "obstructing a public official" is criminalized by the Criminal Code, Chapter 16, section 3. See also Yle, "Elokapina päätti mielenosoituksen Mannerheimintiellä ja piti toisen Pitkälläsillalla – poliisi otti kiinni 53 mielenosoittajaa" ["The October uprising ended the demonstration on Mannerheimintie and held another one on Pitkälläsilla - the police arrested 53 demonstrators"], 14 October 2022, https://yle.fi/a/74-20001519; Poliisi [Police of Finland], "Elokapinan mielenosoitus Porvoon Kilpilahdessa" ["Elokapinina demonstration in Kilpilahti, Porvoo"], 11 May 2022, https://poliisi.fi/-/elokapinan-

Failure to comply with a police order to leave a dissolved assembly is an offence in **France and Poland.**[1032] Activists not complying with a lawful order have been charged with "obstructing an officer in his line of duty" (**Germany**) and "qualified disobedience" (**Portugal**).[1033] In **Türkiye**, another prevalent charge leveraged against protesters is for "prevention of public duty" in cases of police intervention in a demonstration.[1034] In the **UK** there are provisions which can be used against activists who disobey police orders: "obstruction of a police officer" and the separate offence of "assault with intent to resist arrest".[1035] Furthermore, the breach by protesters of conditions imposed on protests by police can lead to arrest.[1036] Resistance- and disobedience-related charges have been used against activists, including in **Spain** and **Sweden**. In **Spain**, eight activists engaged on the right to housing are facing trial at the time of writing for crimes of coercion, resistance and serious disobedience, as well as trespassing and occupation of the legal headquarters of a bank, for having carried out a peaceful act of civil disobedience in 2017 with the aim of stopping the eviction of a vulnerable family.[1037] Each activist faces a prison sentence for more than three years and a fine of 3,600 EUR.[1038]

In the instances mentioned above, resorting to criminal law provisions raises concerns regarding proportionality, especially given the principle of minimum intervention. This particularly holds true given that less restrictive options, other than criminal charges and prosecution, are usually available to the police to disperse protesters.

- The authorities in some countries – including **Germany**, **Italy**, **Spain** and **Türkiye** – have resorted to terrorism-related provisions and laws related to national security and combating organized crime to target activists engaged in protests and acts of civil disobedience. For example, in **Türkiye**, anti-terrorism laws, such as "making propaganda of a terrorist organization" [1039] have been used against people, including participating in Newroz celebrations, protests for Kurdish rights and protests organized by pro-Kurdish rights political parties.[1040] In **Germany**, several investigations have been launched since 2022 against protesters and members of activist groups, particularly climate activists

mielenosoitus-porvoon-kilpilahdessa?utm_source=dlvr.it&utm_medium=twitter; Yle, Poliisi keskeytti Elokapinan mielenosoituksen Koverharin satamassa Hangossa – viisi otettu kiinn" ["The police stopped the Elokapina demonstration at the port of Koverhar in Hanko - five were arrested"], 21 April 2022, https://yle.fi/a/3-12411880; Poliisi [Police of Finland], "Poliisi keskeytti mielenosoituksen Hangon Lappohjassa" ["The police stopped the demonstration in Lappohja, Hanko"], 21 April 2022, https://poliisi.fi/-/poliisi-keskeytti-mielenosoituksen-hangon-lappohjassa

[1032] France, Criminal Code, Article 431-5; Poland, Code of Petty Offences, Article 52(3)(3).

[1033] Germany, Criminal Code, Article 113; Portugal, Criminal Code, Article 348.

[1034] Turkish Penal Code (Law no 5327), Article 265.

[1035] Police Act 1996, section 89(2); Offences against the Person Act 1861, section 38; Public Order Act 1986.

[1036] Under the 1986 Public Order Act, as amended by the 2022 and 2023 Acts.

[1037] Amnesty International Spain, Amnesty International expresses its concern about the restriction of the right to freedom of peaceful assembly before the trial of the 8 anti-eviction activists from Guadalajara (in Spanish), 28 November 2022, https://blogs.es.amnesty.org/castilla-la-mancha/2022/11/28/amnistia-internacional-muestra-su-preocupacion-por-la-restriccion-del-derecho-a-la-libertad-de-reunion-pacifica-ante-el-juicio-a-los-8-activistas-antidesahucios-de-guadalajara/; Article 36.6 of Organic Law 4/2015 on Public Security defines "disobedience or resistance to the authorities or their agents in the exercise of their duties" as a serious offence. The European Commission for Democracy Through Law (Venice Commission) stated, in its Opinion on Citizen's Security Law, that "this provision covers not only disobedience to the lawful orders given by the police officers within the framework of this Law, but any disobedience to any official order or regulation... [It] seems to be a catch-all provision which permits the police to impose fines (which may go up to 30 000 EUR) for basically any kind of unlawful behaviour." (Opinion No. 826/2015, 22 March 2021, para. 72, available at https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)004-e

[1038] Amnesty International Spain, CaixaBank must drop charges of coercion, resistance and occupation against eight anti-eviction activists from Guadalajara for a peaceful protest action (in Spanish), 19 June 2023, https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/caixabank-debe-retirar-los-cargos-por-coacciones-resistencia-y-ocupacion-contra-ocho-activistas-antidesahucios-de-guadalajara-por-una-accion-de-protesta-pacifica/

[1039] Law no 3713 (Anti-Terror Law), Article 7(2).

[1040] Evrensel, "Women's meeting organized by Green Left Party in Kadıköy: We are here, we will bring change with women!" (in Turkish), 7 May 2023,https://www.evrensel.net/haber/489402/yesil-sol-partiden-kadikoyde-kadin-mitingi-buradayiz-kadinlarla-degistirecegiz; Diyarbakır Bar Association, "2024 Newroz Monitoring Report"(in Turkish), 10 May 2024, https://www.diyarbakirbarosu.org.tr/raporlar; Anka News "264 people detained, 23 people arrested during the events in Van" (in Turkish), 6 April 2024, https://ankahaber.net/haber/detay/vandaki_olaylarda_264_kisi_gozaltina_alindi_23u_tutuklandi_1745864; Amnesty International Türkiye, "Türkiye: Authorities must lift the bans on peaceful protests and investigate the allegations of ill-treatment and excessive use of force against protesters" (in Turkish), 4 May 2024, https://www.amnesty.org.tr/icerik/turkiye-yetkililer-bariscil-protestolara-yonelik-yasaklari-kaldirmali-ve-protestocularin-maruz-kaldigi-kotu-muamele-ve-asiri-guc-kullanimi-iddialarini-sorusturmali; Amnesty International, "Türkiye: Hunger strikes: Rights violations faced by prisoners on hunger strike and those protesting in solidarity", 6 August 2019, https://www.amnesty.org/en/documents/eur44/0835/2019/en/; Amnesty International, "Türkiye: End post election crackdown on peaceful dissent", 23 August 2019, https://www.amnesty.org/en/documents/eur44/0933/2019/en/

involved with the group Last Generation,[1041] for forming "a criminal organization".[1042] In **Italy**, in April 2023 five activists from Last Generation were placed under investigation for "criminal association".[1043] The investigation related to acts of civil disobedience which were carried out between May and October 2022 to raise awareness of climate change.[1044] In April 2024, the Public Prosecutor dismissed the charge, considering there was no basis to justify the criminal association, but the five activists will be tried on charges of "road blocking," "unauthorized demonstration "and "failure to comply with an order banning presence (foglio di via)"[1045] In another case, in July 2022, six leading members of two grassroot trade unions (four from USB and two from SICOBAS) were placed under house arrest under serious charges of criminal association aimed at private violence, resistance to a public official, unauthorized demonstration, interruption of a public service, sabotage and extortion.[1046] In August 2022, a court in Bologna cancelled the pretrial detention order in relation to the charges of criminal conspiracy and kept the obligation to sign related to the other charges.[1047] In March 2024, the trade unions were notified of the closure of investigations, awaiting indictment.[1048] In **Spain**, 25 members of Futuro Vegetal (the Spanish arm of the Animal Rising animal rights group) were investigated for participating in a "criminal organization".[1049] The police investigation also focused on 65 direct actions carried out by the same group, such as that at El Prado museum and blockades of roads (see above).[1050] In a separate case, 12 people were investigated for terrorism-related offences in connection with their alleged organization protests related to the independence of Catalonia, including roadblocks.[1051]

The instrumentalization and inappropriate application of terrorism-related and organized crime charges against activists involving in peaceful acts of civil disobedience raises concerns regarding the respect of the principle of proportionality which any state's response to peaceful acts of civil disobedience should comply with. Prosecutions based on these provisions raise concerns regarding the weaponization of 'public order' and 'national security' as justifications for silencing dissent and disincentivizing the legitimate exercise of human rights.

[1041] See: Guardian, "German police stage nationwide raids against climate activists", 24 May 2023, https://www.theguardian.com/world/2023/may/24/german-police-stage-nationwide-raids-against-climate-activists
DW, "German prosecutors confirm Last Generation wiretaps", 25 June 2023, https://www.dw.com/en/german-prosecutors-confirm-last-generation-wiretaps/a-66025732

[1042] Criminal Code, Article 129. This article is implementing the EU framework decision 2008/841/JI. The criminal offence penalizes "any person who founds an association or participates as a member in an association whose purpose or activity is directed towards the commission of criminal offences punishable by a maximum term of imprisonment of at least two years". The offence is punishable by a prison sentence of up to five years.

[1043] Criminal Code, Article 416, available at https://www.brocardi.it/codice-penale/libro-secondo/titolo-v/art416.html
The article provides a punishment of three to seven years' imprisonment when "three or more people associate for the purpose of committing several criminal offences; those who promote or constitute or organize the association shall be punished. For the mere fact of participating in the association, the punishment shall be imprisonment of from one to five years."

[1044] See Amnesty International Italy, "Criminal association" for Last Generation activists: unjustifiable criminalization (in Italian), 17 April 2023, https://www.amnesty.it/associazione-a-delinquere-per-attivisti-di-ultima-generazione-criminalizzazione-ingiustificabile/

[1045] See Il Fatto Quotidiano, "Ultima Generazione, cade l'accusa di associazione a delinquere per cinque attivisti a Padova" ["Last Generation, the charge of criminal association is dropped for five activists in Padua"], 13 April 2024, https://www.ilfattoquotidiano.it/2024/04/13/ultima-generazione-cade-laccusa-di-associazione-a-delinquere-per-cinque-attivisti-a-padova/7512302/

[1046] The investigation is related to the trade unions' assistance to migrant workers from 2014, allegedly for economic gain. In addition to the eight trade unionists who were subjected to precautionary measures at the time, more than 100 people were investigated in the same inquiry. See Il Piacenza, "Lavoratori come pedine e mandati allo sbaraglio a compiere reati: tra Cobas e Usb una bieca lotta di potere" ["Workers as pawns and sent on the loose to commit crimes: between Cobas and Usb, a blatant power struggle"], 20 July 2022, https://www.ilpiacenza.it/cronaca/usb-cobas-arresti-sindacalisti-polizia-procura.html

[1047] Il Piacenza, "Sindacalisti arrestati, il Riesame dispone l'obbligo di firma e revoca i domiciliary" ["Trade unionists arrested, the Review orders the obligation to sign and revokes house arrest"], 5 August 2022, https://www.ilpiacenza.it/cronaca/sindacalisti-arrestati-il-riesame-dispone-l-obbligo-di-firma-e-revoca-i-domiciliari.html

[1048] Il Piacenza, "Maxi inchiesta su Cobas e Usb: chiuse le indagini, ora si attende la richiesta di rinvio a giudizio" ["Maxi investigation into Cobas and USB: investigations closed, now the request for indictment is awaited"], 5 March 2024, https://www.ilpiacenza.it/cronaca/maxi-inchiesta-su-cobas-e-usb-chiuse-le-indagini-si-attende-la-richiesta-di-rinvio-a-giudizio.html;

[1049] See El Diario, "Citan a declarar a 21 activistas de Futuro Vegetal por pertenencia a "organización criminal"" ["21 Futuro Vegetal activists are summoned to testify for belonging to a "criminal organization""], 28 May 2024, https://www.eldiario.es/sociedad/citan-declarar-21-activistas-futuro-vegetal-pertenecer-organizacion-criminal_1_11401533.html. The investigation is based on Article 570bis of the Criminal Code. The investigation was pending at the time of writing.

[1050] See El País, "La Policía acusa a 22 activistas climáticos del grupo Futuro Vegetal de daños por valor de medio millón de euros" ["The Police accuse 22 climate activists from the Futuro Vegetal group of damages worth half a million euros"], 12 January 2024, https://elpais.com/clima-y-medio-ambiente/2024-01-12/la-policia-detiene-a-22-activistas-ecologistas-del-grupo-futuro-vegetal-en-una-operacion-en-11-ciudades.html#; Olive Press, Climate activists who 'caused €500k worth of damage' are arrested in Spain: 'Futuro Vegetal' members have stormed museums and painted over luxury cars and jets", 12 January 2024, https://www.theolivepress.es/spain-news/2024/01/12/climate-activists-who-caused-e500k-worth-of-damage-are-arrested-in-spain-futuro-vegetal-members-have-stormed-museums-and-painted-over-luxury-cars-and-jets/

[1051] Amnesty International Spain is calling for the investigation to be dismissed, see: https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-cataluna-amnistia-internacional-advierte-que-las-movilizaciones-de-tsunami-democratic-no-son-terrorismo/

EXPRESSIVE INTENT AND PUBLIC INTEREST DEFENCE

When imposing restrictions on peaceful acts of civil disobedience that break a domestic provision criminalizing a recognizable offence that does not violate international human rights law and standards, the authorities must consider the intent of those engaging in peaceful acts of civil disobedience which constitute the expression of a political or other opinion, in instances where they believe that their acts are necessary, for example, to get the attention of the public or to stop or prevent human rights violations.[1052]

Under no circumstances should an individual engaged in civil disobedience face harsher criminal charges or a more severe punishment than would a person committing the same offence without an intention to express an opinion. Doing so would amount to discrimination based on belief or political or other opinion, which is prohibited under international and European human rights law.[1053]

In several countries across the region, criminal laws and jurisprudence establish principles of public interest defence that can be considered by judicial authorities, for example when deciding about the legal responsibility of the defendants and/or the applicable sanction. For example, in **Ireland** the Criminal Damage Act provides for a defence of an "honestly-held belief that the action was justified in order to protect other persons".[1054] In **Belgium,** the "state of necessity" has been accepted as a public interest defence, by the Court of Cassation[1055].

In a few cases of civil disobedience, courts have taken these defences into account. For example, in **Switzerland,** first instance courts accepted "state of necessity" defences, although the Federal Supreme Court later overturned them by ruling that civil disobedience fall outside of the protective scope of freedom of expression and assembly.[1056] In **France**, five activists involved in removing portraits of the President from public buildings to raise awareness of the climate emergency were acquitted based on freedom of expression and/or the "state of necessity" (in Lyon, Auch, Strasbourg, Valence and Amiens).[1057]In **Germany**, the state-of-emergency defence available under paragraph 34 of the Criminal Code has been considered a valid justification in some cases,[1058] but not in other cases.[1059]

In the **UK**, necessity is also available as a legal defence. However, the use of this defence for acts related to the risk of death or serious injury from climate change is unlikely to be upheld, since the criminal act was done to "attract publicity for the espoused cause".[1060] Additionally, the lawful excuse under the Criminal Damage Act 1971 would be unlikely to be accepted by judges, as shown by recent jurisprudence. Following the acquittal by a jury of a group of environmental activists within the context of a direct action in 2020, the Attorney General requested that the Court of Appeal provide a clarification on the law.[1061] The request related to the question of whether it was appropriate for jurors to consider the "merits, urgency or importance of any matter about which [a] defendant may be protesting by causing the destruction or damage, or the perceived need to draw attention to a cause or situation" on a case involving damage to property. In its ruling, the Court of Appeal denied such a line of defence, arguing that such factors are not to be considered as a lawful excuse.[1062].

7.4.3 CUSTODIAL MEASURES

Criminal sanctions, including for acts of civil disobedience, must be assessed in view of the principle of minimum intervention, which requires that the criminal justice system be used only to the "minimum

[1052] OHCHR, *Report on Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests,* 21 January 2013, UN Doc. A/HRC/22/28, para. 51.
[1053] ICCPR, Articles 2 and 26; European Convention on Human Rights, Article 14 and Article 1 Protocol 12.
[1054] Criminal Damage Act, section 6. Under this section, a person will be treated as having a lawful excuse in the following circumstances: Section 6(2)(c): if he damaged or threatened to damage the property in question or, in the case of an offence under section 4, intended to use or cause or permit the use of something to damage it, in order to protect himself or another or property belonging to himself or another or a right or interest in property which was or which he believed to be vested in himself or another and, at the time of the act or acts alleged to constitute the offence, he believed - (i) that he or that other or the property, right or interest was in immediate need of protection, and (ii) that the means of protection adopted or proposed to be adopted were or would be reasonable having regard to all the circumstances. Section 6(2)(3): For the purposes of this section, it is immaterial whether a belief is justified or not if it is honestly held.
[1055] In Belgium, for example, "necessity" has been accepted by the Court of Cassation since 1987 but, according to the information available to Amnesty International, to date it has not been taken into account by courts in cases regarding civil disobedience. The revised Criminal Code codifies the legal figure as a ground for justification and will enter into force on 8 April 2026. Article 10 of Book I of the (new) Criminal Code is available at http://www.ejustice.just.fgov.be/eli/wet/2024/02/29/2024002052/staatsblad
[1056] An action in November 2018 by Lausanne Action Group at the Credit Suisse bank branch in Lausanne led to a trial and an acquittal of defendants in the first instance on the grounds of a "legitimate act in a situation of necessity" (Criminal Code, Article 17) (Tpol VD PE19. 000742, 13.1.2020). This verdict was overturned in the second instance, and the Federal Court upheld the second instance judgment and

amount needed to protect society".[1063] According to this principle, the sanction chosen to target specific conduct should, in all circumstances, be the least intrusive one, by duly reflecting the rights of the victims, the rights of the offenders and the social interest in, for example, protecting public order and preventing crime.

As per the UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), custodial measures, especially as a punishment for minor non-violent offences, should generally be avoided and used only in exceptional circumstances, as a measure of last resort when strictly needed to achieve a pressing need such as a genuine threat to public order.[1064] Alternative measures to custody may include, for example, verbal warnings, suspended sentences, probation under judicial supervision or community sentences.[1065]

In line with the conclusions of UN Special Procedures[1066] and with the jurisprudence of regional human rights mechanisms[1067], custodial measures for peaceful acts of civil disobedience, which break a law in line with international human rights law and standards, should, in principle, be avoided as they are likely to constitute a disproportionate restriction of the right of peaceful assembly. Any restriction, including criminal sanctions and custodial sentences, imposed on activists who break a law that per se violate international human rights law and standards is disproportionate.

The imposition of custodial sentences in countries such as **Germany** and the **UK** raised concerns regarding the respect of the right to freedom of peaceful assembly and the right to liberty. In **Germany** in March 2023, two activists of Last Generation involved in a road blockade in Heilbronn for around two hours were convicted for 'joint coercion' and sentenced to two and respectively three months in prison without probation[1068], a first for climate activists in Germany. According to the judge, this was considered necessary to prevent them from engaging in further actions.[1069]The activists appealed the judgement. In another case, an activist of the Last Generation group was sentenced to 8 months in prison without probation for 'joint attempted coercion' and 'coercion in conjunction with resistance to law enforcement officers', after having

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stated that conditions for a state of necessity under Article 17 of the Criminal Code were not met (no short-term immediate danger which could not have been averted in any other way; no individual legal interests were affected). In relation to another action on the façade of a Credit Suisse branch in Geneva in October 2018, a first instance court acquitted the defendant arguing that they had acted in a putative state of necessity under Article 13 or in a state of necessity under Article 17 of the Criminal Code. The Federal Supreme Court overturned this verdict denying the state of necessity and considering the alleged "vandalism" to be outside of the protective scope of freedom of expression and assembly (BG/TF 6B_1298/2020 & 6B_1310/2020, 28.9.2021).

[1057] Between 21 February 2019 and 21 March 2020, 148 portraits of the President of the Republic were "unhooked" by activists from the Action non violente – COP 21. Fifty activists were convicted, see: https://rhone.alternatiba.eu/2019/09/17/revue-de-presse-laction-des-decrocheurs-jugee-legitime/
https://www.francetvinfo.fr/meteo/climat/decision-courageuse-ou-jugement-delirant-la-relaxe-des-decrocheurs-d-un-portrait-de-macron-fait-debat_3620167.html

[1058] Flensburg District Court, judgment of 7 November 2022 - 440 Cs 107 Js 7252/22.

[1059] See, for example, OLG Celle, Decision of 28 July 2022 – 2 Ss 91/22; OLG Duesseldorf, judgment of 21 September 2022 – 4 RVs 48/22, available at https://openjur.de/u/2457568.html and https://openjur.de/u/2454411.html
For a more extensive summary of cases, see https://mkg-online.de/2023/05/10/die-strafrechtliche-rechtsprechung-zu-klimaaktivisten/

[1060] See Crown Prosecution Service, "Offences during protests, demonstrations or campaigns,4 April 2024, https://www.cps.gov.uk/legal-guidance/offences-during-protests-demonstrations-or-campaigns

[1061] See Mortons Solicitors, "'Lawful excuse': What are the considerations when it comes to protests and criminal damage?", 24 March 2024, https://www.mortons-solicitors.co.uk/lawful-excuse-what-are-the-considerations-when-it-comes-to-protests-and-criminal-damage/

[1062] Attorney General's Reference No. 1 of 2023 [2024] EWCA Crim 243, https://www.bailii.org/ew/cases/EWCA/Crim/2024/243.html

[1063] The UN Working Group on Arbitrary Detention (WGAD) and the UN Working Group on Discrimination against Women and Girls (WGDAWG) have emphasized that criminal law is an ultima ratio measure (a measure of last resort), which should be used to criminalize serious and harmful behaviour, rather than the status of a person. See UN Working Group on Discrimination against Women and Girls and UN Working Group on Arbitrary Detention, *Joint amicus curiae in the Federal High Court of Nigeria, Joy Moses & 5 ORS vs. The Minister*, 3 February 2020, p. 11; ECOSOC Resolution 2002/13, "Action to promote effective crime prevention",
https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution_2002-13.pdf
International Commission of Jurists (ICJ), "The 8 March Principles for a human rights approach to criminal law proscribing conduct associated with sex, reproduction, drug use, HIV, homelessness and poverty", https://icj2.wpenginepowered.com/wp-content/uploads/2023/03/8-March-PrinciplesReport_final_print-version.pdf Principles 2, 7 and 13.

[1064] Special Rapporteur on extreme poverty and human rights, *Extreme Poverty and Human Rights*, 4 August 2011, UN Doc. A/66/265, para. 81; Tokyo Rules, Rule 1.1 and Commentary to the Tokyo Rules; Council of Europe's Recommendation on European Rules on Community Sanctions and Measures CM/Rec (2017), Basic Principle 3, https://rm.coe.int/168070c09b; Special Rapporteur on extrajudicial, arbitrary and summary executions, *Deaths in Prisons*, 18 April 2023, para. 73.

[1065] Tokyo Rules, Rule 8.2.

[1066] Special Rapporteur on freedom of peaceful assembly and of association, *Thematic report: Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice*, 23 July 2021, UN Doc. A/76/222, para. 65.

[1067] The ECtHR ruled that criminal sanctions imposed on peaceful protesters require a particular justification (*Gün and Others v. Türkiye*, para. 82; *Tanakenko v. Russia*, para. 87; *Kudrevicius v. Lithuania*, para. 146). Moreover, it found that a peaceful assembly should not in principle be subject to the threat of criminal sanctions (*Akgöl and Göl v. Türkiye*, 2011, para. 43; *Gün and Others v. Türkiye*, 2013, para. 83; *Ekrem Can and Others v. Türkiye*, 2022, para. 92) including a custodial sentence (*Murat Vural v. Türkiye*, 2014, para. 66; *Gün and Others v. Türkiye*, 2013, para. 83; *Mariya Alekhina and Others v. Russia*, https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-184666%22]}, para. 228).

[1068] Three other defendants received a fine. See District Court Heilbronn ruling 26 Ds 16 Js 4813/23, 6 March 2023, available at: https://openjur.de/u/2467734.html

[1069] Heilbronn Regional Court, Judgement of 06.06.2023 – 26 Ds 16 Js 4813/23, available at https://openjur.de/u/2467734.html

tried to glue herself to a street as part of a blockade. In this case, the public prosecutor's office requested a fine.[1070]

In the UK in July 2023, two Just Stop Oil campaigners were sentenced to two years and seven months' imprisonment and three years' imprisonment respectively.[1071] The sentences were significantly higher than previous ones for similar offences.[1072] The extensive prison sentences were a direct result of the increased of the maximum penalty for the offence of 'public nuisance brought in by the amendments to the 2022 Policing, Crime, Sentencing and Courts Act (see Chapter 1.3.2). The activists were convicted of causing a public nuisance for climbing the cables supporting the Queen Elizabeth II bridge in the county of Kent, and remaining on the bridge for 40 hours, during which time police had to close the crossing to traffic.[1073]

7.4.4 ADMINISTRATIVE MEASURES

As well as criminal sanctions, various national authorities have used a wide range of administrative measures against people involved in peaceful acts of civil disobedience.

For example, in Germany, administrative detention has been increasingly used against climate activists in Bavaria, Berlin and North Rhine-Westphalia to prevent them from participating in protests.[1074] In Bavaria in particular, since October 2022 the police have placed several dozen climate activists in preventive detention for up to 30 days after activists repeatedly blocked streets causing traffic congestion.[1075] The preventive detentions were ordered under section 17.2 of the Bavarian Police Tasks Act, which allows the police to request detention without concrete suspicion of a crime, which would enable the authorities to launch criminal proceedings, to prevent "an administrative offence 'of considerable importance to the general public' or to prevent a crime".[1076]

In Italy, the authorities increasingly imposed administrative measures on peaceful protesters involved in civil disobedience. One of these measures, the so-called "*foglio di via*"[1077] (order banning presence) was introduced as part of anti-mafia laws to tackle some of the most serious crimes. These "orders banning presence" can be imposed on people by the *Questore* [chief of police] based on vague factors such as "being engaged in the commission of crimes that offend or endanger the physical or moral integrity of minors, public health, safety or tranquillity".[1078] Individuals subject to these orders must leave a specific municipal territory, other than their place of residence, within 48 hours and cannot return, unless authorized to do so, for a period of between six months and four years.[1079]

In recent years, orders banning presence have been used against activists of the NO TAV movement in Val Susa (Piedmont), opposing the construction of the high-speed railway Turin-Lyon, and NO MUOS, challenging the US Military Communications Satellite System in Sicily, anti-fascist protesters, as well as grassroots trade union delegates and climate justice activists.[1080] For example, in November 2023, the police imposed *foglio di via* against three of the nine climate activists who climbed a convention centre in Turin to

[1070] Zeit, "Klimaaktivistin wegen Straßenblockaden zu acht Monaten Haft verurteilt", ["Climate activist sentenced to eight months in prison for road blockades»], 21 September 2023, https://www.zeit.de/gesellschaft/zeitgeschehen/2023-09/letzte-generation-strassenblockaden-berlin-haftstrafe
[1071] Court of Appeal, Criminal Division, Judgement, Case, No: 202301572 A3 & 202301577 A3, 31 July 2023, available at https://www.judiciary.uk/wp-content/uploads/2023/07/R-v-Trowland-judgment-310723.pdf
[1072] UN Special Rapporteur on the promotion and protection of human rights in the context of climate change, *Communication to the United Kingdom*, 15 August 2023, AL GBR 16/2023, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28319
[1073] Court of Appeal, Criminal Division, Judgement, Case, No: 202301572 A3 & 202301577 A3, 31 July 2023, available at https://www.judiciary.uk/wp-content/uploads/2023/07/R-v-Trowland-judgment-310723.pdf
[1074] See Amnesty Germany, Germany: preventive detention for climate activists is a clear violation of human rights (in German), https://www.amnesty.de/allgemein/pressemitteilung/deutschland-klimaschuetzerinnen-praeventivgewahrsam-verstoss-menschenrechte
[1075] See Amnesty International, *Germany: Discrimination on the rise – Submission to the 44th session of the UPR Working Group, 9 November 2023* (Index: EUR 23/6481/2023), 31 March 2023, https://www.amnesty.org/es/wp-content/uploads/2023/07/EUR2364812023ENGLISH.pdf
[1076] Amnesty International raised concerns regarding the human rights implication of this measure, including during a hearing at the Bavarian parliament. For a detailed analysis and concerns about the Bavarian Police Tasks Act, see https://www.amnesty.de/amnesty-material/amnesty-positionspapier-stellungnahme-zu-den-geplanten-aenderungen-des
[1077] The measure of "*foglio di via*" was enacted through ex Legislative Decree 159/ 6 September 2011, updated to D.L. no. 123/2023, the so-called Anti-Mafia Code.
[1078] Anti-Mafia Code, Article 1.
[1079] Anti-Mafia Code, Article 2.
[1080] See Amnesty International Italy, "Foglio di via: Tool for prevention or repression", undated, https://www.amnesty.it/fogli-di-via-strumento-di-prevenzione-o-di-repressione/ (in Italian).

hang a banner, in addition to charges for holding an unnotified demonstration, failure to comply with the authorities' orders, and trespass.[1081]

Another administrative measure used against protesters in **Italy** is the so-called "DASPO" orders,[1082] originally created to prevent persons deemed a threat to public order from attending certain sporting events. Through legal amendments, this provision has been extended into the "*DASPO urbano*", which grants the *Questore* [chief of police] powers to prohibit individual access to a specific place for reasons of public order for a period from 48 hours to two years.[1083] In Venice, in December 2023, after protesters had dyed the city's Grand Canal green and abseiled from the Rialto Bridge, the authorities issued three *DASPO urbano* and five four-year *foglio di via*. The police later had to revoke the order against one of the activists so that she could continue her studies at Ca' Foscari University in the city.[1084]

In the **UK**, the Public Order Act 2023 introduce a new administrative measure, the Serious Disruption Prevention Orders (SDPOs), which are banning orders that can prevent an individual from engaging in a range of actions such as associating with particular people (including contacting them online), going to certain areas, attending protests, or encouraging others to protest.[1085] These orders penalizes individuals by placing them under restrictive surveillance without any reasonable suspicion of their involvement in a crime. SDPOs are issued by courts either as an additional penalty upon conviction or as a measure upon request from police authorities. The measures can be used to prevent not only future protest-related offences, including in relation to cases of civil disobedience, but also activities that are likely to result in disruption.[1086] They violate the principle of legality and the rights to privacy, freedom of expression and peaceful assembly.[1087]

These administrative measures, based on vague grounds and often imposed by administrative authorities without prior judicial authorization, violate the principles of legality and the presumption of innocence and are at odds with fair trial safeguards and may also violate the rights to liberty and to freedom of movement. The findings of the report indicate that these measures are being used to penalize individuals in cases where the authorities do not possess sufficient evidence pointing to a reasonable suspicion of their involvement in a crime and, when used against peaceful protesters, including in relation to acts of civil disobedience, they also violate their rights to freedom of expression and peaceful assembly.

7.5 CONCLUSIONS AND RECOMMENDATIONS

Acts of civil disobedience, when conducted in a non-violent manner, are protected under international human rights standards. Nevertheless, none of the 21 countries analysed for this report provide explicit legal protection and recognition for peaceful acts of civil disobedience as a legitimate exercise of the right of peaceful assembly or any other rights. In contrast, Amnesty International has documented a worrying trend of states framing peaceful civil disobedience as a threat to public order and national security, and using such reasoning to justify, enact and normalize repressive actions against people using this means to manifest their concerns and call for action.

States use an array of unwarranted police responses, administrative measures and criminal laws to arrest and prosecute activists for peaceful acts of civil disobedience. Recent cases have seen activists sentenced to prison terms for actions that, albeit sometimes disruptive, remained peaceful. At times, states have instrumentalized and inappropriately applied terrorism-related laws and provisions regarding criminal organisations and activities to activists engaged in protests, including peaceful acts of civil disobedience,

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[1081] See Extinction Rebellion Italia, Turin: complaints and warnings for extinction rebellion activists (in Italian), 25 July 2022, https://extinctionrebellion.it/press/2022/07/25/torino-denunce-e-fogli-di-via-per-gli-attivisti/; La Stampa, "Blitz all'Oval degli attivisti per il clima: "Denunce e fogli di via, questa è repressione"", ["Blitz at the Oval by climate activists: "Complaints and expulsion orders, this is repression""], 30 November 2023, https://www.lastampa.it/torino/2023/11/30/news/blitz_oval_attivisti_clima_denunce_fogli_di_via-13898536/

[1082] Law no. 401 of 13 December 1989, Article 6. DASPO stands for "Divieto di Accedere a Manifestazioni Sportive" ("Ban on attending sport events").

[1083] Decree-Law No. 14/2017, Article 10.

[1084] See Verfassungsblog, Climate Protests and City Bans, 6 March 2024, https://verfassungsblog.de/climate-protests-and-city-bans/

[1085] See Liberty, *Public Order Act: Serious Disruption Prevention Orders*, undated, https://www.libertyhumanrights.org.uk/advice_information/public-order-act-serious-disruption-prevention-orders/

[1086] UK Government, "Statutory guidance: Serious disruption prevention orders", 5 April 2024, https://www.gov.uk/government/publications/serious-disruption-prevention-orders#:~:text=A%20SDPO%20is%20a%20court,apply%20for%20SDPOs

[1087] See OHCHR, "UN Human Rights Chief urges UK to reverse 'deeply troubling' Public Order Bill", 27 April 2023, https://www.ohchr.org/en/press-releases/2023/04/un-human-rights-chief-urges-uk-reverse-deeply-troubling-public-order-bill

placing them under lengthy and invasive investigations, and generating a chilling effect for individuals, social movements and civil society overall.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- Recognize and ensure that peaceful acts of civil disobedience are protected under the rights to freedom of expression, peaceful assembly, and conscience, thought and religion (including belief).
- Ensure that the dispersal of protesters involved in peaceful acts of civil disobedience is a measure of last resort, that may be used only when their actions cause "serious and sustained disruption". Clarify in domestic legislation and guidelines for law enforcement officials that the threshold for defining "serious and sustained" disruption is high, and above the temporary disruption of vehicular or pedestrian traffic.
- Repeal or substantially amend domestic laws prohibiting or criminalizing conduct that is protected under the right of peaceful assembly. Any restriction imposed on individuals who peacefully break a domestic law that violates international human rights law and standards is disproportionate. Ensure that, in the shorter term, while waiting for these legal reforms to be completed, prosecutorial authorities adopt internal guidelines to discourage the prosecution of those offences, especially in jurisdictions where prosecutors can exercise discretion in prosecuting specific conduct based on the public interest.
- Ensure that criminal law and sanctions are used to punish peaceful acts of civil disobedience only as a measure of last resort, where no less intrusive measures are available to protect a legitimate public interest, in line with the principle of minimum intervention.
- Upholding the principle of non-discrimination by ensuring that individuals who break a domestic law (that is not at odds with international human rights law) for reasons of conscience and/or for expressing a political or other opinion are not punished more harshly than others who commit the same offence without that expressive intent. To ensure non-discrimination and tackle systemic racism that is so often pervasive within criminal justice systems, the authorities should collect disaggregated data by race, ethnicity, religion, nationality and migration status regarding arrests, prosecutions and convictions, including of protesters involved in peaceful acts of civil disobedience. These data should be made publicly available and inform policies that address any discriminatory impact of criminal laws on Black people, Arab people, Roma and people belonging to other racialized groups.
- Ensure that the use of criminal law and sanctions does not amount to an unnecessary and/or disproportionate restrictions on the rights to freedom of expression and peaceful assembly. To that purpose, states should make sure that:
    - Individuals engaging in peaceful acts of civil disobedience are not punished on the basis of a law that lacks legal clarity.
    - The charges against individuals involved in peaceful acts of civil disobedience are commensurate with the recognizable offence committed. Refrain from using terrorism-related legislation, as well as provisions enacted for combating organized crime, to charge peaceful acts of civil disobedience.
    - The sanctions imposed on them are commensurate with the gravity of the offence. Custodial measures for peaceful acts of civil disobedience should, in principles, not be used as they are likely to be disproportionate.
    - The specific circumstances are considered on a case-by-case basis, including the expressive intent, by reliance on public interest defences, whenever they are available.
- Refrain from imposing administrative measures lacking legal clarity and violating the presumption of innocence and fair trial standards on peaceful protesters, including those involved in peaceful acts of civil disobedience.

8. CHILDREN AT PROTESTS

8.1 INTRODUCTION

Children are among the groups or categories of people identified by international and regional human rights treaties as requiring special attention and protection, including in the context of protests.[1088] Furthermore, the considerations around children's rights at protests, as well as the specific vulnerabilities that must be considered and addressed by authorities, are receiving increasing attention from NGOs, the UN and other actors, including in the context of growing numbers of young people actively exercising their right of peaceful assembly worldwide, including in Europe.

In recent years, children in this region and around the world have led and participated in major protests demanding climate justice, racial equality, social justice and better education or in support of democracy and the rule of law, among other issues. Such increased involvement by children and young people highlights the growing need for concerted efforts from states to respect, protect and fulfil, including by respecting, protecting and facilitating, children's rights to protest. Children, like adults, have the right to voice their concerns and put forward demands, and be able and enabled to participate in society, including by being able to protest safely and without discrimination.

Nevertheless, across Europe, Amnesty International has recorded numerous instances of children's right to protest being restricted, denied or violated. Several states have failed both to recognize and to afford children and young people the additional protections they are entitled to during protests. Children and young people have been shamed, attacked, punished or threatened with punitive measures for standing up for their rights, have been unlawfully arrested and detained, and have suffered violence at the hands of law enforcement officers.

This chapter includes an overview of states' key legislation and practices in relation to children at protests; however, it does not aim to be exhaustive. While several challenges and limitations to children's right to protest were identified during Amnesty International's research, this chapter will focus and elaborate on a narrower set of concerns. The challenges discussed in this chapter will follow the cycle of a protest, looking primarily at considerations before, during and after a protest. The recommendations provide guidance for improving the protection and facilitation of children's right of peaceful assembly across the region.

8.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS AND PRINCIPLES

Several international and regional human rights instruments recognize children's rights to freedom of expression, association and peaceful assembly, including the ICCPR[1089] and the Convention on the Rights of the Child (CRC).[1090]

[1088] HRC, General Comment 37, para 80; Committee on the Rights of the Child, Comments on Human Rights Committee's Revised Draft General Comment No. 37 on Article 21 (Right of Peaceful Assembly) of the International Covenant on Civil and Political Rights, 21 February 2020, p. 7.
[1089] Article 21 of the ICCPR recognizes the right to freedom of peaceful assembly for every person without discrimination.
[1090] Article 15 of the CRC affirms that state parties must recognize the right of the child to freedom of peaceful assembly.

The CRC – the sole international treaty with almost universal membership – defines children as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier".[1091]

As parties to the CRC, all countries examined in this briefing have a legal obligation to guarantee children's civil rights and freedoms.[1092] These include, among others, the rights to freedom of association, peaceful assembly and expression and the right to be heard and to participate in matters affecting their lives. In addition to specific protections provided by the CRC, children benefit from the provisions and protections provided by all the other human rights treaties.[1093]

The UN Committee on the Rights of the Child has identified four General Principles to support the interpretation and implementation of all provisions contained in the CRC.[1094] These principles, further elaborated in the Committee's General Comment 12, include: non-discrimination,[1095] the best interests of the child,[1096] the rights to life, survival and development,[1097] and respect for the views of the child.[1098]

8.2.1 CHILDREN AND EVOLVING AUTONOMY

Children have particular rights and needs in the context of assemblies and that may be affected by specific vulnerabilities during protests. Children frequently experience discrimination based on various intersecting aspects of their identity as well as their age, such as their gender, if they are racialised, disabled, their migration status, amongst others. The CRC highlights that children have a special status due to their ongoing development, and that they require different levels of protection, guidance and participation according to their level of competence and development. The concept of evolving capacities balances the recognition of children as active agents in their own lives, and as rights-bearers with increasing autonomy as they grow older, with their entitlement to protection in accordance with their status as children.[1099] According to this enabling concept, states have a responsibility to promote children's rights in line with their stage of maturity, regardless of their specific age. It also requires that states respect adolescents' rights to autonomy, privacy and participation.

8.2.2 CHILD HUMAN RIGHTS DEFENDERS

A human rights defender (HRD) is a person who, individually or in association with others, acts to defend and/or promote human rights at the local, national, regional or international level. A HRD can be any person, irrespective of their age, occupation, nationality, and so on, who speaks out against human rights abuses

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[1091] CRC, Article 1.
[1092] The civil rights and freedoms recognized by the CRC include: the right to a name and nationality (Article 7), the right to an identity (Article 8), freedom of expression (Article 13), freedom of thought, conscience and religion (Article 14), freedom of association and peaceful assembly (Article 15), the right to privacy (Article 16), access to appropriate information, and the role of mass media (Article 17), the right not to be subjected to the death penalty or torture or other cruel, inhuman or degrading treatment or punishment (Article 37(a)).
[1093] These include, among others, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the UN Standards Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).
[1094] Committee on the Rights of the Child, "General Guidelines regarding the form and content of initial reports to be submitted by States parties under article 44, para 1 (a), of the Convention, Adopted by the Committee at its 22nd meeting (first session) on 15 October 1991", 30 October 1991, UN Doc. CRC/C/5; General Assembly, *Report of the Committee on the Rights of the Child*, Official Records, Forty-seventh Session, Supplement No. 41 (A/47/41).
[1095] Based on Article 2 of the CRC, states should apply the Convention to each child "without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". Under this article, states have a positive obligation to put in place adequate measures to protect the child from all forms of discrimination (Articles 2(1)-(2)) and promote equality of opportunity.
[1096] Based on Article 3 of the CRC, the best interests of the child principle place an obligation on states to observe this principle as a primary consideration in all actions or decisions concerning the child both in the public and private sphere, "whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies". General Comment 14 by the UN Committee on the Rights of the Child clarified that the best interest of the child is a threefold concept: a substantive right; a fundamental interpretative legal principle; and a rule of procedure for the assessment and determination of the best interests of the child. Ultimately the purpose of assessing and determining the child's best interests is "to ensure full and effective enjoyment of the rights recognized in the Convention and its Optional Protocols, and the holistic development of the child".
[1097] Article 6 of the CRC recognizes the child's inherent right to life and obliges states to ensure the survival and development of the child to "the maximum extent possible" to support the child in achieving their full potential.
[1098] According to Article 12 of the CRC, states must "assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child." To this end, the child should be given "the opportunity to be heard in any judicial and administrative proceedings affecting" him or her, "either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."
[1099] CRC, Articles 5 and 14.

and violations, and/or who promotes human rights in other ways. A child HRD is a person under the age of 18 who takes action to promote human rights. Child HRDs are often exposed to additional and specific risks and challenges because of their status in society, their language, ethnicity, sexual orientation, gender identity, religious, political or other opinions, or because they are Indigenous people, living with disability, or other status.

States have the ultimate responsibility to protect child HRDs; to prevent and effectively address allegations of human rights violations and abuses committed against them and related to their work as child HRDs; to take specific measures that consider their level of development and evolving capacities; to protect and empower children without limiting their freedoms and rights; and to ensure that they can carry out their work in a safe and enabling environment, both online and offline.

8.2.3 STATES' OBLIGATIONS

Specifically in relation to the right of peaceful assembly, the HRC has clarified that states have both negative and positive obligations, and specifically the obligations to *respect*, *protect* and *fulfil* this right (see Chapter 1.2.2). When applied to children, such obligations mean that:

- States should not prevent, hinder or restrict children's right of peaceful assembly except in exceptional circumstances regulated by international human rights law. Unduly restrictive regulations, for example age limitations on organizing or participating in protests, are contrary to the obligation to respect this right.
- States should take measures to prevent harassment or attacks on children at assemblies, under the obligation to protect this right.
- States should establish an enabling environment for children's full enjoyment of the right of peaceful assembly, under the obligation to fulfil this right. This includes active facilitation, for example, provision or facilitation of education for children and adults about this right.

Thus, the 21 countries examined in this report hold positive obligations to protect children from violations of their rights in the context of peaceful assembly and to facilitate their full enjoyment of these rights, as well as the negative obligation not to unduly restrict the exercise of this right by children. Fulfilling such obligations may involve, for example, the removal of age limitations to organizing and participating in protests, the facilitation of public assemblies to ensure children can join safely, the establishment and/or strengthening of frameworks overseeing the policing of protests attended by children and ensuring that police refrain from unnecessary and excessive use of force.

8.2.4 RESTRICTIONS, INCLUDING AGE-SPECIFIC RESTRICTIONS

According to Article 2 of the CRC and Article 12.3 of the ICCPR, restrictions may be imposed exceptionally on the exercise of freedom of peaceful assembly if they are in accordance with the law and necessary for national and public security, public order, the protection of health or morals of the population, or the protection of the freedoms or rights of other people. They must be proportionate and should always be the exception and last resort. When applying restrictions, states must ensure they do not impair the essence of the right.

Age-specific restrictions placed on children in relation to protests are likely to violate these strict criteria and are likely to be disproportionate. The Committee on the Rights of the Child, the most authoritative body in relation to the rights of the child, has recommended to:

> **"a considerable number of States Parties that they should amend laws that prevent persons below 18 from forming associations, or laws that prevent persons below a certain age from organising outdoor meetings, as such laws are contrary to the rights enshrined in article 15 [of the CRC]".[1100]**

All people, including children, have the right to exercise their rights without discrimination, including age-based discrimination. Similarly, as it is required that states give a presumption in favour of peaceful

[1100] Committee on the Rights of the Child, *Comments on Human Rights Committee's Revised Draft General Comment No. 37 on Article 21 (Right of Peaceful Assembly) of the International Covenant on Civil and Political Rights*, 21 February 2020, https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/GCArticle21/EXPERTS_CRC.pdf p. 7.

assemblies, there should be a presumption in favour of children enjoying and exercising their right of peaceful assembly on an equal basis with adults.

Instead of having blanket age restrictions – which disproportionately affect the rights of children and should be abolished – states should recognize that children's capacity and ability to exercise their right to protest evolves as they develop, and they should undertake measures, as necessary, to ensure and facilitate children's enjoyment of their rights.

8.2.5 POLICING ASSEMBLIES INVOLVING CHILDREN AND USE OF FORCE

Children require particular care and protection in the context of assemblies: they may be more easily intimidated, hence the use of force, in addition to posing a risk to their physical and psychological integrity, may have a chilling effect making them refrain from exercising their right of peaceful assembly. They are by nature less likely to present a serious threat and are more likely to suffer more serious consequences from the use of force. Children are also likely to suffer more serious physical and psychological harm than adults in cases of violence by others or the use of force by law enforcement officials. These consequences will more quickly outweigh the legitimate objective and render the use of force disproportionate (principle of proportionality). Hence, law enforcement officials should exercise particular care in the policing of assemblies and in the use of force. They should be more wary of presenting an intimidating appearance and should take precautions to avoid or minimize the use of force. Law enforcement agencies should instruct and train police officers in addressing children in a child-appropriate manner, avoiding the use of force, and exercising particular restraint in the use of any weapons and coercive policing tactics.[1101]

8.2.6 CHILD JUSTICE SYSTEM

The state's response to offences committed by children must first and foremost divert such cases from the formal justice system and make substantial efforts toward alternatives that enable their rehabilitation to allow them to play a constructive and productive role in society.[1102]

General Comment 24 of the Committee on the Rights of the Child highlights that the treatment of children in the justice system must reflect the fact that children differ from adults in their physical and psychological development. Their treatment must be consistent with the aims of child justice, including by considering the best interests of the child in all actions concerning the child. It should systematically ensure that children's rights to life, survival and development, to be heard, and to be free from discrimination are upheld.

International standards, the Committee on the Rights of the Child, other treaty bodies including the HRC, and regional authorities have identified as core principles of juvenile justice the following principles: treatment consistent with the child's sense of dignity and worth;[1103] treatment that takes into account the child's age and promotes the child's reintegration and the child's adoption of a constructive role in society;[1104] and the prohibition and prevention of all forms of violence.[1105]

Human rights bodies have called on states to prevent children from being tried as adults, and the Committee on the Rights of the Child recommends that states establish "child justice courts either as separate units or as part of existing courts. Where that is not feasible for practical reasons, States parties should ensure the appointment of specialized judges for dealing with cases concerning child justice".[1106]

Children accused of infringing the law who are subject to criminal proceedings are entitled to all fair trial rights that apply to adults as well as to additional child justice protections set forth in the CRC and other

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[1101] UNICEF, *Free and Safe to Protest: Policing Assemblies Involving Children*, 2023, https://www.unicef.org/reports/free-and-safe-protest

[1102] HRC General Comment 32, Article 44. Such measures must be consistent with due process, be in the best interests of the child, respect the child's rights and have the child's free and informed consent. The Committee on the Rights of the Child's General Comment 24 adds that: "Diversion should be the preferred manner of dealing with children in the majority of cases. States parties should continually extend the range of offences for which diversion is possible, including serious offences where appropriate. Opportunities for diversion should be available from as early as possible after contact with the system, and at various stages throughout the process. Diversion should be an integral part of the child justice system, and, in accordance with art. 40 (3) (b) of the Convention, children's human rights and legal safeguards are to be fully respected and protected in all diversion processes and programmes." (Para. 16).

[1103] Human Rights Council resolution 10/2, section 7.

[1104] HRC, General Comment 32, section 42; See UN General Assembly: resolution 65/230, annex, section 26 and resolution 65/213, section 15; CoE Recommendation No. R (87) 20, preamble.

[1105] See UN General Assembly, *UN Study on Violence against Children*, 29 August 2006, UN Doc. A/61/299.

[1106] Committee on the Rights of the Child, General Comment 24, 18 September 2019, UN Doc. CRC/C/GC/24, para. 107.

international legal standards.[1107] Children in conflict with the law must be guaranteed trial by a competent, independent and impartial tribunal, and the setting and conduct of proceedings must take into account the child's age, maturity and intellectual and emotional capacity, and not reinforce discrimination of any kind, including gender stereotypes.[1108]

Children who have not yet reached the minimum age of criminal responsibility should not be formally charged with an offence or held responsible within a criminal justice procedure. Instead, their behaviour should be addressed through special protective measures, if appropriate and in the child's best interests. The CRC sets no minimum age for criminal responsibility but rather it requires states to establish a minimum age below which children are presumed not to have the capacity to infringe the penal law.[1109] Nevertheless, the Committee on the Rights of the Child has concluded that 14 is the lowest internationally acceptable minimum age for criminal responsibility and urges states with a lower minimum age to increase it to at least 14, while those states with a higher minimum age are encouraged not to lower it.[1110]

The CRC stipulates that deprivation of a child's liberty, including before trial, must be used only as a measure of last resort and implemented for the shortest appropriate time.[1111] Alternatives to detention must be available and their appropriateness explored.[1112] Human rights bodies have called on states to avoid, wherever possible, the use of pretrial detention for children.[1113] Any child who is arrested and deprived of their liberty should be brought before a competent authority within 24 hours to examine the legality of their detention.[1114] Children facing criminal proceedings are entitled to be brought to trial as speedily as possible, and decisions in child justice proceedings should be taken without delay.[1115]

Children should be able to consult freely and in full confidentiality with parents or guardians as well as legal counsel. They have the right to legal and other assistance at all stages of the process, including during questioning by police. This includes free legal aid and access to a doctor, social workers and other professionals as necessary.[1116]

A strictly punitive approach is not in accordance with the leading principles for child justice.[1117] Punishments of children should be proportionate.[1118] Deprivation of liberty should be a last resort and, when used, it should be for as short a period of time as possible, and its aim must be rehabilitative.[1119] Conditions of detention must be appropriate to children's age and legal status. If deprived of their liberty, children must be held separately from detained adults. Alternative measures, including diversion and restorative justice, should be encouraged. States must ensure that a variety of alternatives to detention or other institutional care are available for children found to have infringed criminal law.[1120]

8.3 CHALLENGES TO THE ENJOYMENT OF THE RIGHT TO PROTEST BY CHILDREN

As outlined above, in line with the CRC and other international and regional instruments, states have an obligation not only to respect and protect, but also to fulfil children's rights, which means creating an enabling environment for children to be able to exercise, among others, their right of peaceful assembly. Amnesty International's research has identified numerous challenges to this in the 21 countries studied.

[1107] Fair trial rights detailed by the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules); HRC, General Comment 32, Article 14: Right to equality before courts and tribunals and to a fair trial, 23 August 2007, UN Doc. CCPR/C/GC/32, para. 42. Additional child justice proceedings are detailed by UN Standards Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) and the 1997 Guidelines for Action on Children in the Criminal Justice System (the Vienna Guidelines).
[1108] Amnesty International, *Fair Trial Manual* (2nd edition), 2014, https://www.amnesty.org/en/documents/pol30/002/2014/en/ p. 197.
[1109] CRC, Article 40(3)(a).
[1110] Committee on the Rights of the Child, General Comment 24.
[1111] CRC, Article 37(b).
[1112] CRC, Article 37(b).
[1113] UN General Assembly resolution 65/213, section 14; HRC General Comment 32, section 42.
[1114] Committee on the Rights of the Child, General Comment 10: Children's Rights in Juvenile Justice, 25 April 2007, UN Doc. CRC/C/GC/10, section 83.
[1115] CRC, Article 40(2)(b)(iii).
[1116] See Committee on the Rights of the Child, General Comment 10.
[1117] Committee on the Rights of the Child, General Comment 10, section 71.
[1118] To the circumstances and the gravity of the offence, but also to the age, lesser culpability, circumstances and needs of the child (Committee on the Rights of the Child, General Comment 10, para. 71).
[1119] See HRC, General Comment 17, section 2.
[1120] CRC, Article 40(4).

8.3.1 LACK OF AN ENABLING ENVIRONMENT

CONCERNS AROUND THE RECOGNITION OF CHILDREN'S RIGHTS IN LEGISLATION

All 21 countries examined in this overview have ratified the main international and regional human rights instruments which provide for, among other things, recognition and protection of the rights of children (see above).

Additionally, some states give specific recognition to the rights of the child. These include **Belgium**, which has explicit legal guarantees and recognition of children's rights in its Constitution.[1121] The Belgian Senate commented that such constitutional protection is a political and symbolic signal of the country's social vision for children and their position in society.[1122] On the other hand, **Poland**'s ratification of the CRC included a reservation declaring that Poland "considers that a child's rights as defined by the Convention, in particular the rights defined in article[s] 12 to 16, shall be exercised with respect to parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the family".[1123]

Regarding the rights to freedom of association and peaceful assembly – protected by Article 15 of the CRC – Amnesty International has not been able to identify any specific piece of legislation in any of the examined 21 countries that addressed, purposefully and specifically, the issue of children in protests, articulating the rights and obligations either of children and young people or of the authorities. Such legislation could either be self-standing and address rights of children in protests, or part of a wider effort by authorities to develop legislation that addresses the enhanced vulnerabilities specific groups have at protests, such as children, older people, people with disabilities, etc. In some of the countries, the issue of vulnerable groups received some loose mention in relation to the policing approach. For example, in **Finland**, police action must be "reasonable" and "proportionate" to the age of the person targeted, among other considerations.[1124] To date, according to the information available to Amnesty International, none of the states examined in this report have undertaken a thorough review of legislative, policy or procedural frameworks governing the right of peaceful assembly from the perspective of children's rights.

Amnesty International invites each state to review or where necessary develop instruments, in consultation with civil society – including children's groups, collectives and organizations – to ensure that its legislative, policy and procedural frameworks governing the right of peaceful assembly are compliant with international human rights standards and contain specific recommendations to strengthen children's ability to exercise their right of peaceful assembly.

International human rights mechanisms have made specific recommendations to states to ensure that laws, policies and practices that are relevant to children, and have impact on children, centre the child, its best interest and the enjoyment of their rights at the centre (see details on specific recommendations regarding age restrictions, repression and use of force below).

NEGATIVE RHETORIC AROUND CHILDREN AND PROTESTS

In the countries examined, whilst the rhetoric around children and young people's participation in protests has included supportive statements, the use of negative and inflammatory language from politicians, the authorities and other actors have also been prevalent. Few examples are detailed below. They should not be considered comprehensive as an overview across the region.

The Government of **Poland** has been very critical of young people attending assemblies that oppose its policies. For example, in May 2021 the (then) Minister of Education and Science devalued the scope of the Women's Strike protests,[1125] arguing that only a small number of young people attended the protests and those who attended felt ashamed for having done so.[1126] In **Belgium**, the Flemish Minister of Education made several statements referring to "climate truancy" and asked schools to always label absence from school to attend climate justice assemblies as unauthorized absence.[1127] In **Germany**, politicians

[1121] Article 26 refers to the right to freedom of peaceful assembly; Article 22bis stipulates that children have an explicit right to participation and are given the opportunity to express their views in all matters affecting them.
[1122] See 'Children's rights in the Constitution are 20 years young', 26 March 2020, available at https://www.senate.be/event/20200326-Children_s_rights/20200326-Children_s_rights_nl.html
[1123] CRC Articles 12 (right to be heard), 13 (freedom of expression), 14 (freedom of thought, belief and religion), 15 (right to freedom of peaceful assembly and association), and 16 (right to privacy). Poland's reservations are available at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4#EndDec
[1124] Police Act, Chapter 1 section 3 on principle of proportionality.
[1125] The 2020-2021 women's strike protests in Poland, commonly known as Women's Strike, were protests organized in response to the Constitutional Tribunal's ruling on 20 October 2020 which further restricted the law on abortion in Poland.
[1126] See 'Przemyslaw Czarnek: Women's strike? I don't know women who would go on strike' (in Polish), 27 May 2021, available at Przemysław Czarnek: Strajk kobiet? Ja nie znam kobiet, które by strajkowały - rp.pl
[1127] See 'Weyts warns climate truants: 'This is always an unexcused absence' (in Flemish), 13 October 2021, available at https://www.demorgen.be/nieuws/weyts-waarschuwt-klimaatspijbelaars-dit-is-steeds-ongewettigde-afwezigheid~b7135d7f/

demonstrated both strong support for, and strong opposition to, children's involvement in protests.[1128] For example, an Alternative for Germany party (AfD) politician called the climate campaigner Greta Thunberg a "sick child",[1129] while another spoke of "climate hysteria in which AfD will not participate".[1130] Others, such as politicians from the Christian Democratic Union party (CDU), frequently stressed that the climate-related demands of the Fridays for Future groups were excessive and rushed, but expressed these views more diplomatically.[1131] Young people's engagement, on the other hand, was applauded as "democratic" by other political actors.[1132] The Green party's Foreign Minister participated in climate protests alongside child activists.[1133] More democratic participation for children was demanded, especially by the Left Party, which, for example, advocates lowering the voting age to 16. The Left Party made specific reference to Fridays for Future.[1134] In **Portugal**, young climate activists who threw paint at the Prime Minster were criticized by the Minister of Defence as "children who don't know the world they live in and don't respect others" and their action "cowardly, idiotic and childish".[1135] In **France**, the Mayor of Paris stated her support for children and young people staging climate strikes, while President Macron expressed his support but denounced alleged "violence".[1136]

EDUCATION, RESOURCES AND CAPACITY-BUILDING

States should build children's capacity – as rights-holders – to exercise their right of peaceful assembly, with particular children who are marginalized.[1137]As part of states' obligation not only to respect, protest but also fulfil children's right of peaceful assembly, states must establish an enabling environment for the full fulfilment of such right by children and to actively facilitate their exercise of this right. This can include for example providing child rights education for children and adults, in formal or informal settings.[1138]

Amnesty International's review found that isolated training for children takes place on the right of peaceful assembly in some countries. However, there appears to be no systemic or consistent effort by states to educate children on this topic. Many countries' education systems have curricula related to civil education, which could leave space for enhancing adults' and children's knowledge and understanding of human rights, including the right of peaceful assembly. Enabling such civic education as part of the mandatory school curriculum, where this is not already the case, is recommended as it would help to ensure that children, parents and teachers are aware that children have a right to participate in peaceful assemblies. It would also ensure that children are aware of the risks and opportunities of being involved in peaceful assemblies, so they can make informed decisions about whether to participate. Teachers and parents should be educated about the right to protest and supported and assisted in empowering children to be involved in protests.

The information available to Amnesty International on how state actors contribute to building the capacity of children to exercise their right to protest is, to date, very limited and requires further research. Nevertheless, some positive examples were identified.

For example, in 2019 the Ministry of Education in **Austria** issued a statement affirming that students have the right to express their opinions and participate in peaceful protests, and that schools should respect this right while also ensuring the safety and well-being of students. The statement provided guidance for schools on how to respond to student protests, such as ensuring that students are supervised and safe during the

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[1128] An overview can be found at 'How do parliamentary groups in the Burdenstag react to the Fridays for Future movement' (in German), 5 December 2019, available at https://regierungsforschung.de/wie-reagieren-die-fraktionen-im-bundestag-auf-die-fridays-for-future-bewegung/

[1129] See 'How the German parties stand on the climate demonstrations' (in German), 23 April 2019, available at https://www.sueddeutsche.de/politik/fridays-for-future-parteien-position-spd-cdu-afd-gruene-linke-csu-fdp-1.4417558-0#seite-2

[1130] See 'Gauland wants to sit out 'climate hysteria'' (in German), 6 June 2019, available at https://www.n-tv.de/der_tag/Gauland-will-Klimahysterie-aussitzen-article21073242.html

[1131] See 'CDU-Mann criticized Fridays for Future' (in German), 11 October 2020, available at https://www.zdf.de/politik/berlin-direkt/fridays-for-future-kritik-cdu-100.html; post on X by CDU Deutschlands, 3 June 2019, available at https://twitter.com/CDU/status/1135522332456443911

[1132] See 'Monday to Friday for Future' (in German), 24 September 2020, available at https://archiv.cdu.de/aktuelles/Monday-to-Friday-for-Future

1133 See '#Klima Chancellor – Annalena Baerbock takes part in climate protest' (in German), 24 September 2021, available at https://www.stuttgarter-nachrichten.de/inhalt.fridays-for-future-in-koeln-klima-kanzlerin-annalena-baerbock-nimmt-an-klimaprotest-teil.40c80128-dbe4-43f5-a36d-1353baafcc9b.html

[1134] See 'Kipping on voting age 16' (in German), 30 July 2020, available at https://www.die-linke.de/start/presse/detail/kipping-zu-wahlalter-16/

[1135] See 'CDS leader on Montenegro: 'This is not a climate protest, it's a cowardly act'' (in Portuguese), 28 February 2024, available at https://observador.pt/programas/reportagem-observador/isto-nao-e-protesto-pelo-clima-e-um-ato-cobarde/

[1136] See 'Climate: the defence of the environment 'never' justifies an 'aggression', says Emmanuel Macron on the sidelines of COP27' (in French), 7 November 2022, available at https://www.francetvinfo.fr/monde/environnement/cop/climat-la-defense-de-l-environnement-ne-justifie-jamais-une-agression-estime-emmanuel-macron-en-marge-de-la-cop27_5463673.html; and 'Opinion: Why we support the global climate strikes', 19 September 2019, available at https://news.trust.org/item/20190919211530-jgtid

[1137] UNICEF, *Free and Safe to Protest,* p. VI.

[1138] UNICEF, *Free and Safe to Protest,* p. 16.

protest and that schools work with students to find ways to make up any missed schoolwork. In 2021, the Minister of Education changed the school curriculum to "honour the unique awareness of children", with more attention paid to environmental education.[1139] In Finland, a teachers union issued guidance for schools on how to allow children to join climate strikes and how to support children's protests, as part of an educational project.[1140] Such initiatives, although not examined in detail for this report, show proactive efforts to contribute to an enabling environment and towards building and strengthening children's capacity and understanding of their rights.

8.3.2 AGE RESTRICTIONS FOR CHILDREN ORGANIZING PROTESTS

Several of the 21 countries examined prescribe minimum age requirements for *organizing* protests. Such provisions – that impose blanket age restrictions - are likely to represent disproportionate restrictions and should be abolished (see more details on such provisions at 8.2.4). No evidence was found of authorities indicating – in law or policy – minimum age requirements for *participation* in protests. This is a positive trend compared to other parts of the world where evidence exists of countries imposing such discriminatory limitations on children.[1141]

International monitoring treaty bodies – specifically CRC and CAT – have called on states – for example Czechia[1142], France[1143], Türkiye[1144] - to amend their legislation imposing age restrictions on children in relation to the enjoyment of their right of peaceful assembly (as well as right of freedom of expression and association). For example, in 2022, the Committee for the Rights of the Child (CRC) expressed concerns at the fact that in Czechia "the perception of children as subjects of rights is not well enshrined in the society and among professionals" and recommended for the abolition of "any age limit on the right of children to express their view".[1145] In 2016, CRC raised concerns that the legislation in France 'continues to restrict the rights to freedom of expression, association and peaceful assembly for children under 16 years of age" and recommended to the state to "take measures, including of a legal nature, to guarantee the rights to freedom of expression, association and peaceful assembly to children of all ages, as set by the Convention [on the Rights of the Child]".[1146] In 2023, CRC called on Türkiye to "remove age-related barriers for children's enjoyment of their right to freedom of association and assembly under Law No. 5253 on Associations and Law No. 2911 on Assemblies and Demonstrations."[1147] In 2012, CRC had already noted with concerns the existence in Türkiye of "obstacles to children's freedom of expression, association and peaceful assembly […] such as the minimum age of 19 years for forming an organizational committee for outdoor meetings" and recommended amendments of the legislation to remove such obstacles.1148 It further recommended that the "state take all measures to remove other obstacles in the procedures and facilitate the process to ensure that children are able to exercise their rights in accordance with the law."[1149]

In Czechia, the law indicates that an assembly can be called by a citizen "over 18 years of age"; thus, a person under 18 should announce the assembly through a representative or proxy.[1150] In Finland, a child who has reached the age of 15 can act as an organizer only if they are able to meet the associated obligations.[1151] A person under the age of 15 can organize a demonstration together with an adult. In

[1139] See 'Students are only allowed to attend the climate demonstration under supervision' (in German), 20 September 2019, available at https://www.derstandard.at/story/2000108886345/schueler-duerfen-nur-unter-aufsicht-zur-klimademo
[1140] See Association of Teachers of Biology and Geography BMOL ry, 'Hope and Action' (in Finnish), available at https://peda.net/yhdistykset/bmol-ry/oppimateriaalit/toivoajatoimintaa/toivoa-ja-toimintaa
[1141] See UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, *Report*, 14 April 2014, UN Doc. A/HRC/26/29.
[1142] CRC, Concluding observations: Czechia, 22 October 2021, UN Doc. CRC/C/CZE/CO/5-6, para. 19.
[1143] CRC, Concluding observations: France, 23 February 2016, UN Doc. CRC/C/FRA/CO/5, paras 34-35.
[1144] CRC, Concluding observations: Türkiye, 21 June 2023, UN Doc. CRC/C/TUR/CO/4-5, para. 24; CRC, Concluding observations: Türkiye, 20 July 2012, UN Doc. CRC/C/TUR/CO/2-3, para. 38.
[1145] CRC, Concluding observations: Czechia, 2021, para. 19.
[1146] CRC, Concluding observations: France, 2016, paras 34-35.
[1147] CRC, Concluding observations: Türkiye, 2023, para. 24.
[1148] CRC, Concluding observations: Türkiye, 2012, para. 38.
[1149] CRC, Concluding observations: Türkiye, 2012, para. 39.
[1150] Law No. 84/1990 Coll, section 3 on freedom of assembly. According to the comment by the Ministry of the Interior, available at https://www.mvcr.cz/clanek/shromazdovaci-pravo.aspx, an assembly can be organized by person older than 15 years old in specific cases, so the practice and enforcement of the legislation's provisions might vary.
[1151] Assembly Act, section 5 on right to arrange public meetings, available at https://finlex.fi/en/laki/kaannokset/1999/en19990530_20020824.pdf, states that "Public meetings may be arranged by private persons with full legal capacity, by corporations and by foundations. A person who is without full legal capacity but who has attained 15 years of age may arrange a public meeting, unless it is evident that he/she will not be capable of fulfilling the requirements that the law imposes on the arranger of a meeting. Other persons without full legal capacity may arrange public meetings together with persons with full legal capacity". The government proposal for the Assembly Act, 145/1998 adds that the capacity of a legally incompetent person to arrange a public

Hungary, children aged 14 and over can notify a protest; however, police will call on them to appoint a person with "full legal capacity" (a person above 18 years of age).[1152] In Slovenia, "the organizer shall designate a leader. The leader shall be any person who is at least 18 years old". If someone below 18 years of age is designated as a leader, a fine of between EUR 250 and 1,500 can be applied.[1153] In Sweden, organizers must be above 18 to apply for permission to hold an assembly, and parents have the right to decide whether their child can attend a demonstration.[1154] In Türkiye, children cannot organize protests because notification is required by a committee of at least seven people above 18 years of age.[1155] In Serbia, it is not clear whether an age restriction is applied in practice in relation to organizing a protest.[1156] In Switzerland, while there does not appear to be a minimum age requirement in law, the authorization regime in some cities can, in practice, prevent children from organizing protests. For example, in Zurich, a person must be at least 18 to apply for authorization of an assembly.[1157] In Bern, authorities confirmed that there is no minimum age for submitting an application, full capacity to act is not usually a prerequisite to seek permissions, and a case-by-case assessment is carried out.[1158] In Basel, according to information provided by the authorities, there is no specific age requirement to apply for authorization; the youngest applicant to date was 16 years old and was admitted.[1159]

8.3.3 CRIMINALIZATION, PENALIZATION AND DETENTION OF CHILDREN

The research uncovered a variety of concerning examples related to the criminalization, penalization and detention of children, as well as some alternatives to punitive measures put in place by schools, which are closer to the approach required by international law.

International monitoring treaty bodies – specifically CRC and CAT – have called on states - Hungary, Türkiye, and UK and – for example - to amend their legislation to ensure children do not face repression, including through criminalization, in relation to the exercising their right to freedom of association and peaceful assembly, including for their involvement in activism.

In 2020, CRC called on Hungary to "[e]nsure that children enjoy their right to freedom of expression, including when participating in peaceful demonstrations, and do not suffer negative consequences, such as charges of petty offences by the police".[1160] In 2023, CRC noted with concerns in Türkiye the "repression of children's freedom of expression, association and peaceful assembly in the name of combating terrorism, noting that, since 2016, thousands of children have been arrested, detained and convicted on terrorism-related charges."[1161] It called on the state to ensure that Anti-Terrorism Law (1991) is not used to supress the right to freedom of expression and assembly of children". [1162] In 2023, CRC noted with concerns that, in the UK, the "Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 may restrict a child's right to freedom of association and peaceful assembly," and it recommended to the state to "(a) strengthen children's right to freedom of association and peaceful assembly, including by repealing measures in the Police, Crime, Sentencing and Courts Act 2022 and removing provisions in the Public Order Act 2023 that limit children's rights to participate in protests, […] and (c) [e]nsure that children are not

meeting would be estimated by police after receiving a notification of a public meeting. Police can prohibit the arrangement of a public meeting only if it would be obvious that the arranger is not capable of carrying out the legal responsibilities. Assessment should be made on a case-by-case basis and consider the nature of the meeting, for instance the estimated number of participants and the scope of the meeting. If there would be a justified reason to suspect that the arranger is not capable of fulfilling their responsibilities, police could (based on the right of the police to issue orders before the event, as stipulated in section 20 of the Assembly Act) obligate the arranger to call at a police station in person in order to assess the situation."
See https://finlex.fi/fi/esitykset/he/1998/19980145#idm46111191457936

[1152] Freedom of peaceful assembly is guaranteed for all based on Article 1 of the ARA. However, Article 12 of Act CL of 2016 on the General Administrative Procedure provides that a client (such as a notifier of an assembly under the ARA) in an administrative procedure must have legal capacity. Accordingly, if the notifier is between 14 and 18 years old, the police call upon them to appoint a person or persons with full legal capacity (a person above 18 years of age). Reply from Minister of the Interior to Amnesty International's letter, 13 March 2023, on file with Amnesty International.

[1153] Public Assembly Act, Article 38.

[1154] See the Parental Code, Chapter 6, section 11, available at https://lagen.nu/1949:381#K6P11S1

[1155] Correspondence with the Police of the City of Zurich, received on 5 May 2023, on file with Amnesty International.

[1156] In Serbia, the law does not explicitly prohibit children from organizing assemblies, however the wording of the article stipulating information to be provided refers to "personal data, such as ID number". This indicates that anyone under 18 years of age could not be an organizer. However, the Draft Law on the Rights of Child and Child Protection, which is awaiting adoption since 2019, explicitly states that: "A child has the right to organize and participate in a peaceful assembly" (Article 23).

[1157] Correspondence with the Police of the City of Zurich, received on 5 May 2023, on file with Amnesty International.

[1158] Correspondence with the Police Inspectorate of the City of Berne, received on 6 April 2023, on file with Amnesty International.

[1159] Correspondence with the Cantonal Police of Basel City, received on 30 June 2023, on file with Amnesty International.

[1160] CRC, Concluding observations: Hungary, 3 March 2020, UN Doc. CRC/C/HUN/CO/6, para. 20.

[1161] CRC, Concluding observations: Türkiye, 2023, para. 24.

[1162] CRC, Concluding observations: Türkiye, 2023, para. 24.

threatened for exercising their right to freedom of association and peaceful assembly, including for their involvement in climate activism."[1163]

Also in the **UK**, the repeated instructions from Ministers to schools encouraging referrals to the much criticized Prevent programme[1164] has widened and deepened the pre-existing chilling effect Prevent has had in schools. As well as fear of referral to Prevent, Muslim and racialized children are surveilled for their comments as well as self-censorship and Muslim and racialized teachers are acutely pressured in such an environment of surveillance. It is worth noting that a motion was passed by the National Education Union at its National Conference noting that members had seen a rise in the number of Prevent referrals for pupils showing solidarity with Palestine, including things such as wearing PSC badges and stickers.[1165] Organisations such as PreventWatch report that for fear of being penalized for expressing solidarity, young people and children self-censor or are instructed by parents not to talk about certain topics such as Palestine in school for fear of police or prevent involvement.[1166]

In **Poland** in October 2020, a 17-year-old child was subjected to a reprimand for failing to notify authorities about a Women's Strike assembly and for organizing the assembly in violation of Covid-19 restrictions.[1167] In another case, law enforcement officers are reported to have visited the home of a 14-year-old child and threatened them with possible charges related to the organization of an unlawful assembly. The threat was in relation to the child having shared information via social media about a Women's Strike protest. A court refused to launch proceedings against the child, which would have carried a maximum sentence of eight years' imprisonment.[1168] The Ombudsperson raised concerns about the interference of law enforcement in the freedom of peaceful assembly of several young people in the last years. For example, in January 2021 the Ombudsperson intervened in the case of a teenage member of the Youth Climate Strike who was reprimanded by police after having used a megaphone during a protest. In another case, the Ombudsperson raised concerns about a girl who made a speech during a demonstration and was consequently considered to be an organizer by authorities and charged with the crime of organizing an illegal protest.[1169] The Ombudsperson further expressed concerns that acts such as sitting on a pavement had prompted criminal charges against a child for violating public order.[1170]

In **Greece** around 150 individuals were detained in Attica General Police Directorate (GADA) in the capital, Athens, after being apprehended by police in different parts of Athens on 6 December 2020 – the day that a second ban on public outdoor assemblies came into effect. Among those arbitrarily transferred to GADA were two 15-year-old students who were reportedly held for many hours in poor conditions without being able to communicate with their parents.[1171] In March 2021, footage of a young man being beaten by police in Nea Smyrni Square sparked demonstrations across Athens and other parts of Greece.[1172] In the days following one of the demonstrations on 9 March, allegations came to light in national media about beatings during arrest, sexual harassment and torture or other ill-treatment in custody in relation to some of the individuals arrested for allegedly being involved in the violent clashes with police and/or the injury of a police officer.[1173] Among those arrested were several children.[1174] The local teacher's union denounced their arrests.[1175] A representative of a group of concerned citizens formed with the aim to resist the redevelopment

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[1163] CRC, Concluding observations: UK, 22 June 2023, UN Doc. CRC/C/GBR/CO/6-7, para. 27.
[1164] See Amnesty International UK, 'This is the thought police': The Prevent duty and its chilling effect on human rights', May 2024, https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf?VersionId=.hjlwRZuHiGd1_IECXroFwg25jyBtwur
[1165] See National Education Union, Allocation of Conference Time, April 2024, page 75, Motion 36.3, available at https://neu.org.uk/media/2424/download?attachment
[1166] See 'The pressure-cooker effect: The harm of self-censorship on Palestine', Prevent Watch, 30 October 2023, available at: https://www.preventwatch.org/pressure-cooker-effect-harm-self-censorship-palestine-could-backfire/
[1167] See 'Teenage girl convicted of organizing a strike' (in Polish), 25 February 2021, available at Nastolatka skazana za zorganizowanie strajku - Vibez.pl
[1168] See 'A 14-year-old boy promoted a women's strike. The family court refused to consider his case' (in Polish), 26 November 2020, available at 14-latek promował strajk kobiet. Sąd rodzinny odmówił rozpatrzenia jego sprawy - GazetaPrawna.pl
[1169] See Public Information Bulletin of the Commissioner for Human Rights, 'Young citizens have the right to protest and express their opinions. The Commissioner for Human Rights to the Police throughout Poland' (in Polish), 16 April 2021, available at Młodzi obywatele mają prawo do protestu i wyrażania opinii. RPO do Policji w całej Polsce (brpo.gov.pl). The proceedings were aimed at bringing charges under Article 52, section 2, point 2 of the Code of Petty Offences.
[1170] Proceedings were initiated against a young person in Wrocław under Article 51, section 1 of the Penal Code.
[1171] See 'Mother's complaint for unjustified detention of two 15-year-olds' (in Greek), 8 December 2020, available at Καταγγελία μητέρας για αναίτια προσαγωγή σε δύο 15χρονα | ΕΦΣΥΝ (efsyn.gr)
[1172] Amnesty International, Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of Covid-19, p. 26, available at https://www.amnesty.org/en/documents/eur25/4399/2021/en/
[1173] Amnesty International, Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of Covid-19, available at https://www.amnesty.org/en/documents/eur25/4399/2021/en/
[1174] See 'Nea Smyrni: The 7 minors arrested in the incidents are released on parole' (in Greek), 12 March 2021, available at https://www.newsit.gr/ellada/nea-smyrni-eleytheroi-ypo-orous-oi-7-anilikoi-pou-synelifthisan-sta-epeisodia/3239380/
[1175] See 'Elme: 'Withdrawal of unsubstantiated charges against our underage students' (in Greek), 13 March 2021, available at https://www.efsyn.gr/ellada/koinonia/285526_elme-aposyrsi-ton-anypostaton-katigorion-enantion-ton-anilikon-mathiton-mas

of Strefi Hill area in Athens[1176] informed Amnesty International that on 10 August 2022, 19 members, including two 17-year-old girls, were arbitrarily transferred to a police station for identity checks while they were participating in a peaceful action in the area.[1177] Concerningly, in February 2024, draft amendments to the Greek Criminal Code were brought before parliament, attracting criticism from civil society.[1178] Among other changes, the draft expanded article 168 of the Code, which criminalizes disturbing the operation of a public service.[1179] The draft, which became law in March 2024, states that any disruption that impacts the operation of a school can carry a prison sentence of at least one year and a fine in cases involving shouting and noise, and of two years and a fine for 'violence'.[1180] Such provisions indirectly target student mobilizations and risk eroding children's and young people's right of peaceful assembly, and could, for example, result in the criminalization of students occupying schools even if such occupations are peaceful.

In **Sweden**, climate activist Greta Thunberg, who was 17 years old at the time, was accused of "sabotage" and sentenced to 30 days' community service after a peaceful civil disobedience protest in 2022.[1181] In **Slovenia,** legal proceedings were initiated by the police against children participating in protests in February 2021 calling for the opening of schools which were closed due to Covid-19. The court later dismissed the case.[1182]

In Basel, **Switzerland**, in July 2020 a child was kettled with a group of around 70 demonstrators who were participating in an "unauthorized" demonstration in front of the prosecutor's office.[1183] The child was accused of breach of the peace, obstruction of an official act, disturbance of public traffic and defamation. In Lausanne/Vaud around 10 children were convicted for participating in demonstrations on 20 and 27 September and 14 December 2019 in the central square.[1184] Another child was found guilty by a youth court of preventing police from performing an official act, in relation to a March 2019 protest against the financial policy of the pension and insurance company pension and insurance Retraites Populaires.[1185]

A few cases of sanctions being applied, or potentially being applicable, to parents in relation to their children's participation in protests surfaced during this research. For example, in **Poland**, a father was charged for not preventing his 17-year-old daughter taking part in a Women's Strike assembly. The legal basis was article 116.2 of the Petty Offences Law, which says that a person taking care of a child or vulnerable person should be subject to a fine or a reprimand, if the child or vulnerable person does not comply with an obligation or an order; in this case, for non-compliance with Covid-19 restrictions.[1186] In the **Netherlands**, the police reported parents participating with children in a climate justice protest to Safe Home, a reporting and advice point for child abuse and domestic violence. Safe Home responded that taking part in a protest is no ground for reporting, whilst police maintained that the reports were in the best interest of the child.[1187]

[1176] Open Assembly for the Defence of Strefi Hill.
[1177] Interview by Amnesty International on 11 April 2023.
[1178] Hellenic League of Human Rights, *Written Memorandum on the Draft Law on the Criminal Code and the Code of Criminal Procedure,* 16 February 2024, https://bit.ly/3SRIheG (in Greek).
[1179] See Criminal Code, Article 168, available at: https://bit.ly/42Xvbkz
[1180] See Article 33 of Law on Interventions in the Criminal Code and the Code of Criminal Procedure to speed up and upgrade the quality of criminal proceedings: Modernization of the legislative framework on preventing and combating domestic violence, as adopted on 22 February 2024, available at: https://bit.ly/4c4GWtV
Para. 5 stipulates: "A person who enters a primary or secondary education establishment and in any way, in particular by shouting, noise, insults or threats against the teaching staff, workers, employees or pupils, disrupts the functioning of the establishment shall be punished with the penalties of para. 4".
[1181] See 'Activists blocked traffic – glued to intersection' (in Swedish), 26 April 2022, available at https://www.svt.se/nyheter/lokalt/stockholm/aktivister-blockerar-trafiken-fastlimmade-i-korsning.Judgment on file with Amnesty International.
[1182] https://primorske.svet24.si/kronika/okrajna-sodnica-ustavila-prekrskovni-postopek-zope
[1183] Interview with two expert lawyers in the area of freedom of assembly in Basel on 28 September 2022.
[1184] Interview in writing with two expert lawyers in the area of freedom of assembly in Lausanne, received on 5 February 2023.
[1185] On 15 March 2019, around 50 people entered the branch of Retraites Populaires to protest against the institution's financing policy. Noting that the demonstrators were blocking public access, the director asked the police to evacuate them. After an hour of negotiations, the officers issued an ultimatum. Most of the activists complied, but 15 of them got tangled up in each other's arms and legs. The police had to separate them and carry them outside one by one. Those involved were taken to court. In November 2019, a child was found guilty by the juvenile court of preventing the police from performing an official act. He was given a suspended sentence of six half-days' personal service, to be performed in the form of work. He was ordered to pay 150 CHF (approximately 158 EUR) for the costs of the proceedings. In a ruling published on 3 February 2022, the Swiss Federal Court confirmed the judgments handed down to other activists prior, arguing that the natural phenomena likely to occur as a result of global warming cannot be assimilated to a lasting and imminent danger that would allow the state of necessity to be invoked.
[1186] See 'A 16-year-old went on a Women's Strike in Bydgoszcz. The father was to be fined, but the court dismissed the case (in Polish), 12 April 2021, available at https://pomorska.pl/16latka-poszla-na-strajk-kobiet-w-bydgoszczy-ojciec-mial-zostac-ukarany-ale-sad-oddalil-sprawe/ar/c1-15541586.
[1187] Amnesty International Netherlands, 'Amnesty International's concerns about safety home notifications after demonstrations' (in Dutch), February 2024, available at https://www.amnesty.nl/content/uploads/2024/02/Amnesty-International-Zorgen-Amnesty-over-Veilig-Thuis-meldingen-na-demonstraties-februari-2024-1.pdf?x82004

The overview of policies and practices across the region highlighted variations in schools' responses to children missing lessons to attend protests.

In some countries, children experienced penalties and threats of punishment at school in relation to their participation at protests. In **Poland**, the Ombudsperson intervened in the case of a student at a private Catholic School in Biaystok who believed that their expulsion was linked to participation in a women's rights protest in March 2021.[1188] The media reported that students at a school in Radom were threatened with unauthorized absences and lower grades for supporting the Women's Strike, including by displaying symbols associated with the movement.[1189] In **Portugal**, students participating in school occupations organized by Greve Climática Estudanti (Fridays for Future) against climate change had time marked as unauthorized absences in 2022 and 2023.[1190] In most cantons in **Switzerland**, students who take time off school to protest have the time marked as an unauthorized absence. In canton Vaud, high-school students were reported to have received low marks for missing a mathematics test due to their participation in a climate protest.[1191] Two cantons, however, are implementing more positive solutions. In Bern, students can take up to five half-days per year to attend political demonstrations[1192] and teachers can give extra time off if students provide compensation, for example, by giving a talk on the topic in class. In Lucerne, students have at their disposal two free days defined as "joker days"[1193] each year, which they can draw on, for example, to attend protests. In the **UK**, schools can sanction pupils and parents for unauthorized absence, with parents receiving fines for their children's unauthorized absences. However, head teachers have the discretion to excuse an unauthorized absence in "exceptional circumstances", including to attend a protest. At the time of writing, new guidance from the Department of Education is expected to come into force before the next academic year which specifies that attending a protest should not be treated as an "exceptional circumstance"[1194] for such purpose.

8.4 CONCERNS AROUND POLICING OF PROTESTS INVOLVING CHILDREN

8.4.1 THE FRAMEWORK FOR LAW ENFORCEMENT IN RELATION TO CHILDREN AT PROTESTS APPEARS INSUFFICIENTLY DEVELOPED

In none of the 21 countries examined did Amnesty International find any guidelines that specifically tackle the treatment by law enforcement of children in relation to protests. Specifically, Amnesty International did not find (or was made aware by authorities) of any national and/or local guidelines which address the presence of children at protests, how facilitation should occur when children are present, nor the use of equipment and tactics when children are present (including in relation to containment, dispersal, use of equipment including less-lethal weapons, and so on).

Moreover, based on Amnesty International's examination of 21 countries, none of the countries appear to have in place specific and comprehensive training of law enforcement in children's rights and methods for policing assemblies attended exclusively or partially by children.

[1188] See 'A teenager expelled from high school for participating in the Women's Strike protests. The CHR intervenes' (in Polish), 5 May 2021, available at https://www.rp.pl/prawo-dla-ciebie/art147091-nastolatka-wyrzucona-z-liceum-za-udzial-w-protestach-strajku-kobiet-rpo-interweniuje

[1189] See 'In a school in Radom, students punished for using symbols and supporting the Women's Strike' (in Polish), 3 November 2020, available at https://radom.wyborcza.pl/radom/7,48201,26474640,w-szkole-w-radomiu-uczniowie-karani-za-uzywanie-symboli-i-popieranie.html

[1190] See 'Antonia Arrioio's 'Occupations' block school for 'End the Fossil', director speaks of 'act of terrorism' (in Portuguese), 11 November 2022, available at https://expresso.pt/sociedade/2022-11-10-Ocupas-da-Antonio-Arroio-bloqueiam-escola-pelo-Fim-ao-Fossil-diretor-fala-em-ato-de-terrorismo-5236a836

[1191] See 'Highschool students collect grade 1 for climate strike' (in German), 29 January 2019, available at https://www.blick.ch/schweiz/westschweiz/keine-gnade-fuer-aktivisten-gymi-schueler-kassieren-fuer-klima-demo-note-1-id15141602.html

[1192] See 'Highschool students collect grade 1 for climate strike' (in German), 29 January 2019, available at https://www.blick.ch/schweiz/westschweiz/keine-gnade-fuer-aktivisten-gymi-schueler-kassieren-fuer-klima-demo-note-1-id15141602.html

[1193] 'Highschool students collect grade 1 for climate strike' (in German), 29 January 2019, available at https://www.blick.ch/schweiz/westschweiz/keine-gnade-fuer-aktivisten-gymi-schueler-kassieren-fuer-klima-demo-note-1-id15141602.html

[1194] See Department for Education, *Working Together to Improve School Attendance*, 29 February 2024, https://assets.publishing.service.gov.uk/media/65f1b048133c22b8eecd38f7/Working_together_to_improve_school_attendance__applies_from_19_August_2024_.pdf

This is counter to the states' obligation to ensure the respect , protection and fulfilment of children's rights in relation to assemblies.[1195] General Comment 37 stated that "[o]nly law enforcement officials trained in the policing of assemblies, including on the relevant human rights standards, should be deployed for that purpose.[1196] Training should sensitize officials to the specific needs of individuals or groups in situations of vulnerability, which may in some cases include women, children and persons with disabilities, when participating in peaceful assemblies."[1197] It further added that "[a]ll law enforcement officials responsible for policing assemblies must be suitably equipped, including where needed with appropriate and fit-for-purpose less-lethal weapons and protective equipment. States parties must ensure that all weapons, including less-lethal weapons, are subject to strict independent testing, and that officers deployed with them receive specific training, and must evaluate and monitor the impact of weapons on the rights of those affected.[1198] Law enforcement agencies must be alert to the potentially discriminatory impacts of certain policing tactics, including in the context of new technologies, and must address them.[1199]

8.4.2 POLICING OF PROTESTS IN PRACTICE

International human rights mechanisms have made specific recommendations to states – **Czechia**, **France**, **Slovenia** and **UK** – to amend their legislation on policing and use of force in relation to children in protests.

In 2017, the Committee Against Torture (CAT) called on **Czechia** to "revise the regulations governing the use of [electrical discharge] weapons with a view to establishing a high threshold for their use and expressly prohibit their use on children".[1200] In 2009, CRC recommended **France** to reconsider or ban the use of certain equipment – ultra-sound and flash ball devices and other harmful devices – as "they may violate the rights of children to freedom of association and peaceful assembly, the enjoyment of which is essential for the children's development and may only be subject to very limited restrictions as enshrined in article 15 of the Convention."[1201] In 2023, CAT expressed concerns to **Slovenia** regarding the authorities' "use of tasers against children […] when conditions for the use of firearms are met". It called on the state to "establish a high threshold for their use and expressly prohibit their use against children".[1202] In 2023, CRC noted with concerns that, in the **UK**, the "Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 may restrict a child's right to freedom of association and peaceful assembly," and it recommended to the state to "[…] (b) Strengthen measures to prevent the use of acoustic devices to disperse public gatherings of children (so-called mosquito devices), in line with the Committee's previous recommendations. In 2012, the CRC priorly recommended to the state "to fully guarantee children's right to freedom of movement and peaceful assembly [for the state party to] prohibit the use in public spaces of acoustic devices used to disperse gatherings of young people (so-called "mosquito devices") and (b) collect data on measures used against children, including children aged 10-11 years, to deal with antisocial behaviours and for the dispersal of crowds, and monitor the criteria and proportionality of their use.[1203]

The examination of practices across the 21 countries has exposed reports about instances when children or youth were harmed during protests. Amnesty International acknowledges that in some of the cases reported below there might be circumstances that justify the use of specific tactics or equipment. However, the mere existence of concerns around policing of protests and violence against children reinforces further the need for authorities to swiftly develop specific policies, procedures and practice guidelines for protests attended partially or exclusively by children, in compliance with international human rights law.

Some of the examples recorded across the region for this research, while not exhaustive, are detailed below. They draw attention to some of the key areas in relation to policing of protests attended primarily or

[1195] UNICEF, *Free and Safe to Protest,* see 3.7 "Build the capacity of LEOs [law enforcement officials] and other relevant officials"; 3.9 "Recommendations"; 4.3 "Containment, dispersal of assemblies and use of force and firearms"; 4.4 "Arrest and detention of children"; 4.5 "Recommendations" and 5. "After an assembly".
[1196] HRC, Concluding observations: Cambodia, 27 April 2015, UN Doc. CCPR/C/KHM/CO/2, para. 12; HRC, Concluding observations: Greece, 3 December 2015, UN Doc. CCPR/C/GRC/CO/2, para. 42; HRC, Concluding observations: Bulgaria, 15 November 2018, UN Doc. CCPR/C/BGR/CO/4, para. 38.
[1197] HRC, General Comment 37, para. 80.
[1198] UN Human Rights Committee, General comment No. 36, para. 14. See also United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, section 4; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principles 2 and 3.
[1199] HRC, Concluding observations: UK, 17 August 2015, UN Doc. CCPR/C/GBR/CO/7, para. 11; OHCHR, *Impact of New Technologies on the Promotion and Protection of Human Rights in the Context of Assemblies, Including Peaceful Protests*, 24 June 2020, UN Doc. A/HRC/44/24, para. 32.
[1200] CAT, Concluding observations: Finland, 20 January 2017, UN Doc. CAT/C/FIN/CO/7, para. 27.
[1201] CRC, Concluding observations: France, 22 June 2009, UN Doc. CRC/C/FRA/CO/4, paras 47-49.
[1202] CAT, Concluding observations: Slovenia, 7 December 2023, UN Doc. CAT/C/SVN/CO/4, paras 24-25.
[1203] CRC, Concluding observations: UK, 12 July 2016, UN Doc. CRC/C/GBR/CO/5, para. 37.

exclusively by children that authorities should swiftly address and bring in line with international human rights standards.

In **Finland**, during a roadblock by XR in the capital, Helsinki, in October 2020, police used pepper spray against at least one child participant. The child suffered temporary visual impairment, pain in the upper body and sleep disorder.[1204] The spray was used against protesters who were passively resisting dispersal.[1205] In **France**, on 11 March 2023, a 15-year-old high school student was injured by a sting ball grenade (*grende de désencerclement*) used by a policeman during a demonstration against the pension reforms.[1206] In **Germany**, children were reported to be among around 100 people injured during demonstrations against the new assembly law in North-Rhine Westphalia in June 2021.[1207] In **Poland** the media reported that, during Women's Strike demonstrations in November 2021, there were incidents of police using force against children.[1208] In **Slovenia**, during a protest on 15 September 2021, police used instruments of restraint against a child and arrested him. Following a complaint lodged by the child's parents, the Police Complaints Division of the Ministry of Interior found that the police officers had acted disproportionately and that there were no grounds for the use of physical force and no justification for arresting the child.[1209] In **Belgium**, in November 2020 and January 2021, reports emerged that dozens of children were subject to excessive use of force during protest policing operations, were subjected to mass arbitrary administrative arrests and subjected to ill-treatment in detention.[1210]

In **France** reports emerged of excessive use of force against children within the context of the high-school movement that began in December 2018 initially to oppose a reform of the baccalaureate and university admission procedures. The movement saw students block access to more than 200 high schools across the country. At the time, Amnesty International expressed concern around various cases.[1211] They included: a child being hospitalized after being shot in the face with a rubber bullet by police on 5 December in the suburbs of Paris; and 163 children, some as young as 13, being arrested on 6 December after clashes with police, when footage emerged of students being forced to kneel for hours with their hands behind their heads or handcuffed behind their backs. Lawyers representing the children denounced the fact that they were denied food or medical visits for hours, and that interrogations occurred without legal counsellors present.

In **Serbia,** during largely peaceful protests against government-imposed Covid-19 lockdown measures in July 2020, media and civil society organizations documented numerous examples of excessive use of force by police.[1212] Television footage showed uniformed and plain-clothes officers kicking and beating people with batons, including children who were lying on the ground and not resisting.[1213] In Basel, **Switzerland**, during a demonstration on 1 May 2023 a group of around 70 people considered were kettled for approximately five hours.[1214] At least one child, a 16-year-old girl, was pushed to the floor, kicked in the kidney by a police officer, dragged along the floor and taken to the police station.[1215]

[1204] Pre-trial investigation report 5560/R/52607/20, 27 May 2021 (on file with Amnesty International). See also YLE, "Six Helsinki police officers suspected of crimes for pepper spraying protesters", 2 October 2021, https://yle.fi/a/3-12124597

[1205] The case went to trial with allegation of assault and breach of duty against seven law enforcement officers. One of the officers was sentenced to breach of duty. Helsinki District Court decision R22/4140, 21 June 2023. See also YLE, "Helsinki police officer faces fines over protester pepper spraying", 21 June 2023, https://yle.fi/a/74-20037955

[1206] See 'Police violence during demonstrations in Paris: "A man on the ground is easy to hit" (in French), 15 March 2023, available at https://www.mediapart.fr/journal/france/150323/violences-policieres-lors-des-manifs-paris-un-homme-terre-c-est-facile-frapper

[1207] See 'SPD against assembly law' (in German), 28 June 2021, available at https://taz.de/Demos-und-Protest-in-Nordrhein-Westfalen/!5783345/

[1208] See 'Women's Strike comments on protest incidents: police beat children and women' (in Polish), 19 November 2020, available at https://wiadomosci.onet.pl/kraj/strajk-kobiet-policja-wczoraj-bila-dzieci-i-kobiety/btw6qnj

[1209] Slovenia, Ministry of Interior, 'Complaints against police work and irregularities found during protests' (in Slovenian), 5 August 2022, available at https://www.gov.si/novice/2022-08-05-pritozbe-zoper-delo-policije-in-ugotovljene-nepravilnosti-v-casu-protestov/

[1210] Police Watch, the League for Human Rights' Observatory of Police Violence, documented and denounced arrests and violence against minors in relation to demonstrations held in January 2021, a protest calling for "Justice for Adil" on 27 November 2020, a demo calling for "Justice for Ibrahima" on 9 January 2021, a protest "Against class and racist justice' on 24 January 2021 – see 'When citizens use their right to protest to denounce police violence, the police respond with violence' (in French), available at PW_analyse_violences_policieres.pdf (policewatch.be).

[1211] See Amnesty International, "Police must end use of excessive force against protesters and high school children in France", 14 December 2018, https://www.amnesty.org/en/latest/press-release/2018/12/police-must-end-use-of-excessive-force-against-protesters-and-high-school-children-in-france/

[1212] See 'Investigations into cases of police abuse' (in Slovenian), 6 July 2021, available at https://pescanik.net/wp-content/uploads/2021/07/Protesti-tekst-6.7.2021.pdf

[1213] See 'Torture proceedings, activists demand the release of other detainees' (in Serbian), 16 July 2020, available at https://n1info.rs/vesti/a620452-postupci-zbog-torture-aktivisti-traze-oslobadjanje-ostalih-pritvorenih/

[1214] See 'Unia criticises Basel police after pepper spray deplaoyment' (in German), 1 May 2023, available at https://www.nau.ch/news/schweiz/1-mai-polizei-stoppt-demo-umzug-in-basel-66485215

[1215] Interview with an expert lawyer in the area of freedom of assembly in Basel on 30 August 2023. In a letter received by Amnesty International on 25 June from Basel-City cantonal Police, following the invitation sent to authorities to provide comments on the findings of the report, the authorities have indicated that "the cantonal police have no knowledge of this incident. The mass detention on 1 May 2024

In Italy on 23 February 2024, two protests denouncing the situation in Gaza were met with disproportionate use of force by law enforcement in the cities of Pisa and Florence. Media reports and videos showed the police charging at participants who tried to proceed with their march through both cities to reach main squares.[1216] The media reported that children were among the participants who suffered injuries as a result of police violence. The events were criticized by political figures including the mayors of the cities, while members of the government spoke in favour of law enforcement.[1217] Italy's president issued a statement and criticized the use of truncheons against young people.[1218] Many subsequent protests were organized by students and activists to denounce the disproportionate use of force, with incidents reported.[1219]

8.5 CONCLUSIONS AND RECOMMENDATIONS

The international legal framework clearly recognizes children's right of peaceful assembly, as well as the special protection to which children are entitled due to their special and dependant status and their evolving capacities.

This chapter provides examples of legislation and practice where children's rights have been restricted, violated or denied through negative rhetoric, the threat or application of punitive measures, and failure by states to recognize and afford the additional protections required in relation to their presence at protests. It is concerning in the context of children's right of peaceful assembly, that their right to education is undermined and instrumentalized as a coercive and punitive tool. Education is a right, not a privilege which can be withdrawn or threatened to be withdrawn due to a child participating in a protest. It is deeply troubling that both children and their parents can face punitive consequences for a child's participation in a protest. Such consequences are unacceptable. They also risk disproportionately affecting women given the percentage of households headed by single mothers.

Amnesty International urges states to take stock of the barriers, challenges and human rights violations experienced by children when exercising their right to protest, and to swiftly examine their own legislation and policies to bring them in line with international human rights law as per their binding human rights obligations.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- States should formalize their recognition of the rights of children, including children's right of peaceful assembly, and invest the necessary resources to ensure this is translated into legislation, policies and practices related to protest that fully comply with international human rights standards.
- Authorities and politicians should refrain from using stigmatizing and negative rhetoric against children's protests and child protesters and should counter negative narratives, including by tackling any rhetoric that allows for the continuation of harmful or paternalistic stereotypes.
- States should not take a punitive approach to parents whose children take part in peaceful assemblies.
- States should repeal/amend laws to remove legal and administrative barriers that prevent children from exercising or enjoying their right to protest – for example, laws that include age restrictions on attending or organizing protests.
- States should uphold the principle of non-discrimination and ensure that all children are protected and treated as their whole persons, including by addressing specific intersecting forms of

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was documented throughout. The corresponding documentation has already been handed over to the public prosecutor's office. If the allegation made by the lawyer in question is confirmed, the public prosecutor's office will initiate an ex ufficio criminal investigation".

[1216] The protest in Pisa was not authorized. Media reported that around 100 students were directed from Dante Square to De Cavalieri Square when they were charged at by law enforcement officers. The protest in Florence had an authorized route, and reports state that some of the participants dispersed from the march and were reportedly heading towards the US consulate, when they were met with charges by law enforcement. See video ' Charges against students in Pisa' 23 February 2023, available at VIDEO | Cariche sugli studenti a Pisa, è polemica: "Basta manganelli, Piantedosi spieghi" - DIRE.it

[1217] See 'Police violence during Italian demonstrations in support of Gaza sparks controversy', 26 February 2024, available at https://www.lemonde.fr/en/international/article/2024/02/26/police-violence-during-italian-demonstrations-in-support-of-gaza-sparks-controversy_6561268_4.html

[1218] See 'Police charges against students in Pisa and Florence, Mattarella: "Truncheons express a failure" (in Italian), 23 February 2024, available at https://www.lemonde.fr/en/international/article/2024/02/26/police-violence-during-italian-demonstrations-in-support-of-gaza-sparks-controversy_6561268_4.html

[1219] See 'Florence and Pisa, police charges at pro-Palestine demonstrations. Conte and Schlein: no more truncheons' (in Italian), 23 February 2024, available at https://www.ilsole24ore.com/art/firenze-e-pisa-cariche-polizia-cortei-pro-palestina-conte-e-schlein-basta-manganelli-AF5OLhpC?refresh_ce=1

discrimination Black children, Arab children, Roma children and children belonging to other racialized groups face, and their impact.

- States should simplify any notification procedures so they can be easily understood and used by children of different ages, including by marginalized children. This includes replacing authorization requirements with a notification system, while still allowing for and conferring protection to spontaneous assemblies (see details on notification/authorizations regimes and spontaneous assemblies in Chapter 2).
- States should ensure that any restrictions on children's right of peaceful assembly are the exception and comply with international human rights law: any restrictions placed on children's right of peaceful assembly must be lawful, non-discriminatory, time-limited, precise and take the least intrusive approach possible to protect the public; must be necessary in 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, and proportionate to the pursued aim.
- States should ensure that children are not subjected to sanctions for peacefully exercising their right of peaceful assembly. They should not be arbitrarily and unlawfully arrested or placed in detention when assemblies become violent.
- States should ensure that the arrest or detention of children is a measure of last resort, for the shortest time possible, and adheres to legal safeguards.
- States should ensure that children who are reasonably suspected of having perpetrated violence or who commit an internationally recognized crime should have their cases handled by specialized child justice systems, and priority should be given to diverting children away from judicial processes.
- States should refrain from using terrorism-related laws and programmes to restrict or prevent children from exercising their rights to peaceful assembly, freedom of expression and freedom of association. This is particularly critical given the extensive concerns that exist regarding how such laws and programmes are disproportionately applied and affect racialized children, children with disabilities, among other categories of children.
- States should review and improve policing legislation, practices and policies to ensure specific attention and measures are taken to safeguard children in the context of protests. This includes:
    - Considering children's rights at all stages of planning and decision-making by law enforcement authorities for the organization and development of public assemblies.
    - Developing policies and a programme of training for all law enforcement officers attending protests where children are present, to ensure a child-friendly approach to the policing of assemblies.
    - Examining and improving legislation and guidance on the use of force and specifically on crowd-control tactics and equipment or weapons to ensure they are in line with international human rights standards and contain specific provisions in relation to children's participation at protests, giving due consideration to their enhanced vulnerability to harm. A careful assessment is required regarding the necessity and proportionality of the use of force against children and in general, recognizing that the use of any weapons against children should be avoided.
    - Considering banning certain tactics and equipment from being used at protests attended by children, for example, tear gas.
    - Introducing, as standard practice, joint planning, and risk assessment of peaceful assemblies between law enforcement officials, local authorities and organizers – including children. The planning should always assume that children will be present, even if the event is not explicitly organized by or for children, so the selection of policing tactics must always take into consideration children's particular vulnerabilities.
    - Facilitating national and international exchanges of experiences and good practices relating to the policing of assemblies involving children.
- States should carry out prompt, independent investigations in all instances where abuses or rights violations have occurred against children by law enforcement with the aim of delivering remedies and

bringing those responsible to justice in fair proceedings and with penalties commensurate to the gravity of the abuses committed.

- States should protect all children, without discrimination, from threats and reprisals by state and non-state actors – including violence and harassment – for exercising their rights. This includes reprisals by families, teachers, peers, or members of the community or the public, both online and offline. States should pay particular attention to preventing and addressing gender-based violence, including sexual violence, and to protecting groups of racialized and/or marginalized children who may be at higher risk of harm.
- States should initiate – or improve – the practice of regularly collecting, analysing and publishing information related to children at protests including age and others protected characteristics; type of assembly attended; and policing, including the use of force, arrests, injuries, and so on.
- States should commit to and initiate developing national policies that provide guidance to schools and other educational settings on how to respond, in a human rights-compliant manner, to children who exercise their right of peaceful assembly in schools, or outside school but during school hours.
- States should ensure that children are provided with information on their right of peaceful assembly, and encouraged to discuss the benefits and risks so that they can make informed decisions about their participation. This information should be provided online and offline and include practical tools to help children exercise their rights effectively and safely, for example child-friendly versions of relevant procedures for organizing and participating in assemblies.
- States should ensure that support is provided to families whose children are involved in peaceful assemblies to assist them in their role of protecting and empowering children.
- States should ensure that teachers and other persons engaging with children are trained on the right of peaceful assembly.

9. SURVEILLANCE, MONITORING, COLLECTION, ANALYSIS AND STORING OF PROTESTERS' DATA

9.1 INTRODUCTION

Around Europe, states' law enforcement and security agencies are increasingly using sophisticated digital tools to carry out targeted and mass surveillance of protesters; invade their privacy; and track, monitor, collect, analyse and store their information. This includes collection of data from social media and undercover police operations; collection of biometric data through facial recognition technologies used to monitor public spaces, including protests; the use of surveillance cameras, drones and body-worn cameras capturing data on people during protests; unwarranted identity checks and data processing; and police knocking on activists' doors to ask questions about their participation in protests. These tools and techniques are often used, alone or in conjunction, in ways that violate human rights including the right to privacy and the right of peaceful assembly. They also risk exacerbating - or being themselves exacerbated by - institutional racism and discriminatory policing which has a disproportionate impact on Black people, Arab people and other people belonging to racialized groups. Amnesty International has documented such practices in several of the countries analysed for this report.[1220]

[1220] Amnesty International, *Victim or suspect – A question of colour: Racial discrimination in the Austrian justice system* (Index: EUR 13/002/2009) 9 April 2009, https://www.amnesty.org/en/documents/eur13/002/2009/en/
Amnesty International, *Violent attacks against Roma in Hungary: Time to investigate racial motivation* (Index: EUR 27/001/2010), 2010, https://www.amnesty.org/en/wp-content/uploads/2021/06/eur270012010en.pdf
Amnesty International, *Missing the Point: Lack of Adequate Investigation of Hate Crimes in Bulgaria* (Index: EUR 15/0001/2015), 2015, https://www.amnesty.org/en/documents/eur15/0001/2015/en/; Amnesty International, *Living in Insecurity: How Germany is Failing Victims of Racist Violence* (Index: EUR 23/4112/2016), 2016, https://www.amnesty.org/en/documents/eur23/4112/2016/en/; Amnesty International, *Germany: Submission to the UN Committee on the Elimination of Racial Discrimination 111th session, 20 November 2023 – 8 December 2023*, available at https://www.amnesty.org/en/documents/eur23/7333/2023/en/; Amnesty International, *Europe: Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe* (Index: EUR 01/2511/2020), 2020, https://www.amnesty.org/en/documents/eur01/2511/2020/en/; Amnesty International, "France: Class action lawsuit against ethnic profiling filed over systemic racial discrimination", 22 July 2021, https://www.amnesty.org/en/latest/press-release/2021/07/france-class-action-lawsuit-against-ethnic-profiling-filed-over-systemic-racial-discrimination/

9.2 INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS

9.2.1 CONNECTION BETWEEN THE RIGHT TO PRIVACY AND THE RIGHT OF PEACEFUL ASSEMBLY AND OTHER RIGHTS

Protest surveillance is a direct interference with people's rights to privacy and freedom of expression and peaceful assembly. It can result in an erosion of the right of peaceful assembly rather than facilitating it. Indiscriminate, unwarranted, unchecked, discriminatory or otherwise unlawful surveillance of protests and protesters violates people's human rights and has a chilling effect on the right of peaceful assembly.

The right to privacy is protected under several international human rights instruments.[1221] The HRC has long recognized that such protection includes regulating "the gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies".[1222] International bodies have clarified that the right to privacy continues to apply also in relation to information and data available in "public areas"; for example, when authorities might be monitoring a public space such as a marketplace, train station or assembly.[1223]

The scope of privacy has always evolved in response to societal change, particularly new technological developments. The Office of the High Commissioner for Human Rights (OHCHR) has stated that:

> **"Privacy can be considered as the presumption that individuals should have an area of autonomous development, interaction and liberty, a 'private sphere' with or without interaction with others, free from State intervention and from excessive unsolicited intervention by other uninvited individuals."[1224]**

This encompasses three interrelated concepts: freedom from intrusion into our private lives, the right to control information about ourselves, and the right to a space in which we can freely express our identities.[1225]

Surveillance of protests fits within a worrying trend across the region where policing policies and practices appear increasingly geared towards gathering information. This trend is inextricably linked to the broader context of a culture focused on addressing 'threats' within law enforcement. This approach appears to favour the collection of information which would then lead to what is described as 'effective policing'; allowing law enforcement to control risks and intervene before harm occurs. This exposes what appears to be the authorities' view of protests first and foremost as a 'risk', rather than as the exercise of a human right which states have a duty to respect, protect and actively facilitate. As highlighted by the Special Rapporteur on freedom of peaceful assembly and of association:

> **"Any use of digital technology to facilitate a protest should be solely aimed at enabling the right to freedom of peaceful assembly. Protests should not be seen as opportunities for surveillance or the pursuit of broader law enforcement objectives through the use of digital technologies."[1226]**

States have argued that surveillance programmes are necessary to safeguard national security and ensure the protection of citizens. Amnesty International fully recognizes that states have obligations to protect the security of citizens and, as a result, may legitimately need to conduct covert surveillance in some circumstances, including the interception and monitoring of private communications. However, any surveillance activities must comply with states' obligations under human rights law, which balance the needs of the state with the human rights of individuals, including their right to privacy, to safeguards against any unwarranted restriction or arbitrary intervention in relation to the exercise of their human rights.

International and regional human rights law recognizes the important role that law enforcement plays in fulfilling states' positive obligation to facilitate and protect the right of peaceful assembly.

[1221] Universal Declaration of Human Rights, Article 12; ICCPR, Article 17; Convention on the Rights of the Child (CRC), Article 16.
[1222] HRC, General Comment 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, https://www.refworld.org/docid/453883f922.html
[1223] HRC, General Comment 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, https://www.refworld.org/docid/453883f922.html
[1224] OHCHR, "The right to privacy in the digital age", para. 5.
[1225] Amnesty International, *Surveillance Giants: How the Business Model of Google and Facebook Threatens Human Rights* (Index: POL 30/1404/2019), 21 November 2019, https://www.amnesty.org/en/documents/pol30/1404/2019/en/
[1226] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report: Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests*, 31 January 2024, UN Doc. A/HRC/55/60, para. 39.

Law enforcement powers must be used to genuinely enable participation in protests and must be subject to strict limitations to ensure they are not used to unduly restrict people's rights, including the rights to privacy and freedom of peaceful assembly, or create a chilling effect.

9.2.2 CHILLING EFFECT

A chilling effect can occur in contexts where states fail to enact adequate safeguards, including transparency, around the use of surveillance tools, such that people cannot know whether they are under surveillance, in which circumstances they may be subject to surveillance or how such surveillance may affect their rights. In other words, people may choose not to exercise their right of peaceful assembly for fear that, for example, their identity could be logged and that this could have negative repercussions. Chilling effects can occur in a multitude of settings, affecting the exercise of numerous rights. The HRC has stated that the use of surveillance at protests and other assemblies can, in some circumstances, have a chilling effect.[1227] Similarly, several regional courts have recognized that such an effect can occur.[1228] Also the UN Special Rapporteur on freedom of opinion and expression has acknowledged the chilling effect of surveillance on the rights to freedom of expression and association:

> **"In environments subject to rampant illicit surveillance, the targeted communities know of or suspect such attempts at surveillance, which in turn shapes and restricts their capacity to exercise rights to freedom of expression [and] association."[1229]**

Such chilling effects may be especially pronounced for people who, due to their circumstances or perceived identities, may have more to fear from the use of their data by state authorities, especially when procedures for sharing and repurposing of such data are non-transparent or unlawful. This could include Black people, Arab people and other people belonging to other racialized groups, people from over-policed communities, homeless people, people with uncertain legal status, children, and numerous others.[1230]

The chilling effect that results from the fear of surveillance is not accidental. The European Court of Human Rights has noted that, where human rights safeguards around communication are inadequate,

> **"widespread suspicion and concern among the general public that secret surveillance powers are being abused cannot be said to be unjustified… In such circumstances the menace of surveillance can be claimed in itself to restrict free communication".[1231]**

This underscores that the chilling effect of surveillance is the direct result of the state laws and practices governing surveillance. This causes violations of the rights to privacy and of peaceful assembly, freedom of expression, association and other rights. States violate these rights not only when they directly target people for surveillance because of their participation in a protest, but also through the maintenance of laws and practices around surveillance that fail to comply with international human rights standards and that therefore drive people to self-censor.

9.2.3 OBLIGATIONS ON STATES

Protesters are protected against state-led surveillance by international human rights standards which state that "no-one may be exposed to arbitrary or unlawful interference with their private life, family, home or correspondence" and "everyone has the right to legal protection against such interference and attacks".[1232]

To comply with international human rights standards, any legislation or practice allowing law enforcement agents to undertake protest-related surveillance must contain safeguards that are adequate to prevent abuse and provide transparency and judicial oversight capable of preventing a chilling effect on the exercise of

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[1227] HRC, General Comment 37, para. 10.
[1228] See, ECtHR, *Christian Democratic People's Party v. Moldova*, 2006, section 77; ECtHR, *Nurettin Aldemir and Others v. Türkiye*, 2007, section 34; Inter-American Court of Human Rights, *Herrera Ulloa v. Costa Rica*; *Moiwana Village v. Suriname*; Community Court of Justice of the Economic Community of West African States, *AJ v. Gambia.*
[1229] UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, *Report: Surveillance and Human Rights*, 28 May 2019, UN Doc. A/HRC/41/35, para. 21.
[1230] See Sarah Brayne, "Surveillance and system avoidance: Criminal justice contact and institutional attachment", 4 April 2014, American Sociological Review, Volume 79, Issue 3, https://doi.org/10.1177/0003122414530398
Amnesty international, *Trapped in the Matrix: Secrecy, Stigma and Bias in the Met's Gang Database*, May 2018, https://www.amnesty.org.uk/files/reports/Trapped%20in%20the%20Matrix%20Amnesty%20report.pdf
[1231] ECtHR, *Roman Zakharov v. Russia*, para. 171.
[1232] Rights guaranteed by Article 17 of the ICCPR, Article 8 of the European Convention on Human Rights, among other applicable international and regional human rights standards.

rights. Moreover, for surveillance to constitute a legitimate interference it must be: a) prescribed by a law that is sufficiently clear and precise, b) pursue a legitimate aim, and c) be necessary and proportionate to meet the legitimate aim.[1233] This means ensuring that there is no less rights-restricting measure that could be used instead of the interference (the principle of necessity) and balancing the nature and the extent of the interference against the reason for interfering to make sure that the harm caused does not outweigh the desired outcome (the principle of proportionality). Furthermore, interferences that are discriminatory are unlawful under international law.

Surveillance may only be justified on a targeted basis, where there is reasonable suspicion that someone is engaging in or planning to engage in serious criminal offences, and under the very strictest rules, with sufficient safeguards, based on the principles of necessity and proportionality and providing for close judicial supervision.[1234] The use of surveillance techniques for the indiscriminate and untargeted surveillance of people exercising their right of peaceful assembly, both in physical and digital spaces, or the targeting of people for surveillance due to the exercise of their rights, should be prohibited in national legislation.[1235]

9.3 NATIONAL LEGISLATION AND LACK OF ADEQUATE SAFEGUARDS RELATING TO SURVEILLANCE

According to the information retrieved for this research, all 21 countries examined appear to have codified in law – to varying extents – the protection of the right to privacy as well as of other rights that can be affected by surveillance practices, including the rights of peaceful assembly and freedom of expression. However, the safeguards in place in some of the countries – to prevent indiscriminate, unwarranted, unchecked, discriminatory, or otherwise unlawful surveillance – are sometimes inadequate to protect against all forms of surveillance that undermine the right of peaceful assembly. The legal basis for such measures is often either missing completely or reliant on overly broad and generic powers. Moreover, abuses continue to occur in states where the law arguably does or should guard against such surveillance practices, and some states have continued to legislatively expand surveillance powers to the detriment of protest rights and in breach of their human rights obligations.

While a full accounting of all legal regimes governing covert surveillance is beyond the scope of this report, the examples below show some concerns that have been raised in examined countries in the region.

In 2019, the HRC expressed concerns towards the **Netherlands** in relation to "increasing degree of police surveillance […] during peaceful assemblies, which reportedly have a chilling effect on demonstrations".[1236] It called on the state to provide local and police officials with clear guidelines on dealing with demonstrations so as to ensure a safe and enabling environment to exercise the right of peaceful assembly".[1237] Amnesty International has also documented problematic surveillance practices in the Netherlands, specifically the use of identity checks at protests. The government argues that the interference caused by identity checks carried out by law enforcement – including in the context of protests - is in the interest of public safety and the prevention of illegal acts, and that the power to carry out identity checks is necessary for effective crime control and law enforcement.[1238] The protection of public order or the rights of others can be a legitimate aim for an interference when, for instance, people are using or threatening to use violence or when the police have evidence that imminent unlawful activities are planned during a protest, and provided all other requirements for a permissible interference are fulfilled. However, the police often interpret the aim more broadly in the context of protests, deeming it necessary to gather information to assess potential future risks and prevent public order disturbances.[1239] According to the police, gathering information about protesters is necessary for the prevention of disorder or crime, because demonstrations can disrupt public order.[1240] Such a broad interpretation and use of identity checks, based on a mere hypothetical assumption of public order

[1233] UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, *Report: Surveillance and Human Rights*.
[1234] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report: Rights to freedom of peaceful assembly and of association,* 17 May 2019, UN Doc. A/HRC/41/41, para. 57.
[1235] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report: Rights to freedom of peaceful assembly and of association,* para. 57.
[1236] HRC, Concluding observations: the Netherlands, 22 August 2019, UN Doc. CCPR/C/NLD/CO/5, para. 60.
[1237] HRC, Concluding observations: the Netherlands, 2019, para. 60.
[1238] Parliamentary Papers 2003-2004, 29 218, no. 3.
[1239] Response of the Dutch police and Ministry of Justice and Security to letter sent by Amnesty International, 1 February 2023, on file with Amnesty International.
[1240] Interview with officials from the intelligence unit of the National Police, 31 January 2022; Response to FoI requests sent by Amnesty International Netherlands for the report Amnesty International, *Unchecked Power: ID Checks and Collection of Data from Peaceful Protesters in the Netherlands* (Index: EUR 35/6650/2023), 31 May 2023, https://www.amnesty.org/en/documents/eur35/6650/2023/en/

disturbance, is contrary to human rights standards, as it allows for law enforcement to check individuals without any concrete suspicion of their actual involvement in or intention to commit criminal acts or disturbance of public order. It can – and has been shown[1241] to – lead to unlawful identity checks and the indiscriminate processing of personal data from peaceful protesters in police databases. This practice violates the right to privacy, has a chilling effect on the right of peaceful assembly and may be discriminatory.[1242]

In 2021, the HRC also raised concerns that in the UK there is "increased use by police forces of facial recognition technology to monitor peaceful gatherings"[1243] and called on the state to "end the use of facial recognition and other mass surveillance technologies by law enforcement agencies at protests, in order to safeguard privacy, non-discrimination, freedom of expression and association and assembly rights for protesters".[1244] Amnesty International has raised concerns[1245] in the past that the legislation governing surveillance by public authorities in the UK does not provide sufficient safeguards to ensure that surveillance is authorized and carried out in conformity with human rights.[1246]

In Greece, under the current legislation, surveillance systems can be installed and operated during demonstrations for the purpose of deterring or suppressing the commission of a wide range of offences prescribed under the Greek Criminal Code, including minor offences.[1247] For example, such systems have been used for monitoring the movement of individuals who participated in banned peaceful demonstrations as considered to breach Covid-19 restrictions. This is especially concerning in light of the high-profile spyware scandal in Greece that surfaced in 2022 and 2023.[1248]

States must ensure that laws governing surveillance prevent surveillance practices that unlawfully restrict the right of peaceful assembly and cause a chilling effect, and that they allow for the redress of any abuses that occur. The analysis of laws governing surveillance more broadly goes beyond the remit of the current report; however, in light of the recommendations put forward by international monitoring bodies towards states on surveillance, Amnesty International urges each country to carry out a comprehensive review of its legislation governing surveillance, and particularly scrutinize any overt or covert surveillance conducted in the context of assemblies and ensure its full compliance with human rights obligations by amending accordingly or enacting necessary provisions.

9.4 EXAMPLES OF SURVEILLANCE-RELATED TOOLS AND PRACTICES

The ways in which law enforcement agencies collect information on protests and protesters varies across the region. However, they can be divided primarily into online and offline methods. Offline methods can include video/photo surveillance, stop and search and home visits, while online methods can include biometric technology and social media monitoring, among other techniques.

The subsequent sections of the chapter consider several of these tools and techniques in more detail. However, for the reader's ease, it is worth noting that the details and analysis of the practice of 'stop and search', which is also used by law enforcement in some of the examined countries as a method of surveillance, is analysed and detailed in Chapter 5.3.3.

9.4.1 VIDEO/PHOTO SURVEILLANCE

INTERNATIONAL HUMAN RIGHTS STANDARDS

International human rights standards demand that any information-gathering conducted in the context of assemblies, whether by public or private entities, and the way in which data is

[1241] Amnesty International, *Unchecked Power*.
[1242] Amnesty International, *Unchecked Power*.
[1243] HRC, Concluding observations: UK, 3 May 2024, UN Doc. CCPR/C/GBR/CO/8, 2024, para. 52.
[1244] HRC, Concluding observations: UK, 2024, para. 53.
[1245] Amnesty International, "UK: Europe's top court rules UK mass surveillance regime violated human rights", 25 May 2021, https://www.amnesty.org/en/latest/press-release/2021/05/uk-surveillance-gchq-ecthr-ruling/
[1246] See Amnesty International submission to a 2014 Intelligence Security Committee investigation into privacy and security, available at 20150312-PS-041-AI.pdf (independent.gov.uk)
[1247] Presidential Decree 75/2020, Article 3 on the use of surveillance systems in public spaces.
[1248] See Amnesty International, "Greece's surveillance scandal must shake us out of complacency", 26 January 2023, https://www.amnesty.org/en/latest/news/2023/01/greeces-surveillance-scandal-must-shake-us-out-of-complacency/

> **"collected, shared, retained and accessed, must strictly conform to applicable international standards, including on the right to privacy, and may never be aimed at intimidating or harassing participants or would-be participants in assemblies. Such practices should be regulated by appropriate and publicly accessible domestic legal frameworks that are compatible with international standards and subject to scrutiny by the courts".[1249]**

For example, body-worn cameras – which are provided to law enforcement officers in some countries – should not be used for surveillance purposes. Therefore, the storage and use of recordings should be clearly and strictly regulated and restricted to ensure full compliance with international human rights and data protection standards.

In relation to assemblies, states should refrain from using surveillance tools to track (or less still, prosecute) participants, including by using video recordings, or surveillance of internet sites and social media sites used by activists. Such tools should only be employed where such interference can be justified on an individualized basis based on strictly proven and proportional grounds of national security or public order and should be subject to safeguards that comply with international human rights standards, including judicial review.[1250]Facial recognition technology (FRT), when used for identification, amounts to indiscriminate mass surveillance, fails to meet the test of necessity and proportionality resulting in being a disproportionate interference with rights, and should be banned outright (see details on FRT at 9.4.2 below).

Safeguards around the use of video surveillance are especially important given technical advances by which many existing video cameras can be connected to more complex systems of data storage and analysis, including FRT and other biometric surveillance technologies.[1251]

LEGISLATION AND PRACTICE

Video/photo surveillance is used widely across the region, but regulation on its use varies. The research for this report identified various methods and tools, including surveillance cameras; body-worn cameras; surveillance drones; cameras capable of both video and sound recording; cameras mounted on cars, helicopters and water cannons; among other video and photo surveillance equipment in use across the region.

Specifically in relation to video images and recordings taken by law enforcement at public assemblies and rallies, various provisions and practices exist across the region.

In Türkiye, law enforcement officers are allowed to record audio and images of the participants and speakers for the "identification of suspects and evidence of crime".[1252] In Serbia, the current Law on Internal Affairs allows police officers to film public assemblies where there is a risk of endangerment of life and health of persons or destruction of property.[1253] However, in such situations, police officers must inform the public about their intention to film the assembly.[1254] Data collected in this manner must be destroyed within one year unless it is to be used in a court procedure.[1255] In Slovenia, the police are not allowed to film all rallies; they may only record those gatherings where there is a possibility of mass violations of public order or criminal offences. They are not allowed to film protesters to ease their identification.[1256] Similarly the legislation in Belgium and Czechia does not allow systematic or indiscriminate use of cameras; rather, their use by police must be justifiable.[1257] In Hungary, the law stipulates that the police can only make audio and/or video recordings related to police procedural actions and according to the Ministry of Interior, the

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[1249] HRC, General Comment 37, para. 61.
[1250] Venice Commission Guidelines, 2020, para. 72.
[1251] See, for example: Amnesty International, *Automated Apartheid: How Facial Recognition Fragments, Segregates and Controls Palestinians in the OPT* (Index: MDE 15/6701/2023), 2 May 2023, https://www.amnesty.org/en/documents/mde15/6701/2023/en/
[1252] Law No. 2911 on Meetings and Demonstrations, Article 11, para. 2.
[1253] Law on Internal Affairs, Article 52, para. 2; Regulation on recordings in public places and the manner of communicating the intention to record
[1254] Law on Internal Affairs, Article 52, para. 5.
[1255] Law on Internal Affairs, Article 52, para. 7. More detailed procedures are available in the Rulebook on the manner of recording in public places and the manner of informing the public about the intention to record.
[1256] Police Tasks and Powers Act, Article 114.
[1257] Belgium, in particular, these legal provisions in the Police Service Act (WPA) are noteworthy: Articles 25/5 section 1, 44/1 section 1, 44/3 section 1, 25/1-25/8 and 46/1-46/14. Article 44/1 stipulates that police forces may only process information and personal data to the extent that it is adequate, relevant and not excessive in relation to the administrative and judicial police purposes for which it is obtained and for which it is subsequently processed. This means that the Police Service Act does not provide a license to systematically use cameras in all interventions, for example, in any application. See
https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1992080552&table_name=loi
See also https://www.law.kuleuven.be/linc/onderzoek/Eindrapport_bodycam.pdf; Czech Republic: Police Act, section 62.

police do not use biometric identification in assemblies.[1258] However, according to a local NGO,[1259] the authorities have at times used camera cars and/or drones to record marches or demonstrations.

In some countries, police powers and/or the use of surveillance cameras and technology has expanded in recent years. For example, in **Belgium** the use of body-worn cameras is increasing.[1260] In January 2021, the Minister of the Interior, Institutional Reforms and Democratic Renewal issued a public tender that 2,900 bodycams will be purchased to be used by local and federal police forces.[1261] However, concerns have been raised regarding both the legal framework and the practical implications of their use.[1262]

In **France**, the Global Security Law of May 2021 extended the surveillance powers of police through the use of closed-circuit television and drones,[1263] and the Criminal Responsibility and Internal Security Law of January 2022 also allowed for the use of surveillance drones, without adequate safeguards.[1264] New legislation enacted in May 2023 for the 2024 Olympic and Paralympic games[1265] legalized the pervasive use of video surveillance powered by artificial intelligence (algorithmic video surveillance), and was criticized by civil society, including Amnesty International, for enabling a wide range of human rights violations.[1266] With the adoption of this law, France became the first EU Member State to legalize, on an experimental basis, surveillance assisted by artificial intelligence. The technology is anticipated to remain in place until 31 March 2025 as per the law's provisions; however, advocates of the right to privacy have voiced concerns over its use and the risk it may be maintained beyond 2025.[1267] As this type of surveillance potentially paves the way for more intrusive technology (see 9.4.2 below), in September 2023, Amnesty International launched a campaign demanding that the President of France puts an end to mass surveillance and specifically calling for a formal and explicit ban on facial recognition technologies.[1268]

In **Germany**, assembly laws contain provisions allowing the authorities to record images and sounds for the "prevention of danger".[1269] The use of body-worn cameras has been widely debated by legal scholars and civil society, including Amnesty International[1270], in recent years with concerns raised around the supposed underlying reasons for adding such devices to police equipment (that is, increased security and reducing

[1258] AoP, Article 42(1); Correspondence by Amnesty International with the Hungarian Ministry of the Interior, 13 March 2023, on file with Amnesty International.
[1259] Hungarian Civil Liberties Union, Interview with Szabolcs Hegyi, Political Freedoms Programme senior expert, 2 March 2023.
[1260] The law of 19 October 2023 amending the Police Service Act regarding the use of individual cameras by police forces (in force since 21 January 2024), regulates the use of bodycams by officers. https://etaamb.openjustice.be/nl/wet-van-19-oktober-2023_n2023047049.html; See '20/01 – New legislation on bodycams in force today', 20 January 2024, available at https://www.teamjustitie.be/2024/01/20/18-01-nieuwe-wetgeving-rond-bodycams-sinds-vandaag-van-kracht/
See 'Brussels police to use bodycams more intensively', 20 January 2024, available at https://www.bruzz.be/actua/veiligheid/brusselse-politie-gaat-bodycams-intenser-gebruiken-2024-01-20, and pages 27/30 of the advisory report of the "Supervisory body on police information (COC)" available at https://www.controleorgaan.be/files/CON19008_Ambtshalve_Advies_COC_Bodycam_N.PDF
[1261] See 'Government never got so many complaints about online shops', 22 January 2021, available at https://www.tomvandeput.be/img/uploads/dt-22.01.2021-300-miljoen-euro-voor-limburgse-relance.pdf
[1262] See Opinion on the use of body cams by the Supervisory Body for police information (COC), available at https://www.controleorgaan.be/files/CON19008_Ambtshalve_Advies_COC_Bodycam_N.PDF. COC is an independent federal parliamentary institution tasked with overseeing police information management and is the data protection authority for the Integrated Police, Passenger Information Unit and General Inspection of Federal and Local Police. All COC reports and advice are available at https://www.controleorgaan.be/nl/publicaties
[1263] See Law 2021-646, 26 May 2021, available at https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043530276/
However, since the law was enacted, the French Constitutional Council has confirmed the disproportionate infringement of the right to privacy by drone surveillance, by censuring the article referring to drones. Drones may now only be used for civil security purposes (rescue, firefighting), but not for generalized surveillance of the population. The Constitutional Council upheld the law's ban on the processing of drone images by facial recognition software.
[1264] See Law 2022-54, 24 January 2022, available at http://legifrance.gouv.fr/jorf/id/JORFTEXT000045067923
[1265] Law No. 2023-380 of 19 May 2023 on the 2024 Olympic and Paralympic Games and containing various other provisions' (in French), 25 July 2023, available at https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000046777392/
[1266] Amnesty International, "France: Allowing mass surveillance at Olympics undermines EU efforts to regulate AI", 23 March 2023, https://www.amnesty.org/en/latest/news/2023/03/france-allowing-mass-surveillance-at-olympics-undermines-eu-efforts-to-regulate-ai/
[1267] See Biometric Update, "Biometric surveillance doubts in France, UK. US city puts rules on it", 26 February 2023, https://www.biometricupdate.com/202302/biometric-surveillance-doubts-in-france-uk-us-city-puts-rules-on-it
Biometric Update, "French Senate votes in favor of public facial recognition pilot", 14 June 2023, https://www.biometricupdate.com/202306/french-senate-votes-in-favor-of-public-facial-recognition-pilot
https://www.biometricupdate.com/202302/biometric-surveillance-doubts-in-france-uk-us-city-puts-rules-on-it
See also Amnesty International France '2024 Olympic Games: Why algorithmic video surveillance is a problem' (in French), 14 April 2024, available at https://www.amnesty.fr/liberte-d-expression/actualites/pourquoi-la-videosurveillance-algorithmique-pose-probleme-cameras-technologies
[1268] Petition launched by Amnesty International against mass surveillance, available at https://www.amnesty.fr/petitions/la-france-ne-doit-pas-devenir-la-championne-de-la-surveillance
[1269] See for example, VersG, section 12a; VersG NRW, section 16.
[1270] Amnesty International Germany, "PM: Die Einführung der Bodycam in Sachsen lässt menschenrechtliche Bedenken unbeachtet" ("PR: The introduction of the bodycam in Saxony ignores human rights concerns – District of Saxony") 10 March 2021, https://amnesty-sachsen.de/2021/03/pm-die-einfuehrung-der-bodycam-in-sachsen-laesst-menschenrechtliche-bedenken-unbeachtet/ (in German).

violence against the police) and the risks associated with their use.[1271] In several regions of Germany, the use of body-worn cameras has already been approved.[1272]

In **Italy**, law enforcement officers are assigned, among other equipment, body-worn cameras as a "further tool for the documentation of events and, at the same time, for the protection of the operating personnel".[1273] They can be used to record "when the scenario shows concrete and real situations of danger of disturbance of public order and safety or when crimes are committed", and police guidelines stipulate that recordings should be retained for a maximum of six months from being made, unless they are being used in an ongoing investigation.[1274] The National Privacy Authority approved the use of body-worn cameras to document critical situations that could seriously disrupt public order at events or demonstrations, but asked the Ministry of the Interior to ensure that the technology being used does not allow for unambiguous identification or facial recognition of the person.[1275] The six-months retention period for data was deemed reasonable by the National Privacy Authority.

In **Luxembourg**, a new draft law[1276] includes the creation of a legal framework to introduce body-worn cameras to policing equipment. The law proposed for body cams to be used by law enforcement, in public and private spaces, with the stated purpose of "prevention of incidents and gathering of evidence in the event of criminal offences".[1277] Concerns were expressed regarding the draft, including by the country's Consultative Human Rights Commission[1278] on several points, such as the legal uncertainties and risk of arbitrariness of several provisions. The Commission highlighted that the provisions on the possible use of such systems are vague and not sufficiently detailed, raising concerns around the compliance with the principle of legality and the potential lack of proportionality of such measures; the justification for the introduction of body cams refers to 'positive examples' from other countries without having undertaken a detailed analysis of the national and local needs to identify the most appropriate (and proportionate) modalities in Luxembourg; the need for authorities to involve and consult with law enforcement bodies and civil society, in order to improve the law and its envisaged implementation. With some exceptions[1279], the draft appears to grant a wide margin of discretion to individual law enforcement agents. The proposed legal framework is not precise as certain key notions ("incidents") are not defined, it is unclear who will be able to wear cameras and when, whether wearing them (and/or record) will be an option or an obligation, and what the consequences will be in the event of unjustified recoding or refusal to record. The Commission urged the government and the parliament to provide for additional safeguards, including on the storing, security and integrity of the recorded data, guarantee for granting access to the recording to people who appear/are heard in the video, and ensure officers using body cams receive adequate and quality trainings that also reflect human rights obligations.

In **Ireland**, legislation prevents law enforcement agencies indiscriminately recording all people taking part in a protest because such action is deemed to interfere with the right to privacy. The wider legislation in place in Ireland recognizes that broad surveillance that is not targeted at individuals is not compatible with the right to privacy, and that when surveillance is focused on an individual because they are suspected of criminal

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[1271] See Amnesty International Germany, 'Statement of the draft law "Law amendments to the police tasks act – open use of mobile image and sound recording devices" – document 7/2792' (in German), 7 June 2021, available at https://amnesty-polizei.de/wp-content/uploads/2021/07/Amnesty-International_Stellungnahme-zum-Aenderungsgesetz-Polizeiaufgabengesetz-Thueringen2.pdf; Amnesty International Germany, 'Statement on the introduction of a bodycam by a draft amendment to the Saxon Police Act' (in German), 11 March 2019, available at https://www.amnesty.de/informieren/positionspapiere/deutschland-stellungnahme-zur-einfuehrung-einer-bodycam-durch-einen; Amnesty International Germany, 'PM: The introduction of the bodycam in Saxony ignores human rights concerns' (in German), 10 March 2021, available at https://amnesty-sachsen.de/2021/03/pm-die-einfuehrung-der-bodycam-in-sachsen-laesst-menschenrechtliche-bedenken-unbeachtet/;

[1272] See 'More bodycams than before in the police' (in German), 17 December 2023, available at https://www.sueddeutsche.de/panorama/statistik-mehr-bodycams-als-frueher-bei-der-polizei-dpa.urn-newsml-dpa-com-20090101-231217-99-325655; Police Headquarters Technology, logistics, service, 'Bodycam. The recording device worm close to the body' (in German), available at https://www.ptlspol-recruiting.de/einsatztechnik/projekte/bodycam/; 'Protection against attacks: Body cams at the Bavarian police' (in German), 20 November 2020, available at https://www.stmi.bayern.de/med/aktuell/archiv/2020/201120bodycams/; Police North Rhine Westphalia, 'On patrol with bodycam' (in German), available at https://polizei.nrw/artikel/mit-bodycam-auf-streife

[1273] Circular disseminated by the Head of Police to all Chiefs of Police with details regarding the assignment of 1,000 body cams to law enforcement engaged in public order, January 2022, available at https://www.asaps.it/downloads/files/20220118-DirettivaGeneralebodycam-CapoPolizia.pdf

[1274] Ministry of Interior, Department of Public Safety, General Directive on Bodycam, 18 January 2022, available at available at https://www.asaps.it/downloads/files/20220118-DirettivaGeneralebodycam-CapoPolizia.pdf

[1275] National Privacy Authority, Newsletter 10/09/2021 – Body cam: ok from the Privacy Guarantor, but no facial recognition – Roma Capital: parking, motorists' data not protected – No to the dissemination on the Region's website of data that reveal economic hardship', 10 September 2021, available at https://www.garanteprivacy.it/home/docweb/-/docweb-display/docweb/9698442#1

[1276] Draft law 8065 amending 18 July 2018 Law, as modified, on the Grand Duchy's Police, was presented on 17 July 2022.

[1277] Draft law 8065.

[1278] The Consultative Human Rights Commission is the body that advises the Government on general questions relating to human rights. Its comment on the draft law is available at https://ccdh.public.lu/fr/actualites/2023/bodycams.html

[1279] The limitations include initiating recording 30 seconds before incidents; limiting recordings to "incidents" rather than all interventions; providing journalists with access to recordings; a 28-day retention period without exceptions envisaged; and transparency and information obligations towards individuals regarding the wearing of body cams and recording.

activity, the action must be legal, strictly necessary and proportionate. However, following consultations with protesters in 2019, the Irish Council for Civil Liberties raised concerns about reported instances when "Gardaí [police] officers have intimidated and harassed protesters by filming them in close quarters, recording vehicle registration numbers and misusing policing powers to target activists and protest leaders, including through the confiscation of mobile phones" and through stop and search procedures and strip searches in detention.[1280]

In **Greece**, the 2021 National Plan for the Management of Public Outdoor Assemblies (known as "the Guidelines") refers, among other things, to the use of surveillance systems including body-worn or hand-held cameras and drones for the effective management of demonstrations.[1281] The Guidelines envisage that riot police and motorcycle police units (such as DRASI[1282]) will carry mobile or hand-held cameras and that cameras can also be placed on water cannons. The Guidelines stipulate that participants will be informed about their use. Since March 2021, riot police units, such as OPKE and DRASI, have been piloting the use of such cameras.[1283] Amnesty International has expressed concerns on the possible chilling effect that the use of cameras can have on the right to freedom of assembly,[1284] the incompatibility of the national rules on data retention with international human rights law and EU law, particularly in relation to the length of storage of data,[1285] as well as around refusal of the Greek police to provide civil society with access to information[1286] related to the use of surveillance systems.[1287]

In **Portugal**, according to ODIHR,[1288] Decree Law 2/2023 regulates the use of video cameras (body-worn cameras) by law enforcement and details the circumstances when their use is mandatory, allowed or prohibited, and clarifies that a clear verbal announcement must be made, whenever circumstances allow, before recording images or sound.[1289] The use of body-worn cameras must be approved by the government, and the National Data Protection Commission (CNPD) reports on their use.

In the **Netherlands,** law enforcement is increasingly using camera surveillance at assemblies. Between 2022 and 2024, Amnesty International Netherlands observed camera surveillance at five climate protests, one anti-racism protest and five demonstrations in solidarity with Palestinians. It included use of drones, video surveillance cars, water cannons mounted with cameras, cameras attached to lamp posts, and police officers taking photos of protesters with their mobile phones. There are currently no specific laws or regulations for the employment of cameras during demonstrations.[1290]

9.4.2 BIOMETRIC SURVEILLANCE – FACIAL RECOGNITION TECHNOLOGY

INTERNATIONAL HUMAN RIGHTS STANDARDS

Another instrument that can be used to collect and process data is facial recognition technology (FRT). FRT is a form of biometric technology which can be used to identify, authenticate and categorize individuals by

[1280] Irish Council for Civil Liberties, Preliminary report, National consultations on the right to protest in Ireland facilitated by the Irish Council for Civil Liberties (ICCL) and supported by the International Network of Civil Liberties Organizations (INCLO), 26 June 2019, available at https://www.iccl.ie/wp-content/uploads/2019/06/190626-ICCL-National-Consultations-Preliminary-Report.pdf

[1281] National Plan for the Management of Public Outdoor Assemblies ("Guidelines"), section 12. The Guidelines were adopted in 2021 and are based on a Presidential Decree (PD 75/2020) on the use of surveillance systems in outdoor spaces that was adopted in September 2020 without any public consultation with civil society.

[1282] DRASI: motorcycle police unit which is part of OPKE: the police unit for the prevention and suppression of crime.

[1283] See https://www.kathimerini.gr/society/561303670/kameres-stis-stoles-ton-astynomikon-apo-simera/
The extent to which portable cameras are currently being used by police during demonstrations in Greece is unclear. Greece's police complaint mechanism has observed that the relevant legislation remains inactive; National Mechanism for the Investigation of Arbitrary Incidents, *2022 Special Report*, p.79. In a response to Amnesty International, dated 1 July 2024, the Hellenic Police stated among others that in the context of demonstrations the use of cameras is still at an initial stage of implementation and adaptation according to the current GDPR legislation and that the number of used cameras is substantially small; the use of hand-held video cameras is not daily and is restricted to the receipt of images of full supervision of the gathering for the ascertainment of its volume and route, without the ability to focus on faces and recording of sound; and the use of body worn cameras is restricted to places beyond public and open gatherings with the aim to locate and identify individuals that are involved in punishable actions as included in Presidential Decree 75/2020.

[1284] Amnesty International, *Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of COVID-19* (Index: EUR 25/4399/2021), 14 July 2021, https://www.amnesty.org/en/documents/eur25/4399/2021/en/ p. 15.

[1285] WP, Article 29; Opinion on some key issues of the Law Enforcement Directive (EU 2016/680), adopted on 29 November 2017; OHCHR, *Impact of New Technologies on the Promotion and Protection of Human Rights in the Context of Assemblies, Including Peaceful Protests*, 25 June 2020, UN Doc. A/HRC/44/24, para. 35.

[1286] For example, in relation to the use of drones and cameras during the two blanket bans on demonstrations in Greece, information related to the type of systems used, the areas covered, reasonings behind the decision to deploy the systems and whether a data protection impact assessment has been carried out.

[1287] Interviews with Homo Digitalis, 20 and 23 April 2021.

[1288] Organization for Security and Co-operation in Europe, 5th Report on Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States, 2 August 2023, available at https://www.osce.org/odihr/549388

[1289] Decree Law 2/2023, Articles 7 and 9.

[1290] Amnesty International, *Unchecked Power*.

their face from millions of images in a database, using cameras (often closed-circuit television cameras). Technology is developed by scraping millions of images from social media profiles, police databases and public sources such as newspapers without permission or consent. It creates a digital signature of the identified face, stores it, and searches records in a database or watchlist to find a match.[1291]

FRT poses a particular threat to the rights of Black people, Arab people and people belonging to other racialized groups, who can be at risk of, for example, false identification and wrongful arrest.[1292] But even when it does not produce a false identification, such technology can further exacerbate discriminatory policing that disadvantages individuals who belong to racialized groups. It also prevents safe and free exercise of the right of peaceful assembly and has a chilling effect, because it acts as a tool of mass surveillance,[1293] where everyone can be identified and tracked while going about their lives.

The UN Committee on the Elimination of Racial Discrimination has warned that widespread use of FRT puts certain groups of people at disproportionate risk of interferences with their rights to seek,[1294] receive and impart information and to freely assemble or associate.[1295] The Special Rapporteur on freedom of opinion and expression has called for a moratorium on targeted surveillance technology, including facial recognition systems.[1296]

In February 2024, EU Member States adopted the AI Act, the first artificial intelligence rulebook in Europe. However, they failed to enact a ban on facial recognition in public spaces, legitimizing the use of mass surveillance technologies.[1297]

Amnesty International believes that the use of FRT for identification[1298] amounts to indiscriminate mass surveillance and therefore, if used in protests, it cannot be a proportionate interference with the rights to privacy, freedom of expression, association and peaceful assembly. All indiscriminate mass surveillance, including FRT, fails to meet the test of necessity and proportionality and therefore violates international human rights law.[1299] It also carries the risk of having a long-term chilling effect on the enjoyment of these rights and may deter people from exercising such rights, including on discriminatory bases.

No safeguards can prevent the human rights harms that facial recognition inflicts, and it should therefore be banned outright. To that end, Amnesty International launched its 'Ban the Scan' global campaign and embarked on a call for a global ban on the development, sale and use of facial recognition technology for surveillance purposes, including in relation to protests.[1300] In Amnesty International's view, only a full ban can stop and prevent severe damage to people's human rights, civic space and rule of law that are already under threat throughout Europe.

LEGISLATION AND PRACTICE

Discussions around the use of biometric surveillance technology, including FRT, are increasing because of concerns around the intrusiveness of such measures and because of the attempt to rebalance these measures with people's rights and newly developed jurisprudence or legislation on the issue in the region.

[1291] Privacy International, "UK MPs asleep at the wheel as facial recognition technology spells the end of privacy in public", 7 November 2023, https://privacyinternational.org/long-read/5155/uk-mps-asleep-wheel-facial-recognition-technology-spells-end-privacy-public

[1292] S See for example, Amnesty International, *Automated Apartheid*; Amnesty International, "Ban dangerous facial recognition technology that amplifies racist policing", 6 January 2021, https://www.amnesty.org/en/latest/press-release/2021/01/ban-dangerous-facial-recognition-technology-that-amplifies-racist-policing/

[1293] Mass surveillance is the practice of monitoring an entire population, or a significant subset of it. Indiscriminate mass surveillance is conducted in the absence of adequate legal safeguards, without a reasonable suspicion, and without the consent of the individual under surveillance or a possibility to 'opt out'.

[1294] UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *Radical Discrimination and Emerging Digital Technologies: A Human Rights Analysis*, June 2020, UN Doc. GEN/G20/151/06.

[1295] Committee on the Elimination of Racial Discrimination (CERD), Draft General Recommendation 36 on preventing and combating racial profiling, 14 May 2019, para. 23.

[1296] UN News, "Moratorium call on surveillance technology to end 'free-for-all' abuses: UN expert": June 2019, https://news.un.org/en/story/2019/06/1041231

[1297] See RFI, "Rights group warns of potential abuse as EU reaches deal on AI Act", 6 February 2024, https://www.rfi.fr/en/international/20240206-rights-group-warns-of-potential-abuse-as-eu-reaches-deal-on-ai-act
Amnesty International, "EU: Artificial Intelligence rulebook fails to stop proliferation of abusive technologies", 13 March 2024, https://www.amnesty.org/en/latest/news/2024/03/eu-artificial-intelligence-rulebook-fails-to-stop-proliferation-of-abusive-technologies

[1298] As distinct from FRT for authentication, which generally poses fewer human rights risks. FRT systems for authentication (so-called 1:1 systems) are typically used to verify or authenticate an individual's identity against a database to qualify their identity – for example, to enter a building or unlock a smart phone (does the probe image match with a face image on a database?) or pass through border control at an airport (does the probe image match with a face image on the presented passport or ID card?). The individual is typically involved in this process. In other words, facial authentication is used to establish whether a person is who they claim to be. FRT systems for identification (so-called 1:n systems), by contrast are used to identify individuals by their face, among a number of people, based on large databases of images.

[1299] Amnesty International, *Out of Control: Failing EU Laws for Digital Surveillance Export* (Index: EUR 01/2556/2020), 21 September 2020, https://www.amnesty.org/en/documents/eur01/2556/2020/en/

[1300] See Amnesty International, "Ban the Scan", available at https://banthescan.amnesty.org/

Concerns have been raised in several countries examined in this report regarding proposals for the introduction of FRT or the actual use of such technology.

A recent study commissioned by the Green Group in the European Parliament found that eleven EU Member States are already using biometric recognition systems, and eight countries are planning to start using such technology.[1301] According to the report, law enforcement agencies in **Austria**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Italy**, the **Netherlands** and **Slovenia**, among others, employ FRT in their criminal investigations, and countries including **Czechia**, **Portugal**, **Spain** and **Sweden** are among those which are expected to follow the trend. The Green Group report warned that "there seems to be little understanding of the ways in which this technology might be applied and the potential impact of such a broad range of applications on the fundamental rights of European citizens."

In the **UK**, the NGO Privacy International has denounced the use of FRT since 2016, including at large-scale events such as London's Notting Hill Carnival and, more recently, King Charles III's Coronation in London and the 2023 British Grand Prix in Wales.[1302] A recent investigation published by i News and the NGO Liberty highlighted a rampant increase of the use of FRT by law enforcement in the UK.[1303] Several bodies have delivered decisions in relation to FRT. In 2020 the UK Court of Appeal concluded that use of FRT by police violated human rights.[1304] The same year, the Scottish Parliament stated that there was no justification for the police to use FRT following privacy and human rights concerns and called it a "radical departure" from the principle of "policing by consent".[1305] In October 2023, several organizations raised alarms regarding potential UK participation in a pan-European police facial recognition system, calling it "unnecessary, disproportionate and undesirable".[1306]

In February 2019, Nice became the first city in **France** to trial FRT on its streets as part of so-called "safe city" projects.[1307] Since then, the surveillance technology has been used on an experimental basis in other cities.[1308] In January 2023, the use of FRT was specifically excluded from the bill introduced for the Paris Olympic and Paralympic Games which provided for the use of artificial intelligence video surveillance (see 9.4.1 above). However, concerns remain for future use of such technology.[1309]

In **Austria**, biometric technologies, including FRT, are used by the Federal Criminal Police to identify individuals and investigate crimes committed in connection with political assemblies.[1310]

[1301] Greens/ EFA in the European Parliament, *Biometric & Behavioural Mass Surveillance in EU Member States*, October 2021, https://extranet.greens-efa.eu/public/media/file/1/7297

[1302] See Privacy International, "UK MPs asleep at the wheel".

[1303] See iNews, Hundreds of thousands of innocent people on police databases as forces expand use of facial recognition tech", 23 September 2023, https://inews.co.uk/news/police-secretive-facial-recognition-database-millions-innocent-people-2635445

[1304] See Tech Xplore, "UK court says face recognition violates human rights", 11 August 2020, https://techxplore.com/news/2020-08-uk-court-recognition-violates-human.html

[1305] See BBC News, "Facial recognition: 'No justification' for Police Scotland to use technology", 11 February 2020, https://www.bbc.co.uk/news/uk-scotland-51449166; Government's publication, 'Definition of policing by consent', 10 December 2012, available at https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent

[1306] See Statewatch, "UK participation in 'unnecessary' police facial recognition system needs 'open, thorough, democratic debate', 31 October 2023, https://www.statewatch.org/news/2023/october/uk-participation-in-unnecessary-police-facial-recognition-system-needs-open-thorough-democratic-debate/

[1307] See Sciences et Avenir, "Nice teste un système de reconnaissance faciale dans la rue pendant le carnaval" (The city of Nice tests facial recognition in the street"), 19 February 2019, https://www.sciencesetavenir.fr/high-tech/data/la-ville-de-nice-teste-la-reconnaissance-faciale-dans-la-rue_131582 (in French). AI Regulation, "Nice 'Safe city': An acceleration of experiments for three years", 24 February 2020, https://ai-regulation.com/safe-city-project-in-nice-testing-facial-recognition/
See Safe City projects in Nice (France) as part of the study commissioned by Greens/EP and available at https://extranet.greens-efa.eu/public/media/file/1/7297, Chapter 8.

[1308] See MIT Technology Review, "Marseille's battle against the surveillance state", 13 June 2022, https://www.technologyreview.com/2022/06/13/1053650/marseille-fight-surveillance-state/
Le Monde, "France plans to use AI surveillance during Olympics, but it has never proven its worth", 10 March 2023, https://www.lemonde.fr/en/opinion/article/2023/03/10/france-plans-to-use-ai-surveillance-during-olympics-but-it-has-never-proven-its-worth_6018880_23.html

[1309] Biometric Update, French Senators okay AI surveillance bill excluding facial recognition for 2024 Olympics", 2 February 2023, https://www.biometricupdate.com/202302/french-senators-okay-ai-surveillance-bill-excluding-facial-recognition-for-2024-olympics
AlgorithmWatch, "Let the games begin: France's controversial Olympic law legitimizes automated surveillance testing at sporting events", 30 May 2023, https://algorithmwatch.org/en/let-the-games-begin-frances-controversial-olympic-law-legitimizes-automated-surveillance-testing-at-sporting-events/

[1310] See study commissioned by the Greens/EP available at https://extranet.greens-efa.eu/public/media/file/1/7297 p. 38.

FRT is in use in **Belgium**[1311] and **Hungary**.[1312] In **Germany** biometric technology was being tested at the time of writing, and is already in use in some areas, even if not specifically in relation to assemblies.[1313] At the time of writing, Germany had no legal basis for the use of biometric surveillance at assemblies in its federal and state assembly laws. Authorities communicated to Amnesty International that in **Greece**, the current legislative framework on public outdoor assemblies on the use of surveillance systems does not allow the use of facial recognition technology.[1314]

In **Italy**, parliament introduced a moratorium in December 2021[1315] on the development and deployment of facial recognition surveillance systems by public authorities and private individuals until the full protection of freedom of expression and full compliance with other fundamental rights can be guaranteed. The moratorium, initially in place until December 2023, has been extended to December 2025. The ban does not apply, however, "to processing carried out by the competent authorities for the purpose of preventing and suppressing criminal offences" if conducted "in the presence of a favourable opinion of the National Privacy Authority". According to the authorities, "devices with facial recognition technology are not used and are not available to police forces for public events. On an experimental basis and only at sporting events, the Privacy Guarantor has granted the use of such devices for police purposes in some sports facilities, subject to specific constraints".[1316]

In **Luxembourg**, places which are accessible to the public and which present a particular 'risk' of criminal activities can, upon authorization of the Minister of Interior Security, be placed under video surveillance for the purpose of 'prevention, investigation and determination of criminal infraction'. However, recourse to facial recognition techniques is excluded.[1317]

The Government of **Ireland**, at the time of writing, was planning to enact a FRT bill across all policing areas.[1318] Civil society and academics raised concerns regarding FRT's general unreliability, inherent bias and discriminatory outcomes in policing, the Bill's lack of clarity of on how this technology would be used by law enforcement,[1319] and the potential chilling effect on the right of peaceful assembly.[1320]

Serbia's draft Law on Internal Affairs, which opened for consultation in December 2022, proposed several provisions which would effectively introduce FRT in public spaces.[1321] Strong criticism was outlined at the time by civil society which led to the draft law being withdrawn and opened for extended public consultation.

[1311] In Belgium, police use FRT in particular contexts, including criminal investigations, and the federal police have experimented with the technology at Zaventen airport. Amnesty International has no information on the use of FRT in the context of protests. Letter from the Supervisory Body for police information (COC) sent to Amnesty International on 21 March 2023, on file with Amnesty International. See also Organ of Control of Police Information, 'Visit and monitoring report synthesis – public version1', available at https://www.organedecontrole.be/files/DIO19005_Contr%C3%B4le_LPABRUNAT_Reconnaissance_Faciale_Publique_F.PDF. See Chapter 6 on facial recognition cameras at Brussels Airport (Belgium) in the study by Greens/EP, available at https://extranet.greens-efa.eu/public/media/file/1/7297
See also 'Petition to ban facial recognition in Brussels public places' (in French), 14 march 2023, available at https://mensenrechten.be/nieuwsberichten/petitie-om-gezichtsherkenning-in-de-brusselse-openbare-ruimte-te-verbieden;

[1312] See Chapter 10 on Dragonfly Project (Hungary) in the study by Greens/EP, available at https://extranet.greens-efa.eu/public/media/file/1/7297

[1313] Euractiv, "Facial recognition technologies already used in 11 EU countries and counting, report says", 26 October 2021, https://www.euractiv.com/section/data-protection/news/facial-recognition-technologies-already-used-in-11-eu-countries-and-counting-report-says/
See Chapter 9 on facial recognition in Hamburg, Mannheim and Berlin (Germany) in the study by Greens/EP, available at https://extranet.greens-efa.eu/public/media/file/1/7297

[1314] Letter received by Amnesty International on 1 July from the Hellenic Police.

[1315] Chamber of Deputies, 'Preparatory work for draft laws – Conversion into law of Decree-Law No 51 of 10 May 2023 containing urgent provisions on the administration of public bodies, legislative deadlines and social solidarity initiatives' (1551), 22 June 2023, available at https://www.camera.it/leg19/126?tab=2&leg=19&idDocumento=1151&sede=&tipo=

[1316] Letter received by Amnesty International on 19 May 2023, following letter sent to the Department of Public Security (Minister of the Interior) on 19 March 2023 seeking information in relation to law enforcement operations. On file with Amnesty International.

[1317] See Law of 18 July 2018, Article 43bis, available at https://legilux.public.lu/eli/etat/leg/loi/2018/07/18/a621/consolide/20230101

[1318] See Department of Justice, 'Minister McEntee receives Cabinet approval for draft Facial Recognition Technology Bill', 14 December 2023, available at https://www.gov.ie/en/press-release/797e2-minister-mcentee-receives-cabinet-approval-for-draft-facial-recognition-technology-bill/; and 'Joint Committee on Justice – Report on Pre-Legislative Scrutiny of the General Scheme of the Garda Síochána (Recording devices) (Amendment) Bill 2023', February 2024, available at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2024/2024-02-27_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-garda-siochana-recording-devices-amendment-bill-2023_en.pdf

[1319] ICCL "Justice Committee highlights serious deficiencies with Facial Recognition Technology bill", 27 February 2024 at https://www.iccl.ie/digital-data/justice-committee-highlights-serious-deficiencies-with-facial-recognition-technology-bill/

[1320] See for instance Oireachtas (parliamentary) Joint Committee on Justice, Report on Pre-Legislative Scrutiny of the General Scheme of the Garda Síochána (Recording Devices) (Amendment) Bill *2023*, February 2024, p20, p38 at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2024/2024-02-27_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-garda-siochana-recording-devices-amendment-bill-2023_en.pdf See for instance Oireachtas (parliamentary) Joint Committee on Justice, 'Report on Pre-Legislative Scrutiny of the General Scheme of the Garda Síochána (Recording Devices) (Amendment) Bill 2023', February 2024, p20, p38 at https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_justice/reports/2024/2024-02-27_report-on-pre-legislative-scrutiny-of-the-general-scheme-of-the-garda-siochana-recording-devices-amendment-bill-2023_en.pdf

[1321] Draft Law on Internal Affairs, Article 44, available at https://www.paragraf.rs/dnevne-vesti/121222/121222-vest13.html

The authorities rarely comment on the use of biometric cameras, but according to Serbia's Data Protection Commissioner, they "adamantly denied" using the technology to police peaceful assemblies.[1322] However, civil society organizations have claimed that the Serbian Ministry of the Interior used hundreds of biometric cameras installed in the centre of Belgrade[1323] as well as Huawei telephones with FRT to identify people participating in anti-government demonstrations in 2021.[1324] However, an investigation by Serbia's Data Protection Commissioner did not show that the authorities had used FRT.[1325]

9.4.3 HOME VISITS

The research for this report uncovered concerning reports about practices related to law enforcement paying unjustified visits to protesters' homes.

In **Poland**, Amnesty International documented cases in 2017 where police officers visited the homes of activists who had participated in protests, in what they attempted to portray as being an 'informal' manner. Polish law allows visits and questioning at home; however, it does not support 'unofficial' visits. In the cases documented, it was not clear in what capacity the people were interviewed – as a witness, or as a person suspected of having committed an offence – and official police reports of the visits were not made. Amnesty International raised concerns that such visits, when done purportedly 'informally', may amount to intimidation of individuals, and any evidence obtained in this way should be treated as inadmissible as the collection methods do not comply with requirements of international law on fair proceedings.[1326]

In **Serbia**, on several occasions between 2020 and 2023, police identified – via social media – journalists, organizers and potential participants of spontaneous anti-government and environmental protests, visited them at home prior to an assembly, and asked them not to cover (in the case of journalists) or attend (in the case of participants) protests that were not authorized by the police. Individuals were threatened with fines and criminal charges for obstructing traffic/roadblocks and minor offences for disturbance of peace and order if they failed to comply.[1327] This practice appears to be particularly common in smaller towns.[1328]

In the **Netherlands**, the research carried out by Amnesty International and published in 2023 uncovered several cases of protesters being visited at home by the police and questioned about their participation in protests.[1329]

9.4.4 OPEN SOURCE / SOCIAL MEDIA MONITORING

INTERNATIONAL HUMAN RIGHTS STANDARDS

Some states use social media monitoring to collect information about participation in peaceful assemblies. On this subject, international standards call for independent and transparent scrutiny and oversight to be exercised over the decision to collect the personal information and data of those engaged in peaceful assemblies and its sharing or retention, with a view to ensuring the compatibility of such actions with the ICCPR.[1330]

While the monitoring of 'public' social media content may appear to be a less intrusive form of surveillance, open-source intelligence tools have evolved into highly invasive and detailed technologies, often combined with other technologies such as FRT and big data analytics tools capable of mapping an individual's

[1322] See 'Police and Serbia: The draft law on internal affairs was withdraw, what is disputed' (in Serbian), 26 December 2022, available https://www.bbc.com/serbian/lat/srbija-64044804
See also: EuroNews, "Should citizens in Belgrade be concerned by newly installed surveillance cameras?", 7 July 2021, https://www.euronews.com/my-europe/2021/07/09/should-citizens-in-belgrade-be-concerned-by-newly-installed-surveillance-cameras
[1323] See 'Do surveillance cameras count and recognise protests participants?' (in Serbian), 21 May 2020, available at https://www.glasamerike.net/a/kamere-za-nadzor-prepoznavanje-lica-protesti/5429740.html
[1324] See 'Protesters in Serbia suspect that they were filmed with Huawei equipment' (in Serbian), 8 December 2021, available at https://www.slobodnaevropa.org/a/poverenik-huawei-kamere-protesti-u-srbiji/31599997.html
[1325] See 'Secret cameras: Who filmed the protesters' (in Serbian), 18 February 2022, available at https://vreme.com/vesti/poverenik-za-zastitu-podataka-o-licnosti-mup-je-postupao-po-zakonu/
[1326] Amnesty International, *Poland: On the Streets to Defend Human Rights, Harassment, Surveillance and Prosecution of Protesters* (Index: EUR 37/7147/2017), July 2017, https://www.amnesty.org/en/documents/eur37/7147/2017/en/
[1327] See 'The police are warning citizens, activists, and even journalist not to go to the blockades' (in Serbian), 4 December 2021, available at https://n1info.rs/vesti/policija-upozorila-urednika-jagodinskog-portala-da-ne-ide-na-blokadu-puteva/
[1328] 'Media shelter in Niš: journalists as political opponents' (in Serbian), 28 May, available at https://www.gradjanske.org/medijsko-skloniste-nis-novinari-kao-policki-protivnici/#
[1329] Ten out of the 50 people interviewed by Amnesty International for the research that led to the *Unchecked Power* report (2023) described visits at home and questions asked about their participation in protests. Report available at https://www.amnesty.org/en/documents/eur35/6650/2023/en/
[1330] HRC, General Comment 37, para. 62.

networks, contacts, locations and private personal data. Especially when used in the absence of adequately robust data protection and privacy safeguards, the use of such tools may pose significant risks of violations of the right to privacy and may have a chilling effect on the legitimate exercise of the rights to freedom of expression and peaceful assembly.

LEGISLATION AND PRACTICE

Open-source intelligence gathering via social media platforms such as Facebook, X (formerly Twitter), Instagram, YouTube and others is among the various tools used by law enforcement to collect information on protests and protesters.

Social media monitoring within the context of assemblies consists of monitoring, collecting and analysing information shared by people on social media platforms through public or private groups and pages.[1331] In some of the countries analysed for this report, concerns arose in relation to authorities' monitoring of social media leading to threats of prosecutions.

For example, in **Serbia** there were numerous cases of police targeting citizens who simply shared invitations to protests on their social media. Many of these were spontaneous protests; the police designated the individuals as 'organizers' and prosecuted them for failure to comply with bans on assemblies.[1332] Local organizations have partnered with lawyers to provide legal aid or representation to more than 340 people in such situations over the past two years.[1333] In one case, a decision issued by the Misdemeanor Appellate Court on 17 May 2022 concluded that announcing or promoting a protest via social media networks is insufficient for someone to be considered an organizer and that, instead, three conditions must be fulfilled cumulatively: inviting, preparing and organizing the assembly.[1334] Other acquittals followed, especially in cases where the police filed requests to initiate misdemeanour proceedings against citizens simply because they had shared social media posts calling for a protest; an act which is not listed as a misdemeanour.[1335]

In **Poland**, law enforcement officers are reported to have threatened a 14-year-old during a house visit with possible charges related to the organization of an unlawful assembly for having shared information via social media about a Women's Strike protest. The court refused to launch proceedings against the child, which would have carried a maximum sentence of eight years' imprisonment.[1336]

In **France**, Amnesty International has documented cases in which "evidence" such as sharing information about a public assembly on social media has been used to identify people as organizers and to prosecute them for organizing banned assemblies.[1337] During protests at Boğaziçi University in **Türkiye** in 2021, several people were detained by police for calling on others to join the demonstration to support the university students.[1338] A criminal prosecution was also launched against a member of the Turkish parliament for sharing on social media the call for people to join the demonstration.[1339] In the **Netherlands**, Amnesty International and others have campaigned against state efforts to expand social media monitoring powers.[1340] In January 2023, eight Extinction Rebellion (XR) organizers of the A12 blockade in The Hague were criminally charged with "incitement to offences against public order"[1341], which is punishable with a

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[1331] See Privacy International, "How social media monitoring can be used at a protest", 6 May 2021, https://privacyinternational.org/explainer/4509/how-social-media-monitoring-can-be-used-protest

[1332] See 'The police are warning citizens, activists, and even journalist not to go to the blockades' (in Serbian), 4 December 2021, available at https://www.cenzolovka.rs/pritisci-i-napadi/policija-upozorava-gradjane-aktiviste-pa-i-novinare-da-ne-idu-na-blokade/

[1333] Yucom, *Report on the Attacks on Human Rights Defenders in Serbia for 2022*, 2022, https://en.yucom.org.rs/wp-content/uploads/2022/12/Izvestaj-o-napadima-ENG-2022-V2.pdf

[1334] See 'NGO: The first final judgement acquitting a protest participant' (in Serbian), 22 June 2022, available at https://n1info.rs/vesti/nvo-pozdravile-oslobadjajucu-presudu-organizatoru-proslogodisnjih-protesta/ and 'The victory of solidarity and the right to freedom of peaceful assembly over institutional retaliation' (in Serbian), 20 June 2022, available at https://yucom.org.rs/pobeda-solidarnosti-i-prava-na-slobodu-okupljanja-nad-institucionalnom-odmazdom/

[1335] See 'Different verdicts due to last year's protests: Can unauthorized photography be evidence?' (in Serbian), 14 November 2022, available at https://www.021.rs/story/Info/Srbija/322808/Razlicite-presude-zbog-proslogodisnjih-protesta-Moze-li-neovlasceno-fotografisanje-da-bude-dokaz.html

[1336] See 'A 14-year old boy promoted a women's strike. The family court refused to consider his case' (in Polish), 26 November 2020, available at https://prawo.gazetaprawna.pl/artykuly/1497348,sad-rodzinny-14-latek-z-krapkowic-strajk-kobiet.html

[1337] See cases: Amnesty International, *France: Arrested for Protest: Weaponizing the Law to Crackdown on Peaceful Protesters in France* (Index: EUR 21/1791/2020), 29 September 2020, https://www.amnesty.org/en/documents/eur21/1791/2020/en/

[1338] See 'Detention at Boğaziçi: It was also a crime to say 'release our friends!' (in Turkish), 3 February 2021, available at https://www.birgun.net/haber/bogazici-paylasimlarina-gozalti-arkadaslarimizi-serbest-birakin-demek-de-suc-oldu-332875#google_vignette; Amnesty International, 'Türkiye: Further information: Release detained Boğaziçi protesters', 26 February 2021, available at https://www.amnesty.org/en/documents/eur44/3758/2021/en/

[1339] See 'He said take to the streets: Boğaziçi summary to Şık' (in Turkish), 16 April 2021, available at https://www.yenisafak.com/gundem/sokaga-cikin-demisti-sika-bogazici-fezlekesi-3618793

[1340] Racism and Technology Centre, "The Dutch government wants to continue to spy on activists' social media", 11 May 2022, https://racismandtechnology.center/2022/05/11/the-dutch-government-wants-to-continue-to-spy-on-activists-social-media/

[1341] Dutch Criminal Code, Article 131.

maximum sentence of five-years' imprisonment, due to the call on social media for people to participate in the protest.[1342] Seven of the activists were convicted to between 30-60 hours of community service.[1343]

9.4.5 INFILTRATION AND UNDERCOVER POLICING

INTERNATIONAL STANDARDS

International standards require that the deployment of undercover police officers must be exceptional, strictly regulated by law, and subject to continuous and strict independent oversight and scrutiny. The use of such practices in the context of an assembly is allowed only if its purpose is to investigate specific criminal acts and is strictly necessary in the circumstances.[1344] Collecting information on protesters through undercover policing, in the absence of a concrete criminal investigation, would constitute an interference with participants' rights to privacy and freedom of assembly. A robust legal framework and related protocols must underpin any such use of undercover policing and associated information gathering. The framework and protocols must, among other things, detail the permissible methods, purposes, law enforcement branches and data storage specifications.[1345]

LEGISLATION AND PRACTICE

In some of the countries analysed there were concerning reports of undercover police officers infiltrating protests.

In the Netherlands, media reported that an undercover police officer posed as an environmental activist and infiltrated two XR groups, gaining access to private chat groups. According to the reports, chat messages, together with posts on X (formerly Twitter), were used in the police investigation and subsequent prosecutions launched against climate activists in relation to civil disobedience[1346] actions on the A12 motorway in March 2023 in The Hague (case referenced also above in chapter 5.3.5, 5.4.3 and 9.4.4).[1347]

In 2023 in the UK, a judge-led inquiry[1348] concluded that an undercover Metropolitan Police unit had infiltrated and spied on left-wing and 'progressive' groups and acted in a sexist and racist manner.[1349] The officers in question routinely deliberately targeted female members of the groups, engaging them in long-term intimate relationships, and in some cases fathering children with them. This first phase of the inquiry covered the period 1968-1982, while the second phase will cover the period up until 2010, with the report expected to be published by the end of 2026.

In September 2021, the Investigatory Powers Tribunal (IPT), a specialist court dealing with cases alleging misuse of surveillance powers and other breaches of human rights by the UK's police and security services, issued a ruling in a case brought by Kate Wilson, an activist who had been targeted by the undercover police unit and deceived into a long-term intimate relationship with an officer. The IPT found that police leadership were responsible for "a formidable list of [European] Convention violations, the severity of which is underscored in particular by the violations of Arts 3 and 14" these being articles that enshrine the prohibition of torture and the right to non-discrimination respectively. This list also included violations of Article 10 and 11 which cover the rights to freedom of expression and peaceful assembly. The IPT specified that, "This [was] not just a case about a renegade police officer who took advantage of his undercover deployment to

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[1342] "Blocking a road" is a criminal offence under the Dutch Criminal Code (Article 162). See also Amnesty International Netherlands, 'Amnesty International is deeply concerned about arrests of climate protesters' (in Dutch), 26 January 2023, available at https://www.amnesty.nl/actueel/amnesty-maakt-zich-grote-zorgen-over-arrestaties-van-klimaatdemonstranten; See also 'Dutch human rights institute critical of 'disproportionate' arrest of climate protesters' (in Dutch), 31 January 2023, available at https://nltimes.nl/2023/01/31/dutch-human-rights-institute-critical-disproportionate-arrest-climate-protesters

[1343] See 'Community service for Extinction rebellion suspects after calls bloackade A12' (in Dutch), 2 August 2023, available at https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Den-Haag/Nieuws/Paginas/Taakstraffen-voor-verdachten-Extinction-Rebellion-na-oproepen-blokkade-A12.aspx

[1344] HRC, General Comment 37, para. 92.

[1345] Venice Commission Guidelines (2020), para. 173,

[1346] Acts of civil disobedience involve the premeditated breaking of a domestic law for reasons of conscience or because it is perceived to be the most effective way to raise awareness, express social or political dissent or to bring about change. Regardless of the infringement of a country's law, acts of civil disobedience fall under the scope of the rights to freedom of conscience, expression and peaceful assembly. Therefore, sanctions and other restrictions imposed in response to such infringements of the law must be provided by law, and be necessary and proportionate to a legitimate aim.

[1347] See 'Undercover cop infiltrated Extinction rebellion chat groups: report', 21 March 2023, available at https://nltimes.nl/2023/03/21/undercover-cop-infiltrated-extinction-rebellion-chat-groups-report; and 'The police secretly watched Extinction rebellion chat groups' (in Dutch), 21 March 2023, available at https://www.groene.nl/artikel/de-politie-keek-heimelijk-mee-in-chatgroepen-van-extinction-rebellion

[1348] See Counsel of the Inquiry's Closing Statement, 'Undercover policing inquiry' available at https://www.groene.nl/artikel/de-politie-keek-heimelijk-mee-in-chatgroepen-van-extinction-rebellion

[1349] See Guardian, "Police spy unit caused 'outrage and pain' as it infiltrated leftwing groups", 20 February 2023, https://www.theguardian.com/uk-news/2023/feb/20/police-spy-unit-caused-outrage-pain-infiltrated-leftwing-groups

indulge his sexual proclivities" but was about "disturbing and lamentable failings at the most fundamental levels' of police leadership".[1350]

Also in 2021, Parliament passed the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 (CHIS), which amended the legal framework under which intelligence agents and others working undercover for UK law enforcement and security agencies can be permitted to commit criminal offences during their deployment. Campaigners for the women targeted by the undercover policing operation have argued that the CHIS Act creates "wide scope for abuse with limited recourse for victims" and that it "enshrines in law the very wrongdoing and criminality we have exposed".[1351]

In Spain, media outlets have revealed nine undercover operations carried out by law enforcement targeting social movements in the last two years.[1352] The Ministry of Interior acknowledged these operations before the Senate, however stated that they were intelligence agents (aimed at gathering information relevant for public security) and not undercover agents (aimed at investigating crimes). The Ministry stated that the operations were done under an administrative (not judicial) authorization and claimed not to be able to disclose more information as the operations are "classified" under the law on secrecy enacted in 1968, during the Franco era.[1353]

Several members of social movements targeted by these police operations publicly stated that the undercover agents engaged in sexual relationships with them. Five women filed a complaint in Barcelona against one undercover agent and his superior officer for 'alleged sexual abuse, offences against moral integrity, torture and other ill-treatment, the finding and disclosure of secrets, and the constraints in the realization of civic rights'. The complaint was dismissed on the grounds there was no indication of criminality in the alleged facts, and specifically that the sexual relations were consensual at the time.[1354]

The Spanish Parliament recently rejected an initiative that sought to urge the government to put an end to such practices and to thoroughly investigate these operations in order to provide reparations to the victims.[1355]

9.4.6 FACE COVERINGS

INTERNATIONAL HUMAN RIGHTS STANDARDS

Restrictions or prohibitions on face coverings in public spaces are discriminatory in intent and effect and neither proportionate nor necessary to achieve any of the permissible legitimate aims under international human rights law. Such restrictions or prohibitions are also gendered and racist in the harm they inflict, for example when they affect Muslim women and girls.[1356]

As with any other restriction in the exercise of the rights to freedom of expression and peaceful assembly, limits imposed on the use of partial or full-face coverings must be established by law and have one of the exhaustive legitimate purposes in accordance with international human rights law, which include the protection of public order and national security. They must be necessary and proportionate to achieve that legitimate purpose and not be discriminatory.[1357] Authorities must therefore seek the least restrictive means possible to achieve the legitimate aim, and ensure the harm caused by the interference does not outweigh the desired outcome.

While the wearing of face coverings in the context of assemblies may present challenges to law enforcement agencies, for example by limiting their ability to identify those who engage in violence or commit other

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[1350] Investigatory Powers Tribunal, Approved judgement, 30 September 2021, available at https://www.judiciary.uk/wp-content/uploads/2022/07/Wilson-v-MPS-Judgment.pdf
[1351] See 'What is the CHIS Act?', available at https://policespiesoutoflives.org.uk/campaigns/chis-bill/
[1352] See 'School of infiltrators. Academic year 2022-2023' (in Spanish), 3 December 2023, available at https://www.elsaltodiario.com/policia/seis-infiltrados-curso-2022-2023; 'A police force infiltrates Girona's popular movements for three years' (in Spanish), 14 July 2023, available at https://directa.cat/una-policia-sinfiltra-tres-anys-en-els-moviments-populars-de-girona/; 'Juancar, another policeman infiltrated in Madrid's social movements' (in Spanish), 14 May 2024, available at https://www.elsaltodiario.com/policia/policia-infiltrado-movimientos-sociales-madrid-juancar; and 'Dani, the second state mole to spy on activism' (in Spanish), 30 January 2023, available at https://directa.cat/dani-el-segon-talp-destat-per-espiar-lactivisme/
[1353] See Senate, 'Written question/ article 160 of Rules of the Senate' (in Spanish), 30 March 2023, available at https://www.senado.es/web/expedientdocblobservlet?legis=14&id=177942
[1354] See 'The judge exonerates the second policeman infiltrated in social movements in Barcelona' (in Spanish), 24 October 2023, available at https://es.ara.cat/misc/juez-exculpa-segundo-policia-infiltrado-movimientos-sociales-barcelona_1_4837539.html
[1355] See post on X by Amnesty International Spain, 29 May 2024, available at https://x.com/amnistiaespana/status/1795850809885737234
[1356] Amnesty International EU, "Regional overview of islamophobia in Europe: Submission to the CoE PACE Committee on Equality and Non-discrimination", 21 September 2022, https://www.amnesty.eu/news/regional-overview-of-islamophobia-in-europe-a-submission-to-the-council-of-europe-pace-committee-on-equality-and-non-discrimination/
[1357] ICCPR, Article 19.3.

crimes, international human rights law protects their use as a legitimate way for protesters to express themselves during protests, protect their privacy and participate in assemblies anonymously to avoid reprisals, especially in a context of misuse of surveillance by some authorities to target peaceful protesters and violate their human rights.

Under international human rights standards, a ban on covering one's face in the context of protests should only be lawful where there are "reasonable grounds for arrest".[1358] Such situations could occur, for example, when a person is engaging in or shows a clear intent to imminently engage in violence or if the face covering constitutes a symbol or form of expression that is directly and predominantly associated with advocacy of hatred that constitutes incitement to discrimination, hostility or violence. Assemblies and their participants should be assumed to be peaceful[1359], rather than posing a threat to public order, and the authorities must demonstrate if this is not the case in specific instances.[1360] Protesters cover their faces for an array of legitimate reasons: they may have concerns about identification; they may want to protect themselves from tear gas; they may wear masks of public officials to express dissent; or they may cover their face as a form of expression, including religious expression. Therefore, the use of face coverings should not itself be considered as constituting violent behaviour or indicating an intention to engage in violence.[1361]

Blanket prohibitions on face coverings are intrinsically disproportionate and discriminatory as they affect all individuals seeking to exercise their right of peaceful assembly and preclude consideration of the specific circumstances of each proposed assembly. They should therefore not be implemented.

LEGISLATION AND PRACTICE

In recent years, several European countries have passed laws that prohibit covering one's face in public spaces and/or in relation to assemblies, including **Austria**, **Belgium**[1362], **France**, **Germany**, the **Netherlands** and **Switzerland**[1363].

In **Austria**, in addition to a general ban on covering one's face in public spaces,[1364] a ban on face coverings at gatherings is in place.[1365] However, face coverings as an explicit expression of opinion or for health reasons (such as for protection against Covid-19) are generally permitted. Violation of the ban on face coverings, either in public spaces or gatherings, can result in an administrative fine.[1366] In **Finland**, covering one's face in an event that takes place in a public place is criminalized only when there is "intention to use violence against a person or case damage to property".[1367] In **Germany**, covering one's face is prohibited at open-air public meetings, processions or other outdoor public events,[1368] and is punishable with imprisonment for up to one year or a fine.[1369] Similar prohibitions at assemblies are in place in **Italy**[1370] and

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[1358] HRC General Comment 37, para. 60.
[1359] See details on the "presumption in favour of peaceful assemblies" in 'Introduction/ Presumption in favour of peaceful assemblies'
[1360] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association and UN Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, *Joint report*, 2016, UN Doc. A/HRC/31/66, para. 18; UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report*, 2013, UN Doc. A/HRC/23/39, para. 50.
[1361] HRC, General Comment 37, para. 60.
[1362] Law of 1 June 2011 establishing a ban on wearing clothing that completely or mostly hides one's face, see https://etaamb.openjustice.be/nl/wet-van-01-juni-2011_n2011000424.html. Criminal Code, article 563bis, punishes failure to comply with the general blanket ban in publicly accessible places with the face fully or partially covered or concealed so as for someone not to be recognizable, with a fine and/or imprisonment. they Amnesty International published an opinion on the ban available at https://www.amnesty-international.be/nieuws/hoofddoek-boerka-nikab-religieuze-symbolen-en-kledij-vanuit-een-mensenrechtenperspectief. The UNHRC considers the ban disproportionate, as it has far-reaching consequences for women who wear such a garment for religious reasons at https://www.unia.be/nl/discriminatiegronden/geloof-of-levensbeschouwing/symbolen/prive-of-publieke-ruimte#:~:text=Volgens%20het%20Grondwettelijk%20Hof%20en,Belgi%C3%AB%20en%20SAS%20tegen%20Frankrijk.
[1363] Federal Constitution of the Swiss Confederation, Article 10(a), available at: https://www.fedlex.admin.ch/eli/cc/1999/404/en#art_10_a
[1364] Anti-Gesichtsverhüllungsgesetz (Anti-Face Veiling Law), available at https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009892; Amnesty International Austria, 'Statement on the draft federal law to enact an integration law and anti-face covering law and to amend the Settlement and Residence Act, the Asylum Act 2005, the Aliens Police Act 2005, the Citizenship Act 1985 and the Road Traffic Act 1960' (in German), available at https://www.amnesty.at/media/2058/stellungnahme-zum-anti-gesichtsverhuellungs-gesetz.pdf
[1365] See Versammlungsgesetz (Assembly Law), section 9(1), available at https://www.ris.bka.gv.at/eli/bgbl/1953/98/P9/NOR40034322
[1366] See Anti-Gesichtsverhüllungsgesetz (Anti-Face Veiling Law).
[1367] Finland, Criminal Code, Chapter 17, section 13(a). Illegal wearing of a face covering can result in a fine or imprisonment for a maximum of three months. The Government's proposal for the amendment in the Criminal Code HE 18/2004 lists, at p. 13, examples of acceptable reasons for covering one's face, including: religious or cultural, refugees protecting themselves from surveillance by foreign agents, carnivals, symbolic/performative wearing of mask in a protest, among others.
[1368] Federal Assembly Law, section 17a II.
[1369] Federal Assembly Law, section 27 II.
[1370] Italy, Law No. 152/1975 (Article 5) prohibits the use of any means capable of making it difficult to recognize the person in a public place or a place open to the public without justified reason. The offenders can be punished with imprisonment of up to two years and a fine of up to 2,000 EUR, with the aggravating circumstance of the act being committed at occasions of public events (in which case the penalty is imprisonment of up to three years and a fine of up to 6,000 EUR). Article 85 of the Testo Unico delle Leggi di Pubblica Sicurezza (Consolidated Law on Public Security/TULPS), provides for a generalized ban on appearing "masked" in public places and envisages a fine as a sanction for failure to adhere to the ban.

Hungary, where such could result in a petty offence punishable with imprisonment for up to 60 days, a fine or public work obligation[1371].

In France, since April 2019 concealing one's face, wholly or partially, without a legitimate aim in the context of a protest that is deemed to threaten public order, or that is 'likely to threaten' public order, has been a criminal offence[1372] punishable with a prison sentence of up to one year and a fine of up to EUR 15,000. In April 2019, the Constitutional Court ruled that the ban on face coverings was constitutional.[1373]

In the Netherlands, a partial national ban on face coverings applies to a number of public places where assemblies could take place.[1374] Some municipalities have also banned face coverings in relation to assemblies.[1375]

Blanket bans on face coverings exist also in Switzerland. For example, in Geneva, the law explicitly states that face coverings are forbidden during assemblies.[1376]At the Federal level, a general ban[1377] on face coverings in public has been adopted on 29 September 2023 – it is not yet in force - and is expected to affect participation in assemblies.[1378] Face covering at protests, for the purpose of hiding one's identity, is considered a crime in Türkiye, and is punishable with imprisonment of between two-and-a-half years and four years.[1379]

Two countries provide examples of people being criminalized for wearing face coverings in the context of protests.

In Germany, courts have ruled on the tension between infection control and the ban on face covering several times; the use of filtration masks and medical masks has been approved and, in some cases, made mandatory.[1380] The argument that balaclavas serve to protect against infections was not successful.[1381] The criminalization of face covering in Germany is disputed, for example, in cases where face coverings are used to defend participants against anti-human rights groups taking photos at pro-human rights assemblies, for the purpose of identifying and potentially later attacking individual activists.[1382]

In France, Amnesty International has raised concerns over the blanket ban on all face coverings, regardless of the intent of the individuals wearing them.[1383] This has led to individuals being arrested and prosecuted for wearing goggles, dust masks or helmets during protests, with the aim of protecting themselves from tear gas or other law enforcement equipment, when they did not commit any act of violence.[1384] For example, in

[1371] Hungary, ARA, Article 9(2)(b); Petty Offences Act (Act II of 2012), Article 169(2)(b).
[1372] It is punishable with a prison sentence of up to one year and a fine of up to 15,000 EUR, according to Article 431.9.1 of the Criminal Code. Moreover, concealing one's face can be an aggravating circumstance associated with several crimes including participation in a public assembly that threatens to disrupt public order after police warnings (Article 431-4 of the Criminal Code).
[1373] Constitutional Council, 'Decision No. 2019-780 DC of 4 April 2019' (in French), available at https://www.conseil-constitutionnel.fr/decision/2019/2019780DC.htm. The Court argued that it complied with the principle of legality as its material scope was precisely defined: the prohibition would apply in the context of public assemblies where public disorder offences were perpetrated or were likely to be perpetrated. However, the law fails to establish any clear connection between individuals who conceal their faces and public disorder, or the threat of public disorder, during a protest. In consequence, the authorities have been able to apply the law as a blanket ban on all face coverings, regardless of the intent of the individuals wearing them. Individuals who wore goggles, dust masks or helmets during protests to protect themselves from the effects of tear gas or other law enforcement equipment and who did not commit any act of violence have been arrested and prosecuted under this provision.
[1374] See Official Gazette 2018, 222, available at https://zoek.officielebekendmakingen.nl/stb-2018-222.html
[1375] For example, in the Hague municipality, the guidelines state that "participants in the demonstration are not allowed to wear clothing that covers the face in order to be able to commit crimes unseen". See "Report a demonstration", https://www.denhaag.nl/nl/vergunningen-en-ontheffingen/demonstratie-melden/#regels-tijdens-de-demonstratie
[1376] Article 6 para. 1 of the LMDPu states that: "It is forbidden for anyone taking part in a demonstration to a) wear, unless exempted by the Council of State, clothing designed to prevent identification, protective equipment or a gas mask". Article 10 states that '[a]anyone who has (…) violated the prohibition laid down in article 6, para 1 (…) shall be liable for a fine of up to 100,000 francs (approx. 104,000 EUR).
[1377] Federal law on the prohibition of face covering (Bundesgesetz über das Verbot der Verhüllung des Gesichts; BVVG), available at https://www.fedlex.admin.ch/eli/fga/2023/2295/de
[1378] Article 2(3) of the law states that, in exceptional cases, an authorization for face covering can be given in the context of assemblies. Provided that public safety and order are not impaired, the competent authority may also authorize face coverings in public spaces if (a) the face covering is necessary for the exercise of the fundamental rights of freedom of expression and freedom of assembly for one's own protection; or (b) the face covering is a form of visual expression of opinion. Article 3 states that '1. Anyone who violates the prohibition in Article 2 shall be liable to a fine of up to 1,000 francs (approx. 1,004 EUR)' and 2. [p]rosecution is the responsibility of the cantons'.
[1379] Law No. 2911 on Meetings and Demonstrations, Articles 23 and 33. Article 23 defines what makes an assembly unlawful. Thus, covering the face to hide identity makes the assembly unlawful. Article 33 defines it as part of the penalties.
[1380] Court decision, VG München Beschluss vom 11.20.2022 – 33 S 22.675.
[1381] Court decision, VG Dresden Beschluss vom 13.07.2022 – 6 L 432/22.
[1382] Court decision, OLG Karlsruhe Urteil vom 30.06.2022 – 2 Rv 34 Ss 789/21; LG Hannover Urteil vom 20.01.2009 – 62 c 69/08; NStZ-RR 2013, 178.
[1383] Amnesty International, France: Arrested for Protest. Weaponizing the law to crackdown on peaceful protesters in France', September 2020, https://www.amnesty.org/en/documents/eur21/1791/2020/en/
[1384] Amnesty International, France: Arrested for Protest. Weaponizing the law to crackdown on peaceful protesters in France', September 2020, https://www.amnesty.org/en/documents/eur21/1791/2020/en/

2019, 41 people were convicted using the Criminal Code's provisions criminalizing the wearing of face coverings.[1385]

9.5 CONCLUSIONS AND RECOMMENDATIONS

The misuse of surveillance by authorities to target peaceful protesters can violate their human rights, including the right to privacy, freedom of expression and peaceful assembly. It creates an environment of intimidation, suspicion and fear, and can generate and amplify a chilling effect, as they deter people from exercising their rights to freedom expression and peaceful assembly as they fear they could be identified, tracked and suffer consequences for speaking out and peacefully demonstrating. While surveillance can be a legitimate tool for use by states, it is paramount that it is subject to safeguards to prevent abuse and misuse, including discrimination and/or disproportionate impact on racialized people and other groups at heightened risk of state surveillance and violations of their human rights.

To support states' review and remedy of the concerns outlined above, Amnesty International is making the following recommendations urging States to:

- States should view peaceful assemblies and protesters not as threats that must be 'monitored' or 'controlled' – for example through intrusive surveillance – but as embodiments of the exercise of a human right that the authorities, including law enforcement, have a legal obligation to protect, respect and facilitate. States must ensure that any restrictions imposed on the exercise of the right of peaceful assembly using surveillance, comply with the principles of legality, legitimate aim, necessity and proportionality.
- States must ensure that activities related to peaceful protests are not criminalized; for example, the dissemination of information regarding assemblies on social media should not be brought as evidence to assert protesters' liability as organizers.
- States must adequately regulate the permissible and legitimate purpose and specific conditions for law enforcement taking photos and/or video footage at public assemblies in full compliance with data protection and guarantees of privacy.
- States should ensure that the collection and processing of personal information of protesters (or people in the vicinity of protests) through recording devices, closed-circuit television, undercover policing, and other methods is conducted in compliance with the right to privacy, and that the use, retention and processing of such data is done in accordance with data protection and human rights standards and is publicly available.
- States must put in place necessary measures - legislative or otherwise -to end the use of mass or otherwise unlawful surveillance.
- States must prevent and end any actions by the authorities or other actors that have, or can have, the effect of intimidating and/or harassing peaceful protesters or prevent people from exercising their right of peaceful assembly, such as unofficial or unwarranted home visits.
- States should examine the legal framework, including administrative regulations and internal policies and practices that are relevant to data processing in the context of peaceful assemblies and ensure they fully comply with international human rights standards, including those relating to the rights to privacy, data protection and non-discrimination. States should monitor compliance of data processing in the context of surveillance of peaceful assemblies and intervene when data processing violates the rights of organizers and/or participants of peaceful assemblies. Where violations are identified, these must be swiftly rectified to prevent future occurrence and addressed through accountability and effective remedies.
- States should ensure that legislation and practice allow for the wearing of face coverings by assembly participants, and recognize their right not to be discriminated, to protect their privacy and to participate anonymously in peaceful assemblies.
- States should ban the use, development, production, sale and export of FRT and remote biometric recognition technologies that enable mass surveillance and discriminatory targeted surveillance by

[1385] Criminal Code, Article 431-9-1. Statistic used in Amnesty International, *France: Arrested for Protest*, available at https://www.amnesty.org/en/documents/eur21/1791/2020/en/

state agencies and private sector actors within their own jurisdictions, as technologies that are fundamentally incompatible with international human rights law.

- Ban the use and trade in highly invasive spyware - whose functionality cannot be limited in line with the requirements of proportionality or whose use cannot be independently audited. And impose a moratorium on the use of all spywares until such time as a system of human rights safeguards is in place capable of preventing abuse.
- The appropriate authorities should proactively make available to the public all relevant information, including the overall legal framework concerning surveillance of protests; the entities authorized to conduct surveillance; the procedures to be followed for authorizing surveillance, and for the use, sharing, storage, and destruction of data acquired through surveillance; and statistics about the use of such surveillance, including the number and type of investigations for which the use of surveillance tools was requested, approved or denied. Authorities should guarantee the collection of comprehensive disaggregated data to ensure that Black people, Arab people, Roma and people belonging to other racialized groups are not specifically or disproportionately affected by these technologies, particularly given the barriers marginalized groups experience to enjoy their rights to peaceful assembly and freedom of expression, including patterns of institutionalized racism and other forms of discrimination.
- States must, in most circumstances (except for example where it is patently impossible) proactively inform all persons who have been subjected to surveillance of this fact, and the grounds upon which it was conducted, the material collected and any potential remedies as soon as notification may be made without jeopardizing the legitimate purpose of the surveillance. Such exceptions must be recorded and verifiable.

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.

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UNDER PROTECTED AND OVER RESTRICTED

THE STATE OF THE RIGHT TO PROTEST IN 21 EUROPEAN COUNTRIES

Peaceful protest is a powerful and public way for people to make their voices heard. It has long been a vital means for advancing human rights around the world.

However, in Europe, the right of peaceful assembly is increasingly coming under attack, with state authorities stigmatizing, impeding, deterring, punishing and cracking down on those organizing and participating in peaceful protests.

This report presents an overview of the current state of the right of peaceful assembly across 21 European countries: Austria, Belgium, Czechia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, Switzerland, Türkiye and the United Kingdom.

It documents an array of trends and patterns of human rights violations that curtail this right, including repressive laws, stigmatizing rhetoric, use of unnecessary and excessive force, arbitrary arrests and prosecutions, discriminatory restrictions, intrusive surveillance and many more.

The human rights violations instil fear among people, and the chilling effect is especially severe for people who already experience heightened barriers to protest and those who are already subject to inequality, marginalization, racism or violence because of, among others, their race, ethnicity, age, sexual orientation and gender identity.

The report contains detailed recommendations for states to end human rights violations and bring their laws, policies and practices to compliance with international human rights law so that everyone's right to protest is protected, respected and fulfilled.

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